WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION

Form #3

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2003 JUL 31 P 2:18

OFFICE WEST VIRGINIA SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: WV Dept. of Environmental Protection - Div. of Air Quality TITLE NUMBER: 45

CITE AUTHORITY: W. V. Code §22-5-4

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 for Source Categories Pursuant to 40 CFR Part 63

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: ___

TITLE OF RULE BEING PROPOSED: ___

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Stephanie R. Timmermeyer

Authorized Signature

Stephanie R. Timmermeyer, Secretary

WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION

Form #1

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2003 JUN 11 P 3:0

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A PUBLIC HEARING ON A PROPOSED RULE

AGENCY: WV DEP - Division of Air Quality TITLE NUMBER: 45

RULE TYPE: Legislative CITE AUTHORITY: W.V. Code §22-5-4

AMENDMENT TO AN EXISTING RULE: YES X NO ___

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 34

TITLE OF RULE BEING AMENDED: 45CSR34 - "Emission Standards for Hazardous Air Pollutants for Source Categories Pursuant to 40 CFR Part 63"

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: ___

TITLE OF RULE BEING PROPOSED: ___

DATE OF PUBLIC HEARING: July 15, 2003 TIME: 6:00 p.m.

LOCATION OF PUBLIC HEARING: Division of Air Quality
7012 MacCorkle Avenue, S.E.
Charleston, WV 25304-2943

COMMENTS LIMITED TO: ORAL ___, WRITTEN ___, BOTH X

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS:

John A. Benedict, Director
Division of Air Quality
7012 MacCorkle Avenue, S.E.
Charleston, WV 25304-2943

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

Stephanie R Timmermeyer

Authorized Signature

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BRIEFING DOCUMENT

Rule Title: 45CSR34 - "Emission Standards for Hazardous Air Pollutants For Source Categories Pursuant to 40 CFR Part 63"

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 (HAP) in or pursuant to section 112(b) of the CAA. The rule adopts by reference the NESHAP standards of 40 CFR Parts 63 and 65 (Consolidated Federal Air Rule), to the extent referenced in 40 CFR Part 63, promulgated as of June 1, 2003. The rule also adopts associated reference methods, performance specifications and other test methods which are appended to these standards and contained in 40 CFR Parts 63 and 65. Any person who constructs, reconstructs, modifies or operates any source subject to the provisions of 40 CFR Part 63 must comply with the applicable NESHAPS and this rule.

45CSR34, in conjunction with 45CSR15, establishes general provisions for emission standards for hazardous air pollutants (NESHAP) and other regulatory requirements promulgated by USEPA pursuant to section 112 of the federal Clean Air Act, as amended. 45CSR34 incorporates hazardous air pollutant standards codified by USEPA under 40 CFR Part 63 whereas 45CSR15, incorporates hazardous air pollutant standards promulgated by USEPA under 40 CFR Part 61.

This revised rule incorporates by reference the following new or revised NESHAP standards promulgated as of June 1, 2003: National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production, Generic Maximum Achievable Control Technology Standards, Surface Coating of Metal Coil, Cellulose Products Manufacturing, Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants, Primary Copper Smelting, Secondary Aluminum Production, Portland Cement Manufacturing Industry, Rubber Tire Manufacturing, Polyvinyl Chloride and Copolymers Production, Surface Coating of Large Appliances, Friction Materials Manufacturing Facilities, Publically Owned Treatment Works, Paper and Other Web Coating, Hazardous Waste Combustors, Municipal Solid Waste Landfills, Chemical Recovery Combustion Sources at Kraft, Soda,

Sulfite, and Stand-alone Semichemical Pulp Mills, Rubber Tire Manufacturing, Surface Coating of Metal Coil, Coke Ovens, Pushing, Quenching and Battery Stacks, Flexible Polyurethane Foam Fabrication Operations, Refractory Products Manufacturing, Hydrochloric Acid Production, Reinforced Plastic Composites Production, Asphalt Processing and Asphalt Roofing Manufacturing, Brick and Structural Clay Products Manufacturing, Clay Ceramics Manufacturing, Integrated Iron and Steel Manufacturing, Semiconductor Manufacturing, Surface Coating of Metal Furniture, Engine Test Cells/Stands, Surface Coating of Wood Building Products and Printing, Coating, Dyeing of Fabrics and Other Textiles, and General Provisions and Requirements for Control Technology Determinations for Major Sources in Accordance With Sections 112(g) and 112(j).

C. STATEMENT OF CIRCUMSTANCES WHICH REQUIRE RULE:

As provided in 40 CFR §63.4(a)(3), 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 Part 63 through the approved permit program under Title V of the CAA, as amended. Promulgation of this rule will enable the Department of Environmental Protection, Division of Air Quality (DAQ) to continue to be the primary enforcement authority for NESHAP promulgated under 40 CFR Part 63 by U.S. EPA as of June 1, 2003. Promulgation of this rule by the Legislature is necessary for the State to fulfill its responsibilities under the CAA, as amended. Revisions to the rule include general annual updates and incorporation by reference rule language clarification.

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 limited 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 3, 2003 meeting, the Environmental Protection Advisory Council reviewed and discussed this proposed rule. The Council's comments are contained in the attached minutes.

DEP

Advisory Council Meeting
Minutes
June 3, 2003

Attendees:

Rick Roberts, Advisory Council Member	John Benedict, WVDEP
Larry Harris, Advisory Council Member	Lucy Pontiveros, WVDEP
Bill Raney, Advisory Council Member	Jim Mason, WVDEP
Lisa Dooley, Advisory Council Member	Allyn Turner, WVDEP
Jackie Hallinan, Advisory Council Member	Bill Brannon, WVDEP
Stephanie R. Timmermeyer, WVDEP	Mike Dorsey, WVDEP
Joseph M. Dawley, WVDEP	Mike Zeto, WVDEP
Karen G. Watson, WVDEP	Pam Nixon, WVDEP
Jessica Greathouse, WVDEP	Lewis Halstead, WVDEP
Cathy Marcum, Tinney Law Firm	Charlie Sturey, WVDEP

The meeting was called to order at 9:15 a.m. by Joseph M. Dawley, General Counsel for the West Virginia Department of Environmental Protection.

PRESENTATION OF PROPOSED RULES FOR THE 2004 LEGISLATIVE SESSION

Division of Air Quality

John Benedict, Director of DAQ presented the following rules:

45CSR1 - No_X Trading Program as a means of control and reduction of nitrogen oxides from non-electric generating units.

Bill Raney inquired about 45CSR1 and wanted to know how this rule had been lost in the shuffle during the 2003 session? Jim Mason explained that the delay was from a legislative clerical error.

Jackie Hallinan asked what would happen if there were additional clerical errors like what happened during this legislative session? John Benedict responded it would not present a serious problem, he thought the agency could work the matter out with the EPA

45CSR15- Emission standards for hazardous air pollutants pursuant to 40 CFR Part 61.

45CSR 16 - Standards of performance for new stationary sources pursuant to 40 CFR part 60

45CSR25 - To prevent and control air pollution from hazardous waste treatment, storage, or disposal facilities

45CSR34 - Emission standards for hazardous air pollutants for sources categories pursuant to 40 CFR Part 63

45CSR36 - Requirements for determining conformity of transportation plans, program, and projects developed, funded or approved under title 23 U.S.C. or the federal transit laws, to applicable air quality implementation plans (transportation Conformity)

Rick Roberts questioned how the rule relates to "political subdivisions?" John Benedict explained that DAQ prepares emission budgets and works with Metropolitan Planning Organizations. He also said that the Memorandums of Understanding (MOU) with these organizations will no longer be appended to rule 45CSR36.

Rick Roberts also asked if the rule only addresses emissions from vehicles? John Benedict answered yes.

General Air Rule Questions:

Larry Harris asked if the rules include emission limits? John responded the rules incorporate by reference the emission limitations contained in federal regulations.

Bill Raney asked if the air rules contained anything different from the federal counterpart regulations? John responded they do not.

Although not a Rulemaking issue, Larry Harris stated that he had recently reviewed a agency letter regarding Longview Power and its proposed SO_2 emissions and inquired on the environmental impacts of this facility.

John Benedict said that the facility is going to be a "state of the art" facility and there will be a 95-98% reduction in emissions.

Division of Water and Waste Management

Bill Brannon, Assistant Director, presented the following rule:

47CSR26 - Water pollution control permit fee schedules.

Rick Roberts asked if the 50% increase in fees would be used to provide direct assistance to municipalities or would it be used only for agency paperwork?

Bill Brannon responded that the 50% fee increase will provide additional support for municipalities which otherwise is not currently available and that there will probably be a mixture of direct assistance and paperwork provided by the two additional FTE's paid for by the 50% fee increase.

Lisa Dooley stated she shares many of the same concerns that Mr. Roberts expressed and that she believes municipalities have to pass along fee increases to the public and for that reason her organization may not support the rule.

Bill Raney wanted to know if this was the first time this was proposed? Bill Brannon informed him that this was the first official time that the fee increase was proposed.

Bill Raney along with Lisa Dooley and Jackie Hallinan believe that rule information should be sent to them sooner so they can get this information to their constituents for comments.

Mike Dorsey, Assistant Director presented the following rules:

33CSR20 - Hazardous Waste Management

No comments by the advisory committee.

33CSR1 - Solid Waste Management Rule

Lisa Dooley wanted to know if the only change being made to Class D Permits are to limit expansion of the facilities. Mike Dorsey replied that the changes do limit the siting of these facilities.

Jackie Hallinan asked what recourse a person would have to object to the

cost of a background investigation. Mike Dorsey replied the person could appeal to the Environmental Quality Board.

Lisa Dooley wanted Mike Dorsey to describe the sewage sludge provisions. Mike said the revisions recognize that there other types of sludge that are as beneficial as sewage sludge.

Division of Mining and Reclamation

Lewis Halstead, Assistant Director presented the following rule:

47CSR30 - WV/NPDES Rules for Coal Mining Facilities

Bill Raney wanted to know the number of Inspectors and Inspectible units.

DEP will provide Mr. Raney with this information.

38CSR2 - West Virginia Surface Mining Reclamation Rule

Rick Roberts asked if the revisions would relax the compaction requirements in all cases or just for the forestry use.

Bill Raney asked what is going to happen to the incentidental coal provision

Lewis Halstead responded it will be available for government financed projects. Other projects will have to get a full permit.

Bill Raney asked why is the agency revising the forestry requirement? Is there a problem with the exciting requirements?

Lewis Halstead responded the agency is trying to improve forestry land use.

Bill Raney also asked why companies are being required to use these new forestry provisions when they are using alternative materials?

Lewis Halstead responded the faster the company established a canopy of trees the better, it would be.

Bill Raney also request concern about the maximum bond on contemporaneous reclamation and why is it necessary. Bill Raney stated OSM does not have a contemporaneous reclamation standard. Charlie Sturey responded OSM never

approved the deletion of this language and so the agency proposes to keep it in the rule.

Bill Raney asked about the proposed changes in inspection frequency for revoked permits?

Lewis Halstead responded OSM has certain criteria for inspections to identify if there are any health & safety issues. He also said that the rule tracks the federal counterpart regulation with regard to public notice procedures.

Larry Harris made a general comment about valley fills, he was opposed to filling in the headwaters on streams, especially trout streams.

Larry Harris asked if we have any idea of the number of streams impacted?

Lewis Halstead responded the recent Environmental Impact Statement (EIS) stated there are currently 724 miles impacted by valley fills.

Larry Harris wanted to know if DEP is monitoring to see what impacts there are downstream waters and express that there are long range-cumulative affects on such waters.

Rick Roberts asked about OSM's role in the program.

Lewis Halstead said OSM has alternate oversight program and referred to a court ruling that said the state could not implement it's rules until OSM approves them.

Other Business

Bill Raney inquired if the agency was suppose to be doing a annual report for the council. Secretary Timmermeyer stated that a report is required and that the DEP would assist the council with its efforts.

Bill Raney also asked if there is a way to keep the council informed of amendments to the rules made later in the process.

Joe Dawley responded that the agency would try to keep the council informed of any amendments at its quarterly meetings.

Jackie Hallinan stated that the DEP has had numerous leaders in the past - she feels that DEP could utilize the advisory council members more.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 45CSR34 - "Emission Standards for Hazardous Air Pollutants For Source Categories Pursuant to 40 CFR Part 63"

Type of Rule: X Legislative ____ Interpretive ____ Procedural

Agency: Division of Air Quality

Address: 7012 MacCorkle Avenue, SE
Charleston, WV 25304-2943

1. Effect of Proposed rule:

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	$ 0	$ 0	$ 0	$ 0	$ 0
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of Above Estimates:
Costs anticipated to be incurred in the implementation of federal rules promulgated under 40 CFR Part 63 as of June 1, 2003 will be covered under prior budget estimates for implementing Title V of the Clean Air Act, as amended, for which full program approval was issued by the U.S. Environmental Protection Agency on November 19, 2001.

3. Objectives of These Rules:
This rule establishes general provisions for emission standards for hazardous air pollutants and other regulatory requirements pursuant to section 112 of the Clean Air Act, as amended. Promulgation of this rule by the Legislature is necessary for the State to fulfill its responsibilities under the Clean Air Act.

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

See section 2.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

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

C. Economic Impact on Citizens/Public at Large.

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

Date: June 11, 2003

Signature of Agency Head or Authorized Representative:

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 31, 2003

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM:(*Agency Name, Address & Phone No.*) West Virginia Divison of Air Quality
7012 MacCorkle Avenue, S.E.
Charleston, WV 25304-2943
Phone No.: 926-3647

LEGISLATIVE RULE TITLE: 45CSR34 - "Emission Standards for Hazardous Air Pollutants for Source Categories Pursuant to 40 CFR Part 63"

1. Authorizing statute(s) citation W. Va. Code §22-5-4

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

June 11, 2003

b. What other notice, including advertising, did you give of the hearing?

Class I Legal Advertisement; Charleston Daily Mail and Charleston Gazette
Copy of Public Notice sent to DAQ mailing list
Public Notice placed on DAQ's web site

c. Date of Public Hearing(s) ***or*** Public Comment Period ended:

Public hearing held and Public Comment Period Ended - July 15, 2003

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 31, 2003

f. **Name, title, address and <u>phone/fax/e-mail numbers</u>** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

John A. Benedict, Director
7012 MacCorkle Avenue, S.E.
Charleston, WV 25304

Phone No: (304) 926-3647 Fax: (304) 926-1713

E-mail: jbenedict@dep.state.wv.us

g. **<u>IF DIFFERENT</u> FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

See "f" above

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

FILED
2003 JUL 31 P 2:18
OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

SERIES 34
EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES PURSUANT TO 40 CFR PART 63

§45-34-1. General.

1.1. Scope. -- This rule establishes ~~general provisions for~~ and adopts national emission standards for hazardous air pollutants (NESHAPS) and other regulatory requirements promulgated by the United States Environmental Protection Agency pursuant to 40 CFR Part 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 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 ~~§22-5-1 et seq~~ §22-5-4.

1.3. Filing Date. -- ~~April 21, 2003~~.

1.4. Effective Date. -- ~~June 1, 2003~~.

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 63 and 65, to the extent referenced in 40 CFR Part 63, effective ~~July 1, 2001~~ July 1, 2002, as amended by the Federal Register through ~~June 1, 2002~~ June 1, 2003.

1.6. 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 16, 2002~~ April 21, 2003, and which became effective ~~July 1, 2002~~ June 1, 2003.

§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 section 112(b) of the CAA.

2.4. "Secretary" means the Secretary of the Department of Environmental Protection or such 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 Part 63. Words and phrases not defined therein shall have the meaning given to them in federal Clean Air Act.

~~§45-34-2.~~§45-34-3. Requirements.

~~2.1.~~ 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 Part 63 which results or will result in a violation of this rule.

~~2.2.~~ 3.2. After the effective date of the state permit program under Title V of the CAA, 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 this rule for new sources will be met.

~~2.3.~~ 3.3. After the effective date of the state permit program under Title V of the CAA, 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.

~~2.4.~~ 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, 45CSR30 and this rule.

~~**§45-34-3. Definitions.**~~

~~3.1. "Administrator" means the Administrator of the United States Environmental Protection Agency or his or her authorized representative.~~

~~3.2. "Clean Air Act" ("CAA") means 42 U.S.C. §§7401 et seq.~~

~~3.3. "Hazardous air pollutant" means any air pollutant listed pursuant to section 112(b) of the CAA as of June 1, 2001.~~

~~3.4. "Secretary" means the Secretary of the Department of Environmental Protection or such other person to whom the Secretary has delegated authority or duties pursuant to W. Va. Code §§22-1-6 or 22-1-8.~~

~~3.5. Other words and phrases used in this rule, unless otherwise indicated, shall have the meaning ascribed to them in 40 CFR Part 63. Words and phrases not defined therein shall have the meaning given to them in federal Clean Air Act.~~

§45-34-4. Adoption of Standards.

4.1. The Secretary hereby adopts and incorporates by reference the provisions of 40 CFR Parts 63 and 65, to the extent referenced in 40 CFR Part 63, including any reference methods, performance specifications and other test methods which are appended to these standards and contained in 40 CFR Parts 63 and 65, effective ~~July 1, 2001~~ July 1, 2002, as amended by the Federal Register through ~~June 1, 2002~~ June 1, 2003, for the purposes of implementing a program for emission standards for hazardous air pollutants for source categories, except as follows:

4.1.a. 40 CFR §63.15 is 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; ~~or~~ and

4.1.b. ~~Any~~ 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.

§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 such authority to the State;

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 ~~existing~~ rule of the West Virginia Department of Environmental Protection, such inconsistency shall be resolved by the determination of the Secretary and such determination shall be based upon the application of the more stringent provision, term, condition, method or rule.

section 355(e) of the Internal Revenue Code.

Need for Correction

As published, TD 8988 contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the temporary regulations (TD 8988), which is the subject of FR Doc. 02–9929 is corrected as follows:

1. On page 20635, column 2, in the preamble under the caption "Explanation of Provisions", line 13 of paragraph H.(1.), the language "reasonable certainty" that, within six" is corrected to read "'reasonable certainty" that, within 6".

§ 1.355–0 [Corrected]

2. On page 20636, column 2, § 1.355–7T(k), the language "Effective date." is corrected to read "Effective dates.".

§ 1.355–7T [Corrected]

3. On page 20637, column 1, § 1.355–7T(b)(3)(iii), line 13, the language "before a distribution where a person" is corrected to read "before a distribution, a person".

4. On page 20637, column 1, § 1.355–7T(b)(3)(iii), line 15, the language "intends to cause a distribution and, as" is corrected to read "intended to cause a distribution and, as".

5. On page 20641, column 2, § 1.355–7T(j) *Example 4.*(v), line 2, the language "of C and acquisition of X by D are part of a" is corrected to read "of C and the acquisition of X by D are part of a".

Cynthia Grigsby,

Chief, Regulations Unit, Associate Chief Counsel, (Income Tax and Accounting).

[FR Doc. 02–13846 Filed 5–31–02; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7222–4]

RIN 2060–AJ34

National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendment.

SUMMARY: On June 23, 1999, EPA promulgated national emission standards for hazardous air pollutants (NESHAP) for Pesticide Active Ingredient (PAI) Production (40 CFR part 63, subpart MMM). On August 19 and 20, 1999, petitions for judicial review of the June 1999 rule were filed in the U.S. Court of Appeals for the District of Columbia Circuit. This action is in response to an issue raised by two of those petitioners—the American Crop Protection Association (ACPA) and the American Cyanamid Company (now BASF Corporation). On March 22, 2002 (67 FR 13504), EPA proposed an amendment to change the existing source compliance date of the NESHAP for PAI Production to December 23, 2003. Under the promulgated rule, existing affected sources would be required to be in compliance by August 22, 2002. With this final action, existing sources will be required to be in compliance with the rule by December 23, 2003.

EFFECTIVE DATE: June 3, 2002.

ADDRESSES: Docket No. A–95–20 contains supporting information used in developing the NESHAP. The docket is located at the U.S. EPA, 401 M Street, SW., Washington, DC 20460 in Room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Randy McDonald, Organic Chemicals Group, Emission Standards Division (C504–04), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5402, electronic mail address *mcdonald.randy@epa.gov.*

SUPPLEMENTARY INFORMATION: *Docket.* The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (*See* section 307(d)(7)(A) of the Clean Air Act (CAA).) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this proposed rule will also be available through the WWW. Following signature, a copy of this action will be posted on the EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules *http://www.epa.gov/ttn/oarpg.* The TTN at EPA's web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. The regulated category and entities affected by this action include:

Category	NAICS codes	SIC codes	Examples of regulated entities
Industry	Typically, 325199 and 325320.	Typically, 2869 and 2879 ..	• Producers of pesticide active ingredients that contain organic compounds that are used in herbicides, insecticides, or fungicides. • Producers of any integral intermediate used in on-site production of an active ingredient used in herbicides, insecticides, or fungicides.

This table is not intended to be exhaustive, but rather provides a guide for readers likely to be interested in the proposed revisions to the regulation affected by this action. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine all of the applicability criteria in 40 CFR part 63, subpart MMM. If you have questions regarding the applicability of this proposed amendment to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. What Is the History of the PAI Production NESHAP?

On June 23, 1999, we promulgated NESHAP for PAI Production as subpart MMM in 40 CFR part 63 (64 FR 33550). On August 19 and 20, 1999, the American Crop Protection Association and American Cyanamid Company (now BASF Corporation) filed petitions for judicial review of the promulgated PAI Production NESHAP in the U.S. Court of Appeals for the District of Columbia Circuit, *ACPA* v. *EPA*, No. 99–1332, and *American Cyanamid Company* v. *EPA*, No. 99–1334 (Consolidated with *ACPA* v. *EPA*, No. 99–1332) (D.C. Cir.).

On January 18, 2002, EPA entered into a Settlement Agreement with ACPA and BASF, resolving petitioners' litigation. Notice of this agreement was published in the **Federal Register** on February 4, 2002 (67 FR 5116), pursuant to the requirements of CAA section 113(g). The Agreement called for EPA to propose a number of amendments to the PAI Production NESHAP, including an amendment to extend the compliance date to December 23, 2003. The proposed amendment to change the compliance date was published on March 22, 2002 (67 FR 13504). The other agreed-upon proposed amendments were published on April 10, 2002 (67 FR 17492).

II. What Public Comments Were Received on the March 22, 2002 Proposal and What Changes Were Made for the Final Rule?

Although EPA received no comment on the proposed settlement agreement through the section 113(g) process, one commenter, representing an environmental legal defense fund, commented on the proposal to extend the rule's effective date. The commenter maintains that such an extension is illegal because it would establish an effective date for the rule which is longer than the maximum 3 years allowed by section 112(i)(3) of the CAA (assuming no case-by-case 1 year extension). The commenter further maintained that the delay would forestall the health benefits resulting from the emissions reductions required by the underlying rule.

We appreciate the commenter's point. Nonetheless, it should be noted that section 112(i)(3) deadlines are not as inflexible as the commenter maintains. First, section 112(i)(3) is ambiguous as to whether an initial compliance date applies to a rule which has been substantially amended. Section 112(i)(3) applies to "any emissions standard." If a rule is amended so extensively as to be a different regulation, then compliance set from the date of that amended rule would still be established for "any emission standard," in this case, the new rule. Put another way, there will be circumstances where EPA changes a rule so extensively that the amended rule should be regarded as a new standard, triggering a new effective date. Indeed, it is only common sense that this must be so. For example, suppose that we were to conclude legitimately that data supporting a standard was flawed, and that a new standard was needed, likely necessitating a different means of air pollution control. There should be no doubt that we can promulgate a new compliance date for this new standard. See also, section 112(d)(6) of the CAA, requiring EPA to periodically reexamine and, if necessary, revise MACT standards. If such a standard were revised, it is obvious that a new compliance date would be needed to reflect the time needed to come into compliance with the new standards.

We believe that the proposed changes to the PAI rule, if adopted, are extensive and significant enough to result in a new rule necessitating a new compliance date. We proposed these amendments on April 10, 2002, and the amendments include revisions to every section of the regulation. The public comment period on the proposed amendments closed on May 10, 2002. Therefore, final action on the amendments is still several months in the future.

As explained in detail in the April 10 proposal, the amendments include approximately 100 revisions to the rule. The revisions address numerous issues, make significant amendments, and also make needed corrections to the rule. Several amendments address applicability issues. For example, we proposed to amend the definition of *intermediate* to cover products of extraction, as well as products of chemical synthesis. We also proposed to clarify the demarcation between new and existing sources by clarifying new source applicability. The proposed amendments go to the most basic feature of the rule—to what does it apply—a question which must be answered before any source can begin to comply.

Several amendments include provisions for compliance alternatives and alternative standards that give the source additional compliance options, which necessarily require time for sources to adopt. One example is providing sources the option of demonstrating compliance through the use of a common control device, shared among several processes, provided they demonstrate compliance using a continuous emissions monitor (CEM) instead of parametric monitoring on a per-process basis. A source desiring to use the environmentally beneficial alternative of CEM-based compliance needs time to obtain, install, and calibrate the device. See section 504 (b) of the CAA, which allows alternatives to a CEM, but in doing so, places the CEM by inference at the top of the monitoring hierarchy.

Given the pervasive nature of the proposed amendments, and the fact that final action cannot occur until after the current existing source compliance date, we believe it is both appropriate and necessary to provide time for sources in the category to review the final changes and take appropriate steps to come into compliance with the amended rule.

III. What Are the Administrative Requirements for This Action?

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this final rule amendment is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. 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" 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 amendment 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, because State and local governments do not own or operate any sources that would be subject to the PAI Production NESHAP. Thus, Executive Order 13132 does not apply to this final rule amendment.

C. 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 amendment does not have tribal implications, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this final rule amendment.

D. 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 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 EPA.

The 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 rule amendment is not subject to Executive Order 13045 because it is based on technology performance, not health or safety risks. Furthermore, this final rule amendment has been determined not to be economically significant as defined under Executive Order 12866.

E. 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 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.

The EPA has determined that this final rule amendment does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or the private sector in any 1 year. For existing sources, the total annual cost of the PAI Production NESHAP has been estimated to be approximately $39.4 million (64 FR 33559, June 23, 1999). Today's amendment does not add new requirements that would increase this cost. Thus, this rule amendment is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that this rule amendment 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. Therefore, this rule amendment is not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule amendment. For purposes of assessing the impacts of this final rule amendment on small entities, a small entity is defined as: (1) A small business in the North American Industrial Classification System (NAICS) code 325320 that has as many as 500 employees; (2) a small business in NAICS code 325199 that has as many as 1,000 employees; (3) 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 (4) 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 amendment on small entities, EPA has concluded 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 on small entities" (5 U.S.C. Sections 603 and 604). Thus, an agency may conclude 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. Today's final rule amendment imposes no additional regulatory requirements on owners or operators of affected sources. We have, therefore, concluded

that today's final rule amendment will have no impact on small entities.

G. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in the 1999 PAI Production NESHAP under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control No. 2060–0370.

This final rule amendment will have no impact on the information collection burden estimates made previously, and consequently, the ICR has not been revised. 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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

H. National Technology Transfer and Advancement Act of 1995

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, Section 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) 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.

Today's action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

I. 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 adopting 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. The EPA will submit a report containing this rule amendment 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 rule amendment 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).

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

This final rule amendment 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 it is not a significant regulatory action under Executive Order 12866.

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: May 23, 2002.

Christine Todd Whitman,

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 MMM—National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production

2. Section 63.1364 is amended by revising paragraph (a)(1) to read as follows:

§ 63.1364 Compliance dates.

(a) *Compliance dates for existing sources.* (1) An owner or operator of an existing affected source must comply with the provisions in this subpart by December 23, 2003.

* * * * *

[FR Doc. 02–13804 Filed 5–31–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3730, 3820, 3830, and 3850

[WO–620–1430–00–24 1A]

RIN 1004–AD52

Locating, Recording, and Maintaining Mining Claims or Sites

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is promulgating this final rule to amend regulations on locating, recording, and maintaining mining claims or sites. In this rule, BLM amends its regulations to respond to a recent law extending until September 30, 2003, the provisions that require claimants to pay location and annual maintenance fees for unpatented mining claims or sites, and allow qualified "small miners" to seek a waiver from the annual maintenance fee. BLM has collected these fees and provided for waivers under the existing regulations based on previous laws, the most recent of which expired on September 30, 2001. The final rule is necessary to describe and publicize the statutory extension of the fee requirement, and to remove conflicts between the current regulations and the new statute.

EFFECTIVE DATE: This administrative final rule is effective June 3, 2002.

ADDRESSES: You may mail suggestions or inquiries to Bureau of Land Management, Solid Minerals Group, Room 501 LS, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Roger Haskins in the Solid Minerals Group at (202) 452–0355. For assistance in reaching Mr. Haskins, persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–(800) 877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of the Administrative Final Rule
III. Procedural Matters

Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. In temporary § 165.T08–016, revise paragraph (b) to read as follows:

§ 165.T08–016 Security Zone; Corpus Christi Inner Harbor, Corpus Christi, Texas.

* * * * *

(b) *Effective dates.* This section is effective from 8 a.m. on February 20, 2002 through 8 a.m. on October 15, 2002.

* * * * *

Dated: May 29, 2002.

M.E. Maes,

Commander, Coast Guard, Acting, Captain of the Port Corpus Christi.

[FR Doc. 02–14357 Filed 6–6–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7222–3]

RIN 2060–AG91

National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments.

SUMMARY: On June 29, 1999, we published the National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology (Generic MACT) Standards, which promulgated standards for four major hazardous air pollutants (HAP) source categories (*i.e.*, acetal resins (AR) production, acrylic and modacrylic fiber (AMF) production, hydrogen fluoride (HF) production, and polycarbonate (PC) production). In September 1999, a petition for review of the June 1999 Generic MACT rule was filed by the General Electric Company in the U.S. Court of Appeals for the District of Columbia Circuit. The petitioner raised a concern regarding a recordkeeping provision in the promulgated rule. Subsequently, the petitioner raised an additional issue concerning the promulgated definition for "process vent," and identified some editorial, cross-reference, and wording errors. Pursuant to a settlement agreement, EPA has agreed to revisions addressing each of these issues. EPA is effectuating this agreement through a direct final rule because we consider these revisions to be noncontroversial, and we anticipate no adverse comment.

DATES: This direct final rule will be effective on July 29, 2002 without further notice, unless significant adverse comments are received by July 8, 2002, or by July 22, 2002, if a public hearing is requested. See the proposed rule in this **Federal Register** for information on the hearing. If significant adverse comments are received, we will publish a timely withdrawal of this direct final rule in the **Federal Register** informing the public that this direct final rule will not take effect.

ADDRESSES: *Comments.* By U.S. Postal Service, submit written comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–97–17, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, submit comments (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–97–17, Room M–1500, U.S. EPA, 401 M Street, SW., Washington, DC 20460. We request that a separate copy of each public comment also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Mr. David W. Markwordt, Policy, Planning, and Standards Group (MC439–04), Emission Standards Division, Research Triangle Park, NC 27711, telephone number: (919) 541–0837, electronic mail (e-mail): *markwordt.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

Comments. We are publishing this action as a direct final rule because we view the amendments as noncontroversial and do not anticipate adverse comments. However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal in the event that adverse comments are filed.

If we receive any significant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. 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 direct final rule. Any parties interested in commenting must do so at this time.

Docket. The docket is an organized and complete file of the administrative record compiled by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (*See* section 307(d)(7)(A) of the Clean Air Act (CAA).) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials. You may also obtain docket indexes by facsimile, as described on the Office of Air and Radiation, Docket and

Information Center Website at *http://www.epa.gov/airprogm/oar/docket/faxlist.html. Worldwide Web (WWW).* In addition to being available in the docket, an electronic copy of this action will also be available through the WWW. Following signature, a copy of the action will be posted on the EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN at EPA's web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. The regulated categories and entities affected by this action include:

Category	NAICS*	Regulated entities
Industry	25199	Producers of homopolymers and/or copolymers of alternating oxymethylene units. Producers of either acrylic fiber or modacrylic fiber synthetics composed of acrylonitrile (AN) units. Producers of polycarbonate.
Industry	325188	Producers of, and recoverers of HF by reacting calcium fluoride with sulfuric acid. For the purpose of implementing the rule, HF production is not a process that produces gaseous HF for direct reaction with hydrated aluminum to form aluminum fluoride (i.e., the HF is not recovered as an intermediate or final product prior to reacting with the hydrated aluminum).

*North American Information Classification System

This table is not intended to be exhaustive, but rather provides a guide for readers likely to be interested in the revisions to the regulation. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in 40 CFR § 63.1103 of the promulgated rule. If you have any questions regarding the applicability of these amendments to a particular entity, consult the appropriate EPA Regional Office representative. *Judicial Review.* Under section 307(b)(1) of the CAA, judicial review of this direct final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia by August 6, 2002. Under section 307(d)(7)(B) of the CAA, only an objection to this rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by this direct final rule may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

I. What Is the Background for the Proposed Amendments?

On June 29, 1999, we published the National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology (Generic MACT) Standards, 40 CFR Part 63, Subpart YY, which promulgated standards for four major hazardous air pollutants (HAP) source categories (*i.e.,* acetal resins (AR) production, acrylic and modacrylic fiber (AMF) production, hydrogen fluoride (HF) production, and polycarbonate (PC) production). 64 FR 34921. On November 22, 1999, we published some corrections to the final rule. 64 FR 63709.

In September 1999, the General Electric Company (GE) filed a petition for review of the June 1999 Generic MACT rule in the U.S. Court of Appeals for the District of Columbia Circuit. *General Electric Co.* v. *U.S. Environmental Protection Agency,* No. 99–1353 (D.C. Circuit). In its petition, GE raised an initial concern regarding the recordkeeping provision in 40 CFR 63.1109(c). Subsequently, GE also raised an issue concerning the promulgated definition for "process vent" in 40 CFR 63.1101, which EPA determined could only be properly resolved in conjunction with similar issues which were being considered with respect to some other MACT standards. GE also identified some other editorial, cross-reference, and wording errors which had not been corrected in the November 22, 1999 rulemaking.

GE and EPA subsequently entered into settlement discussions. In a settlement agreement which was lodged with the D.C. Circuit Court on March 13, 2002, EPA agreed to propose changes to the Generic MACT standards addressing each of the issues raised by GE. EPA also stated its intention to effectuate these changes through direct final rulemaking. EPA provided notice and an opportunity for comment on the proposed settlement agreement on March 22, 2002. 67 FR 13326.

II. What Are the Proposed Amendments?

1. Recordkeeping Requirements

In its petition for review, GE initially cited only one issue, which involves a change in the recordkeeping provisions in Section 63.1109(c) that we made between the proposed and final rules. As currently promulgated, that section states that "all records required to be maintained by this subpart or a subpart referenced by this subpart shall be maintained in such a manner that they can be accessed within 2 hours and are suitable for inspection." At proposal, Section 63.1109(c) stated that "all records required to be maintained by this subpart or a subpart referenced by this subpart shall be maintained in such a manner that they can be readily accessed and are suitable for inspection." We added the 2-hour time constraint between proposal and promulgation, rather than allowing records to be "readily accessed," believing that we were introducing a reasonable time constraint that clarified what we meant by "readily accessed." Based on feedback from the petitioners, we agreed to remove this time constraint as it was demonstrated to us that the 2-hour time constraint is not reasonable in all cases. Therefore, today's action restores the language we originally proposed.

2. Process Vent Definition

On October 14, 1998, we proposed the following "process vent" definition (63 FR 55178):

> *Process vent* means a gas stream that is continuously discharged during operation of the unit within a manufacturing process unit that meets the applicability criteria of this subpart. Process vents include gas streams that are either discharged directly to the atmosphere or after diversion through a product recovery device. Process vents exclude relief valve discharges and leaks from equipment regulated under this subpart.

We received comments on the proposed definition from two commenters. One commenter stated that a process vent is a piece of equipment but that our proposed definition defined a process vent as a continuous gas stream. The commenter requested that

the definition be modified to become a definition for a process vent stream.

Another commenter requested that the term "organic HAP" be used in the definition of process vent. This commenter also requested that storage vessels be expressly excluded from the definition, along with low organic HAP streams, and suggested an alternative definition. The alternative definition that the commenter provided follows:

Process vent means a gas stream containing greater than 0.005 weight percent organic HAP that is continuously discharged during operation of the unit within a manufacturing process unit that meets the applicability criteria of this subpart. Process vents include gas streams that are either discharged directly to the atmosphere or are discharged to the atmosphere after diversion through a product recovery device. Process vents exclude relief valve dischargers, emissions from storage tanks, and leaks from equipment regulated under this subpart.

After considering the comments, we revised the definition at promulgation to the following:

Process vent means a piece of equipment that processes a gas stream (both batch and continuous streams) during operation of the unit within a manufacturing process unit that meets the applicability criteria of this subpart. Process vents process gas streams that are either discharged directly to the atmosphere or are discharged to the atmosphere after diversion through a product recovery device. Process vents include vents from distillate receivers, product separators, and ejector-condensers. Process vents exclude relief valve discharges and leaks from equipment regulated under this subpart. Process vents that process gas streams containing less than or equal to 0.005 weight-percent organic HAP are not subject to the process vent requirements of this subpart.

During settlement discussions, GE raised certain concerns regarding the effect of the process vent definition as it was promulgated. At the time, EPA was also considering similar issues with respect to the national emission standards for organic hazardous air pollutants from the synthetic organic chemical manufacturing industry for process vent, storage vessels, transfer operation, and wastewater. EPA and GE ultimately agreed on a revised definition which addresses the concerns expressed by GE and is also consistent with the approach we adopted in the other rulemakings.

We agreed to propose changes to the definition of "process vent" as follows: (1) Amending the definition to specifically exclude gas streams subject to other requirements under the Generic MACT (40 CFR part 63, subpart YY) (e.g., gas streams from waste management units); (2) deleting the second sentence of the promulgated definition for process vent, which does not add anything that the definition for "unit operation" does not already address; and (3) making some clarifying grammatical changes. After incorporating these revisions, the new definition will read as follows:

Process vent means the point of discharge to the atmosphere (or the point of entry into a control device, if any) of a gas stream from a unit operation within a source category subject to this subpart. Process vents exclude the following gas stream discharges:

(1) Relief valve discharges;

(2) Leaks from equipment subject to this subpart;

(3) Gas streams exiting a control device complying with this subpart;

(4) Gas streams transferred to other processes (on-site or off-site) for reaction or other use in another process (i.e., for chemical value as a product, isolated intermediate, byproduct, or co-product for heat value);

(5) Gas streams transferred for fuel value (i.e., net positive heating value), use, reuse, or sale for fuel value, use, or reuse;

(6) Gas streams from storage vessels or transfer racks subject to this subpart;

(7) Gas streams from waste management units subject to this subpart;

(8) Gas streams from wastewater streams subject to this subpart; and

(9) Gas streams exiting process analyzers; and

(10) Gas stream discharges that contain less than or equal to 0.005 weight-percent total organic HAP.

The revised "process vent" definition is consistent with our original intent, and we believe that the revision will not change the number of affected sources, the number of emission points subject to control, or the required level of control. The clearer definition also may preclude the need for certain applicability determinations, thereby reducing the burden on State and local agencies implementing the rule.

3. Cross-Reference, Editorial and Wording Amendments

GE also identified some editorial (*e.g.*, typos, type set), cross-reference and wording errors in the final rule which were not corrected in the technical corrections we promulgated on November 22, 1999. We are amending the rule to correct these errors with today's action.

For example, as promulgated, § 63.1104(d)(3) incorrectly uses the word "produce." The correct and intended word is "product." For another example, Table 5 of § 63.1103(d), item 6, uses the mathematical symbol of "≤." The correct and intended mathematical symbol is "≥." Table 5 of § 63.1103(d), item 6, also contains a superscript error, where a letter should be superscript that is not. Today's action corrects these typeset errors.

III. Why Are We Publishing These amendments as a Direct Final Rule?

EPA has decided that it is appropriate to effectuate the proposed changes to the Generic MACT standards through direct final rulemaking. We think that these amendments are consistent with our original intent, and we do not expect them to affect which sources are subject to the rule, or to alter the control requirements applicable to those sources. Because we view these amendments as noncontroversial, we do not anticipate any adverse comment. Moreover, because the compliance date for many facilities subject to the standards is July 1, 2002, we think the public interest will be served if these changes can be made effective prior to that compliance date.

IV. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether a regulatory action is "significant" and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, we have determined that the amendments do not constitute a "significant regulatory action" because they do not meet any of the above criteria. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Paperwork Reduction Act

The information collection requirements for the Generic MACT

standards for acetal resins production, acrylic and modacrylic fiber production, hydrogen fluoride production, and polycarbonate production were submitted to and approved by the Office of Management and Budget. An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1891.03) and a copy may be obtained from Susan Auby by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by email at *auby.susan@epa.gov*, or by calling (202) 566–1672. By U.S. Postal Service, send comments on the ICR to the Director, Collection Strategies Division, U.S. EPA (2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or by courier, send comments on the ICR to the Director, Collection Strategies Division, U.S. EPA (2822T), 1301 Constitution Avenue, NW., Room 6143, Washington, DC 20460 (202) 566–1700); a copy may also be downloaded at *http://www.epa.gov/icr*. This approval expires September 30, 2002.

Today's direct final rule amendments have no impact on the information collection burden estimates made previously. Consequently, the ICR has not been revised.

C. 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" 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 direct 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. Today's action corrects errors and clarifies the applicability of the rule. There are minimal, if any, impacts associated with this action. Thus, Executive Order 13132 does not apply to the direct final rule amendments.

D. 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 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."

The direct final rule amendments do not have tribal implications, as specified in Executive Order 13175. No tribal governments own or operate facilities affected by the Generic MACT. Thus, Executive Order 13175 does not apply to the direct final rule amendments.

E. 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 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 objective 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.

The EPA has determined that the direct final rule amendments contain no Federal mandates 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. Thus, the amendments are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that the amendments contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no requirements that apply to such governments or impose obligations upon them. Therefore, the direct final rule amendments are not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The 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 direct final rule amendments on small entities, a small entity is defined as: (1) A small business whose parent company has fewer than 1000 employees; (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.

We believe there will be little or no impact on any small entities because the direct final rule amendments do not impose additional requirements but instead either eliminate cross-referencing, editorial, and wording errors or clarify the applicability of existing requirements of the MACT standards established for acetal resins production, acrylic and modacrylic fiber production, hydrogen fluoride production, and polycarbonate production. We have, therefore, concluded that today's direct final rule amendments will not have a significant

economic impact on a substantial number of small entities.

G. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA), (Pub. L. 104–113) (March 7, 1996) (15 U.S.C. 272 note), directs all Federal agencies to use voluntary consensus standards in their 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 and analytical procedures, business practices, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. The NTTAA requires Federal agencies like EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

The direct final rule amendments do not establish or modify technical standards in the existing rule and do not require sources to take substantive steps that are appropriate to the use of voluntary consensus standards.

H. 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 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.

The direct final rule amendments are not subject to Executive Order 13045 because they are not an economically significant regulatory action as defined by Executive Order 12866. In addition, the EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks. The direct final rule amendments are not subject to Executive Order 13045 because they are based on technology performance and not on health or safety risks.

I. 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. The EPA will submit a report containing the direct rule 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 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).

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

The direct final rule amendments are not subject to Executive Order 13211, "Actions Concerning Regulation 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.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous air pollutants, Hazardous substances, Reporting and recordkeeping requirements.

Dated: May 23, 2002.

Christine Todd Whitman,

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 YY—National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards

2. Section 63.1101 is amended by revising the definitions for "combined vent stream", "process unit" and "process vent" to read as follows:

§ 63.1101 Definitions.

* * * * *

Combined vent stream means a process vent that is comprised of at least one gas stream from a batch unit operation manifolded with at least one gas stream from a continuous unit operation.

* * * * *

Process unit means the equipment assembled and connected by pipes or ducts to process raw and/or intermediate materials and to manufacture an intended product. A process unit includes more than one unit operation.

* * * * *

Process vent means the point of discharge to the atmosphere (or the point of entry into a control device, if any) of a gas stream from a unit operation within a source category subject to this subpart.

Process vent excludes the following gas stream discharges:

(1) Relief valve discharges;

(2) Leaks from equipment subject to this subpart;

(3) Gas streams exiting a control device complying with this subpart;

(4) Gas streams transferred to other processes (on-site or off-site) for reaction or other use in another process (i.e., for chemical value as a product, isolated intermediate, byproduct, or co-product for heat value);

(5) Gas streams transferred for fuel value (*i.e.*, net positive heating value), use, reuse, or sale for fuel value, use, or reuse;

(6) Gas streams from storage vessels or transfer racks subject to this subpart;

(7) Gas streams from waste management units subject to this subpart;

(8) Gas streams from wastewater streams subject to this subpart;

(9) Gas streams exiting process analyzers; and

(10) Gas stream discharges that contain less than or equal to 0.005 weight-percent total organic HAP.

* * * * *

3. In § 63.1103, paragraph (d)(3) is amended by:

a. Revising entry "6" of Table 5 to Sec. 63.1103(d);

b. Revising entries "4" and "5" of Table 6 to Sec. 63.1103(d); and

c. Revising footnote "b" of Table 6 to Sec. 63.1103(d).

The revisions read as follows:

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

* * * * *

(d) * * *

(3) * * *

TABLE 5 TO § 63.1103(D).—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A POLYCARBONATE PRODUCTION EXISTING AFFECTED SOURCE?

If you own or operate * * *	And if * * *	Then you must * * *
* * * * * * *		
6. Equipment as defined under § 63.1101	The equipment contains or contacts ≥ 5 weight-percent total organic HAP[e], and operates ≥ 300 hours per year.	Comply with the requirements of subpart TT (national emission standards for equipment leaks (control level 1)) or subpart UU (national emission standards for equipment leaks (control level 2)) of this part.
* * * * * * *		

TABLE 6 TO § 63.1103(D).—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A POLYCARBONATE PRODUCTION NEW AFFECTED SOURCE?

If you own or operate * * *	And if * * *	Then you must * * *
* * * * * * *		
4. A process vent from continuous unit operations or a combined vent stream[a].	The vent stream has a TRE[b c] ≤9.6	a. Reduce emissions of total organic HAP by 98 weight-percent; or reduce total organic HAP to a concentration of 20 parts per million by volume; whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(a)(2) (process vent requirements) of this part; and Vent emissions through a closed vent system to a halogen reduction device meeting the requirements of subpart SS, § 63.994, of this part that reduces hydrogen halides and halogens by 99 weight-percent or to less than 0.45 kilograms per hourd[d], whichever is less stringent; or b. Reduce the process vent halogen atom mass emission rate to less than 0.45 kilograms per hour by venting emissions through a closed vent system to a halogen reduction device meeting the requirements of subpart SS, § 63.994 (halogen reduction device requirements) of this part; and Reduce emissions of total organic HAP by 98 weight-percent; or reduce total organic HAP or TOC to a concentration of 20 parts per million by volume; whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(a)(2) (process vent requirements) of this part; or c. Achieve and maintain a TRE index value greater than 9.6.
5. Equipment as defined under § 63.1101	The equipment contains or contacts ≥ 5 weight-percent total organic HPA[e], and operates ≥ 300 hours per year.	Comply with the requirements of subpart TT (national emission standards for equipment leaks (control level 1)) or subpart UU (national emission standards for equipment leaks (control level 2)) of this part.
* * * * * * *		

[b] The TRE equation coefficients for halogenated streams (Table 1 of § 63.1104(j)(1) of this subpart) shall be used to calculate the TRE index value.

[c] The TRE is determined according to the procedures specified in § 63.1104(j). If a dryer is manifolded with such vents, and the vent is routed to a recovery, recapture, or combustion device, then the TRE index value for the vent must be calculated based on the properties of the vent stream (including the contribution of the dryer). If a dryer is manifolded with other vents and not routed to a recovery, recapture, or combustion device, then the TRE index value must be calculated excluding the contributions of the dryer. The TRE index value for the dryer must be calculated separately in this case.

[d] The mass emission rate of halogen atoms contained in organic compounds is determined according to the procedures specified in § 63.1104(i).

* * * * * * * * *

4. Section 63.1104 is amended by:

a. Revising the first sentence of paragraph (c);

b. Revising paragraph (d)(3);

c. Revising the definition of the term for D_j in paragraph (g)(1); and

d. Revising Table 1 in paragraph (j)(1).

The revisions read as follows:

§ 63.1104 Process vents from continuous unit operations: applicability assessment procedures and methods.

* * * * *

(c) Applicability assessment requirement. The TOC or organic HAP concentrations, process vent volumetric flow rates, process vent heating values, process vent TOC or organic HAP emission rates, halogenated process vent determinations, process vent TRE index values, and engineering assessments for process vent control applicability assessment requirements are to be determined during maximum representative operating conditions for the process, except as provided in paragraph (d) of this section, or unless the Administrator specifies or approves alternate operating conditions. * * *

(d) * * *

(3) Necessitating that the owner or operator make product in excess of demand.

* * * * *

(g) * * *

(1) * * *

D_j=Concentration on a wet basis of compound j in parts per million, as measured by procedures indicated in paragraph (e)(2) of this section. For process vents that pass through a final steam jet and are not condensed, the moisture is assumed to be 2.3 percent by volume.

* * * * *

(j) * * *

(1) * * *

TABLE 1 OF § 63.1104(J)(1).—COEFFICIENTS FOR TOTAL RESOURCE EFFECTIVENESS [a]

Existing or new?	Halogenated vent stream?	Control device basis	Values of coefficients			
			A	B	C	D
Existing	Yes	Thermal Incinerator and Scrubber.	3.995	5.200×10^{-2}	-1.769×10^{-3}	9.700×10^{-4}
	No	Flare	1.935	3.660×10^{-1}	-7.687×10^{-3}	-7.333×10^{-4}
		Thermal Incinerator 0 Percent Recovery.	1.492	6.267×10^{-2}	3.177×10^{-2}	-1.159×10^{-3}
		Thermal Incinerator 70 Percent Recovery.	2.519	1.183×10^{-2}	1.300×10^{-2}	4.790×10^{-2}
New	Yes	Thermal Incinerator and Scrubber.	1.0895	1.417×10^{-2}	-4.822×10^{-4}	2.645×10^{-4}
	No	Flare	5.276×10^{-1}	9.98×10^{-2}	-2.096×10^{-3}	2.000×10^{-4}
		Therman Incinerator 0 Percent Recovery.	4.068×10^{-1}	1.71×10^{-2}	8.664×10^{-3}	-3.162×10^{-4}
		Thermal Incinerator 70 Percent Recovery.	6.868×10^{-1}	3.209×10^{-3}	3.546×10^{-3}	1.306×10^{-2}

[a] Use according to procedures outlined in this section.
MJ/scm = Mega Joules per standard cubic meter.
scm/min = Standard cubic meters per minute.

* * * * *

5. Section 63.1109 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 63.1109 Recordkeeping requirements.

* * * * *

(c) *Availability of records.* All records required to be maintained by this subpart or a subpart referenced by this subpart shall be maintained in such a manner that they can be readily accessed and are suitable for inspection.* * *

* * * * *

[FR Doc. 02–13800 Filed 6–6–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 25

[ET Docket No. 97–214; FCC 02–131]

Allocation of 45–456 MHz and 459–460 MHz Bands to the Mobile Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; termination of proceeding.

SUMMARY: This document terminates this proceeding and retain the existing fixed and mobile allocations. The Commission concludes that it should not move forward with these proposals prior to the 2003 World Radiocommunication Conference ("WRC–2003").

FOR FURTHER INFORMATION CONTACT: Jamison Prime, Office of Engineering and Technology, (202) 418–7474, TTY (202) 418–2989, e-mail: *jprime@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, ET Docket 97–214, FCC 02–131, adopted April 29, 2002, and released May 13, 2002. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room, CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov.* Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365.

Summary of Order

1. On October 14, 1997, the Commission released a *Notice of Proposed Rule Making* (NPRM), 62 FR 58932, October 31, 1997, in response to a Region 2 MSS allocation that was established at the 1995 World



Federal Register

Monday,
June 10, 2002

Part II

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7214–6]

RIN 2060–AG97

National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for new and existing sources that coat metal coil. The EPA has identified metal coil surface coating as a major source of hazardous air pollutant (HAP) emissions such as methyl ethyl ketone, glycol ethers, xylenes (isomers and mixtures), toluene, and isophorone. Each of these major HAP can cause reversible or irreversible toxic effects following sufficient exposure. The potential toxic effects include eye, nose, throat, and skin irritation, and blood cell, heart, liver, and kidney damage.

The final rule implements section 112(d) of the Clean Air Act (CAA) and will require all new and existing metal coil coating operations that are major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). The EPA estimates that the final rule will reduce nationwide HAP emissions from metal coil coating operations by approximately 53 percent. The emissions reductions achieved by these NESHAP, when combined with the emissions reductions achieved by other similar standards, will provide protection to the public and achieve a primary goal of the CAA.

DATES: Effective June 10, 2002. The incorporation by reference of certain publications in this rule is approved by the Director of the Federal Register as of June 10, 2002.

ADDRESSES: Docket No. A–97–47 contains supporting information used in developing the standards. The docket is located at the U.S. EPA, 401 M Street, SW., Washington, DC 20460 in Room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For information concerning applicability and rule determinations, contact your State or local representative or the appropriate EPA Regional Office representative. For information concerning the analyses performed in developing these NESHAP, contact Ms. Rhea Jones, Coatings and Consumer Products Group (C539–03), Emission Standards Division, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–2940, facsimile number (919) 541–5689; electronic mail address: jones.rhea@epa.gov.

SUPPLEMENTARY INFORMATION: *Docket.* The docket is an organized and complete file of all the information considered by the EPA in the development of the final rule. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to the final rule are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of the final rule will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the final rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. If a metal coil coating line is operated at your facility, it may be a regulated entity. Categories and entities potentially regulated by this action include:

Category	NAICS codes	Examples of potentially regulated entities
Metal Coil Coating Industry	332812[a], 323122, 339991, 326113, 32613, 32614, 331112, 331221, 33121, 331312, 331314, 331315, 331319, 332312, 332322, 332323, 332311, 33637, 332813, 332999, 333293, 336399, 325992, 42183.	Those facilities that perform surface coating of metal coil using HAP-containing materials.

[a] The majority of facilities are included in NAICS 332812.

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 § 63.5090 of the final rule. If you have any questions regarding the applicability of this action to a particular entity, consult the appropriate EPA Regional Office representative.

Judicial Review. The NESHAP for Metal Coil Coating were proposed on July 18, 2000 (65 FR 44616). The final rule announces the EPA's final decision on the rule. Under section 307(b)(1) of the CAA, judicial review of these NESHAP is available by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by August 9, 2002. Only those objections to the rule which were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2) of the CAA, the requirements that are the subject of the final rule may not be challenged later in civil or criminal court brought by the EPA to enforce these requirements.

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

I. What are the background and public participation for the rule?
II. What are the final standards?
A. What facilities are subject to the rule?
B. What is the affected source?
C. What are the emission limits and operating limits?
D. What pollutants are limited by the rule?
E. When do I show initial compliance with the standards?
F. How do I demonstrate compliance?
G. What are the notification, recordkeeping, and reporting requirements?
III. What are the major changes we have made to the rule since proposal?
A. Rule applicability
B. Emission standards
C. Operating limits

D. Compliance demonstration
IV. What are the responses to major comments?
A. Impact analysis
B. Rule applicability
C. Definitions
D. MACT floor determination
E. Achievability of the Standards
F. Monitoring
G. Administrative Requirements
V. What are the environmental, energy, cost, and economic impacts?
A. What are the HAP emissions reductions?
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I. What Are the Background and Public Participation for the Rule?

Section 112 of the CAA requires EPA to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. Major sources of HAP are those that have the potential to emit greater than 9.07 megagrams per year (Mg/yr) (10 tons per year (tpy)) of any one HAP or 22.68 Mg/yr (25 tpy) of any combination of HAP.

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing 5 sources for categories or subcategories with fewer than 30 sources) (CAA section 112(d)(3)).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards that are more stringent than the floor based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements (CAA section 112(d)(2)).

On July 16, 1992 (57 FR 31576), we published a list of source categories slated for regulation under section 112(c). The source category list included the metal coil coating (surface coating) source category regulated by the standards being promulgated today. We proposed standards for the metal coil coating sources covered by the rule on July 18, 2000 (65 FR 44616).

The preamble for the proposed standards described the rationale for the proposed standards. Public comments were solicited at the time of the proposal. The public comment period lasted from July 18, 2000 to September 18, 2000. Industry representatives, regulatory agencies, environmental groups, and the general public were given the opportunity to comment on the proposed rule and to provide additional information during and after the public comment period. Although we offered at proposal the opportunity for oral presentation of data, views, or arguments concerning the proposed rule, no one requested a public hearing, and a public hearing was not held.

We received a total of 17 letters containing comments on the proposed rule. Commenters included individual companies with coil coating operations, industry trade associations, State regulatory agencies, and an association of air pollution control vendors. Today's final rule reflects our full consideration of all of the comments received. Major public comments on the proposed rule, along with our responses to those comments, are summarized in this preamble. See the Summary of Public Comments and Responses document for a more detailed discussion of public comments and our responses (docket number A–97–47).

II. What Are the Final Standards?

A. What Facilities Are Subject to This Rule?

Metal coil surface coating is a process-specific rather than a product-specific operation. Accordingly, the final rule applies to you if you own or operate any coil coating line at a facility that is a major source of HAP emissions. We have defined a coil coating line as a process and the collection of equipment used to apply an organic coating to the surface of metal coil that is at least 0.15 millimeter (0.006 inch) thick. A coil coating line includes a web unwind or feed section, a series of one or more work stations, any associated curing oven, wet section, and quench station. A coil coating line does not include ancillary operations such as mixing/thinning, cleaning, wastewater treatment, and storage of coating material.

You are not subject to the final rule if your coil coating line is located at an area source. An area source of HAP is any facility that has the potential to emit HAP but is not a major source. You may establish area source status by limiting the source's potential to emit HAP through appropriate mechanisms available through your permitting authority.

The requirements of the final rule do not apply to a coil coating line that is part of research or laboratory equipment, coats metal coil for use in flexible packaging, or is a coil coating line on which 85 percent or more of the metal coil coated, based on surface area, is less than 0.15 millimeter (0.006 inch) thick. If you operate a coil coating line on which 85 percent or more of the metal coil coated, based on surface area, is less than 0.15 millimeter (0.006 inch) thick, it would be subject to the Paper and Other Web Coating NESHAP (40 CFR part 63, subpart JJJJ) currently under development. However, you may choose to demonstrate compliance with the requirements of today's rule instead of those of subpart JJJJ if either of the following two criteria applies: (1) The coating line is used to coat metal coil of thicknesses both less than and greater than or equal to 0.15 millimeter (0.006 inch) thick, regardless of the percentage of surface area of each thickness coated, or (2) the coating line is used to coat only metal coil that is less than 0.15 millimeter (0.006 inch) thick and the coating line is controlled by a common control device that also receives organic

HAP emissions from a coil coating line that is subject to the requirements of this subpart. Compliance with the requirements of today's rule in accordance with either of the above criteria constitutes compliance with the Paper and Other Web Coating NESHAP (40 CFR part 63, subpart JJJJ), therefore, you would not be subject to the compliance demonstration requirements of subpart JJJJ.

This rule does not apply to facilities that print a company logo for identification purposes or other markings for inventory control purposes onto bare, uncoated metal coils using flexographic printing equipment, where no other coating is applied.

A major source is also subject to all other applicable NESHAP for the various source categories, other than metal coil coating and paper and other web coating, that may be present at the facility. This means your facility may be subject to multiple NESHAP, and you are responsible for complying with the standards set for each NESHAP.

B. What Is the Affected Source?

We define an affected source as a stationary source, group of stationary sources, or part of a stationary source to which a specific emission standard applies. Within a source category, we select the specific emission sources (emission points or groupings of emission points) that will make up the affected source for that category.

For the final metal coil NESHAP, the affected source subject to the emission standards is the collection of all of the metal coil coating lines at your facility. The portions of the metal coil coating line to which the emission limitations apply are the coating application stations and associated curing ovens. Wet section/pretreatment and quench operations are part of the metal coil coating line, but are not subject to the emission limitations. The coil coating line does not include ancillary operations such as storage of coating and cleaning material, wastewater treatment, coating material mixing/thinning, and parts and equipment cleaning and, therefore, the standards do not apply to these operations.

C. What Are the Emission Limits and Operating Limits?

Emission Limits. Today's final rule provides you the option of limiting organic HAP emissions to one of the following three specified levels: (1) No more than 2 percent of the organic HAP applied (98 percent overall control efficiency (OCE) limit); (2) no more than 0.046 kilogram of organic HAP per liter (kg/l) (0.38 pound per gallon (lb/gal)) of solids applied during each 12-month compliance period (emission rate limit); or (3) if you are using an oxidizer to control organic HAP emissions, operate the oxidizer such that an outlet organic HAP concentration of no greater than 20 parts per million by volume (ppmv) on a dry basis is achieved and the efficiency of the capture system is 100 percent (outlet concentration limit).

You may choose from several compliance options in the final rule to achieve the emission limits. You may comply through a pollution prevention approach by applying only coating materials that meet the emission rate limit, either individually or collectively. Second, you may use a capture system and add-on control device to either reduce emissions by 98 percent or by the degree needed to meet the emission rate limit. Third, you may use a 100 percent efficient capture system and an oxidizer that reduces organic HAP emissions to no more than 20 ppmv.

Operating Limits. If you reduce emissions by using a capture system and add-on control device (other than a solvent recovery system for which you conduct a liquid-liquid material balance), the final operating limits would apply to you. These limits are site-specific parameter limits that you determine during the initial performance test of the system. For capture systems, you must develop a capture system monitoring plan. The monitoring plan must identify the operating parameter to be monitored, explain why this parameter is appropriate for demonstrating ongoing compliance, and identify the specific monitoring procedures. In the plan you must specify operating limits for the capture system operating parameter that demonstrate compliance with the emission limits. The monitoring plan must be available for inspection by your permitting authority upon request.

For thermal oxidizers, you must monitor the combustion temperature. For catalytic oxidizers, you must either monitor the temperature immediately before and after the catalyst bed, or you must monitor the temperature before the catalyst bed and prepare and implement an inspection and maintenance plan that includes periodic catalyst activity checks.

The site-specific operating limits that you establish must reflect operation of the capture system and control device during a performance test that demonstrates achievement of the emission limits during representative operating conditions.

If you use a capture system and control device for compliance, you are required to develop and operate according to a startup, shutdown, and malfunction plan (SSMP) during periods of startup, shutdown, or malfunction of the capture system and control device.

The NESHAP General Provisions of 40 CFR part 63, subpart A codify certain procedures and criteria for all 40 CFR part 63 NESHAP and also apply to you, as indicated in Table 2 to subpart SSSS. The General Provisions contain administrative procedures, preconstruction review procedures for new sources, and procedures for conducting compliance-related activities such as notifications, reporting and recordkeeping, performance testing, and monitoring. Subpart SSSS refers to individual sections of the General Provisions to highlight key sections that are relevant. However, unless specifically overridden in Table 2 to subpart SSSS of Part 63, all of the applicable General Provisions requirements apply to you.

In addition to the metal coil surface coating NESHAP, you may also be subject to other future or existing rules, such as State rules requiring reasonably available control technology limits on volatile organic compounds (VOC) emissions or the new source performance standards (NSPS) in 40 CFR part 60, subpart TT. You must comply with all rules that apply to you. Compliance with different standards should be resolved through your title V permit.

D. What Pollutants Are Limited by the Rule?

Today's final rule limits total organic HAP emissions from coil coating lines. These organic HAP are included on the list of HAP in section 112(b) of the CAA.

E. When Do I Show Initial Compliance With the Standards?

Existing sources will have to comply with today's final rule no later than 3 years after June 10, 2002. New or reconstructed sources must comply immediately upon startup of the affected source or by June 10, 2002, whichever is later.

The initial compliance period begins on the applicable compliance date described above for an existing source or a new or reconstructed source and ends on the last day of the 12th month following the compliance date. If the compliance date falls on any day other than the first day of the month, then the initial compliance period extends through that month plus the next 12 months. For the purpose of demonstrating continuous compliance, a compliance period consists of 12 months. Each month after the end of the

initial compliance period is the end of a compliance period consisting of that month and the preceding 11 months. We have defined "month" as a calendar month or a pre-specified period of 28 to 35 days to allow for flexibility at sources where data are based on a business accounting period.

F. How Do I Demonstrate Compliance?

You must account for all coating materials used in the affected source when determining compliance with the applicable emission limit. To make this determination, you must use at least one of the following compliance options: use of "as purchased" individually compliant coating materials (compliance option 1); use of "as applied" compliant coating materials (compliance option 2); use of a capture system and control device to achieve 98 percent OCE or 20 ppmv outlet (compliance option 3); and use of a capture system and control devices to maintain an acceptable emission rate (compliance option 4). You may apply any of the compliance options to an individual coil coating line, or to multiple lines as a group, or to the entire affected source. You may use different compliance options for different coil coating lines, or at different times on the same line. However, you may not use different compliance options at the same time on the same coil coating line. If you switch between compliance options for any coil coating line or group of lines, you must document this switch, and you must report it in your next semiannual compliance report.

If you use compliance option 1, then you must demonstrate that the organic HAP in each coating material used during each compliance period does not exceed 0.046 kg/l (0.38 lb/gal) of solids, as purchased.

There are two procedures for demonstrating compliance through the use of compliance option 2. You may either demonstrate that the organic HAP in each coating material used does not exceed 0.046 kg/l (0.38 lb/gal) of solids, as applied for each compliance period or demonstrate that the average of all coating materials used does not exceed this limit for each compliance period.

If you use compliance option 3, then you must demonstrate that either the overall organic HAP control efficiency is at least 98 percent on a monthly basis for individual or groups of coil coating lines; or overall organic HAP control efficiency is at least 98 percent during the initial performance test for individual coil coating lines; or oxidizer organic HAP outlet concentration is no greater than 20 ppmv and there is 100 percent capture efficiency during the initial performance test. When using emission capture and add-on controls to demonstrate compliance, you must also demonstrate that applicable operating limits are achieved continuously.

If you use compliance option 4, then you must demonstrate that the average organic HAP emission rate does not exceed 0.046 kg/l (0.38 lb/gal) of solids applied during each compliance period.

In addition to the testing and monitoring requirements specified below for the affected source to demonstrate compliance, the final rule adopts the testing requirements specified in § 63.7.

1. Test Methods and Procedures

If you demonstrate compliance with compliance option 1 or 2 based on the application of compliant coating materials on your coil coating lines or with compliance option 4 based on the combination of coating materials applied and control devices, you must determine the organic HAP content or the volatile matter content, and the solids content of coating materials "as purchased" or "as applied." To determine organic HAP content, you may either use EPA Method 311 of appendix A of 40 CFR part 63, use an alternative method for determining the organic HAP content (but only after obtaining EPA approval), or use the nonaqueous volatile matter content of the coating materials applied as a surrogate for the organic HAP content. The nonaqueous volatile matter content, which would include all organic HAP plus all other organic compounds (excluding water), must be determined by EPA Method 24 of appendix A of 40 CFR part 60, or an EPA approved alternative method. You may rely on manufacturer's data to determine the organic HAP content or volatile matter content. However, if there is any inconsistency between the results of the test methods specified above (or an approved alternative) and manufacturer's or supplier's data, the test method results will prevail for compliance and enforcement purposes. You may use the test methods specified in the rule for determining volume solids content of the coating materials (ASTM D2697–86 (Reapproved 1998) or ASTM D6093–97), or you may rely on manufacturer's or supplier's data.

You must determine the mass of each coating material "as purchased" or "as applied" using company records. If diluent solvents or other ingredients are added to a coating material prior to application, then the total organic HAP fractions and mass of coating material "as applied" must be adjusted appropriately to account for such additions. You must calculate the organic HAP content, solids content, and mass of all coating materials applied on the coil coating lines for each monthly period. However, only changes in a material formulation would require a re-determination of total organic HAP mass fraction for that coating material.

If you use an emission capture and control system to comply with compliance option 3 of the standard, you must demonstrate either the OCE or the oxidizer outlet HAP concentration is achieved. Alternatively, in accordance with compliance option 4, you may use capture and control equipment to demonstrate you meet the organic HAP emission rate limit specified. To comply using this approach, you must determine the OCE of the equipment and the organic HAP and solids content of the coating materials applied. These values must be determined for each monthly period and combined to determine the emission rate for each rolling 12-month compliance period.

If you use a capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances, you would use the specified test methods to determine both the efficiency of the capture system and the emission reduction efficiency of the control device (or the oxidizer outlet organic HAP concentration). To determine the capture efficiency, you must either verify the presence of a permanent total enclosure (PTE) using EPA Method 204 of 40 CFR part 51, appendix M (and all coating materials must be applied and dried within the enclosure); or use EPA Method 204A through F of 40 CFR part 51, appendix M, to measure capture efficiency. If you have a PTE and all materials are applied and dried within the enclosure and you route all exhaust gases from the enclosure to a control device, you assume 100 percent capture. To demonstrate compliance using the oxidizer outlet organic HAP concentration limit, 100 percent capture is required.

You must determine the emission reduction efficiency of a control device or the oxidizer outlet organic HAP concentration by conducting a performance test or using a continuous emission monitoring system (CEMS). If you use CEMS to calculate the control efficiency, you must measure both the inlet and outlet concentrations. The CEMS must comply with performance specification 8 or 9 in 40 CFR part 60, appendix B.

If you conduct a performance test, we are requiring that the emission

reduction efficiency of a control device or the oxidizer outlet organic HAP concentration be determined based on three runs, each run lasting 1 hour. Method 1 or 1A of 40 CFR part 60, appendix A is used for selection of the sampling sites. Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A, is used to determine the gas volumetric flow rate. Method 3, 3A, or 3B of 40 CFR part 60, appendix A, is used for gas analysis to determine dry molecular weight. You may also use as an alternative to Method 3B, the manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas in ASME PTC 19–10–1981–Part 10, "Flue and Exhaust Gas Analyses." Method 4 of 40 CFR part 60, appendix A, is used to determine stack moisture. Method 25 or 25A of 40 CFR part 60, appendix A, is used to determine organic volatile matter concentration. You must use Method 25A to demonstrate compliance with the oxidizer outlet organic HAP concentration limit because the limit is less than 50 ppmv. Alternatively, any other test method or data that have been validated according to the applicable procedures in Method 301 of 40 CFR part 63, appendix A, may be used upon obtaining approval by the Administrator. If you use a solvent recovery system, you may choose to determine the OCE using a liquid-liquid material balance instead of conducting an initial performance test. If you use the material balance alternative, you must measure the amount of all coating materials applied in the controlled coating operations served by the solvent recovery system during each month and determine the total volatile matter content of these materials. You must also measure the amount of volatile matter recovered by the solvent recovery system during the month and compare the amount recovered to the amount used to determine the OCE.

2. Monitoring Requirements

Monitoring is required by the standards to ensure that an affected source that does not use CEMS to demonstrate compliance is in continuous compliance. Monitoring requirements apply if you comply with the rule using emission capture and control devices to meet compliance option 3 or 4.

You must establish operating limits as part of the initial performance test of a capture system and control device other than a solvent recovery system for which you conduct liquid-liquid material balances. The operating limits are the minimum or maximum (as applicable) values achieved for capture systems and control devices during the most recent performance test, conducted under representative conditions, that demonstrated compliance with the emission limits.

The final rule specifies the parameters to monitor for oxidizers, the type of add-on control device most commonly used in the industry. You must install, calibrate, maintain, and continuously operate all monitoring equipment according to manufacturer's specifications and ensure that the continuous parameter monitoring systems (CPMS) meet the requirements in § 63.5150 of today's final rule. If you use control devices other than oxidizers, you must submit the operating parameters to be monitored to the Administrator for approval. The authority to approve the parameters to be monitored is retained by the Administrator and is not delegated to States.

If you use a capture and control system to meet the emission limits and you do not use liquid-liquid material balances to demonstrate compliance, you are required to develop a capture system monitoring plan identifying the operating parameter(s) to be monitored, explaining the appropriateness of the parameter(s) for demonstrating ongoing compliance, and identifying the specific monitoring procedures. The monitoring plan also must establish operating limits at the capture system operating parameter value, or range of values, that demonstrates compliance with the emission limits. The plan must be available for inspection by the permitting authority upon request. You must monitor in accordance with your plan.

After proposal of this NESHAP, we developed criteria to be used for setting operating parameter limits for monitoring capture systems and proposed them in other surface coating NESHAP (*see*, for an example, the proposal of Subpart NNNN—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances (65 FR 81133). These or similar criteria will be included in implementation materials we are developing for today's final rule as an example that facilities may follow in developing their monitoring plans.

If you use a thermal or catalytic oxidizer, you must continuously monitor the appropriate temperature and record it at least every 15 minutes. For thermal oxidizers, the temperature monitor is placed in the firebox or in the duct immediately downstream of the firebox before any substantial heat exchange occurs. The operating limit is the average temperature measured during each performance test; for each consecutive 3-hour period, the average temperature must be at or above this limit. For catalytic oxidizers, temperature monitors are placed immediately before and after the catalyst bed. The operating limits are the average temperature just before the catalyst bed and the average temperature difference across the catalyst bed during the performance test. For each 3-hour period, the average temperature and the average temperature difference are required to be at or above these limits. Alternatively, you are allowed to meet only the temperature limit before the catalyst bed if you develop and implement an inspection and maintenance plan for the catalytic oxidizer.

If you operate metal coil coating lines with intermittently-controllable work stations, you must demonstrate that captured organic HAP emissions within the affected source are being routed to the control device by monitoring for potential bypass of the control device. You may choose from the following four monitoring options:

(1) Flow control position indicator to provide a record of whether the exhaust stream is directed to the control device;

(2) Car-seal or lock-and-key valve closures to secure the bypass line valve in the closed position when the control device is operating;

(3) Valve closure continuous monitoring to ensure any bypass line valve or damper is closed when the control device is operating; or

(4) Automatic shutdown system to stop the coil coating operation when flow is diverted from the control device.

A deviation would occur for any period of time the bypass monitoring indicates that emissions are not routed to the control device.

If you use a solvent recovery system, you must conduct monthly liquid-liquid material balances or operate CEMS as described above in the test methods and procedures section of this preamble.

If you use a capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances, you are required to achieve on a continuous basis the operating limits you establish during the performance test. In addition, to demonstrate continuos compliance with compliance option 4, you must record data on the organic HAP and solids content of the coating materials applied to determine the organic HAP emission rate for each compliance period.

G. What Are the Notification, Recordkeeping, and Reporting Requirements?

You are required to comply with the applicable requirements in the NESHAP General Provisions, subpart A of 40 CFR part 63, as indicated in Table 2 to subpart SSSS. The General Provisions notification requirements include: initial notifications, notification of performance test if you are complying using a capture system and control device, notification of compliance status, and additional notifications required for affected sources with continuous monitoring systems. The General Provisions also require certain records and periodic reports.

1. Initial Notification

If you own or operate an existing affected source, you must send a notification to the EPA Regional Office in the region where your facility is located and to your State agency no later than 2 years after June 10, 2002. For new and reconstructed sources, you must send the notification within 120 days after the date of initial startup or 120 days after June 10, 2002, whichever is later. That report notifies us and your State agency that you have an existing affected source that is subject to today's NESHAP or that you have constructed a new affected source. Thus, it allows you and the permitting authority to plan for compliance activities. You also need to send a notification of planned construction or reconstruction of a source that will be subject to the final rule and apply for approval to construct or reconstruct.

2. Notification of Performance Test

If you demonstrate compliance by using a capture system and control device for which you do not conduct a liquid-liquid material balance, you must conduct a performance test. The performance test is required no later than the compliance date for an existing affected source. For a new or reconstructed affected source, the performance test is required no later than 180 days after startup or 180 days after today's date, whichever is later. You must notify us (or the delegated State or local agency) at least 60 calendar days before the performance test is scheduled to begin and submit a report of the performance test results no later than 60 days after the test.

3. Notification of Compliance Status

You must submit a Notification of Compliance Status within 30 days after the end of the initial 12-month compliance period. In the notification, you must certify whether each affected source has complied with the final standards, identify the option(s) you used to demonstrate initial compliance, summarize the data and calculations supporting the compliance demonstration, and provide information on any deviations from the emission limits, operating limits, or other requirements.

If you elect to comply by using a capture system and control device for which you conduct performance tests, you must provide the results of the tests. Your notification must also include the measured range of each monitored parameter, the operating limits established during the performance test, and information showing whether the source has complied with its operating limits during the initial compliance period.

4. Recordkeeping Requirements

You must keep records of reported information and all other information necessary to document compliance with today's final rule for 5 years. As required under the General Provisions, records for the 2 most recent years must be kept on-site; the other 3 years' records may be kept off-site. Records pertaining to the design and operation of the control and monitoring equipment must be kept for the life of the equipment.

Depending on the compliance option you choose, you may have to keep records of one or more of the following:

- Organic HAP, volatile matter, and solids content of the coating materials, "as purchased" or "as applied."
- Monthly usage of coating materials, organic HAP, volatile matter, and solids and compliance demonstrations using these data.
- Continuous monitoring system measurements.
- Liquid-liquid material balances.

If you demonstrate compliance by using a capture system and control device, you must keep records of the following:

- All required measurements, calculations, and supporting documentation needed to demonstrate compliance with the standards.
- All results of performance tests and parameter monitoring.
- All information necessary to demonstrate conformance with the affected source's SSMP when the plan procedures are followed.
- The occurrence and duration of each startup, shutdown, or malfunction of the emission capture system and control device.
- Actions taken during startup, shutdown, and malfunction that are different from the procedures specified in the affected source's SSMP.
- Each period during which a CPMS is malfunctioning or inoperative (including out-of-control periods).

Today's final rule requires you to collect and keep records according to certain minimum data requirements for the CPMS. Failure to collect and keep the specified minimum data would be a deviation that is separate from any emission limits or operating limits.

Deviations, as determined from these records, need to be recorded and also reported. A deviation is any instance when any requirement or obligation established by the final rule including, but not limited to, the emission limits and operating limits, is not met.

If you use a capture system and control device to reduce organic HAP emissions, you must make your SSMP available for inspection if the Administrator requests to see it. The plan must stay in your records for the life of the affected source or until the source is no longer subject to the proposed standards. If you revise the plan, you need to keep the previous superseded versions on record for 5 years following the revision.

5. Periodic Reports

Each reporting year is divided into two semiannual reporting periods. If no deviations occur during a semiannual reporting period, you must submit a semiannual report stating that the affected source has been in compliance. If deviations occur, you must include them in the report as follows:

- Report each deviation from the emission limit.
- If you use an emission capture system and control device other than a solvent recovery system for which you conduct liquid-liquid material balances, report each deviation from an operating limit and each time a bypass line diverts emissions from the control device to the atmosphere.
- Report other specific information on the periods of time the deviations occurred.

You also must include in each semiannual report an identification of the compliance option(s) you used for each affected source and the beginning dates you used each compliance option.

6. Other Reports

You are required to submit reports for periods of startup, shutdown, and malfunction of the capture system and control device. If the procedures you follow during any startup, shutdown, or malfunction are inconsistent with your plan, you must report those procedures with your semiannual reports in

addition to immediate reports required by 40 CFR 63.10(d)(5)(ii).

III. What Are the Major Changes We Have Made to the Rule Since Proposal?

This section summarizes the major changes we have made to the rule since proposal. We made the changes to clarify the rule's requirements and to respond to public comments on the proposed rule. A summary of responses to major comments regarding rule requirements is presented in section IV.B of this preamble.

A. Rule Applicability

The rule applicability has been clarified through revisions to the definition of a coil coating line and related definitions and the addition of a paragraph explicitly presenting criteria under which today's rule does not apply to a coil coating line. Also, a paragraph has been added that gives you compliance options if you operate a coating line(s) that coats both coil and foil.

The revised definition of a coil coating line incorporates the proposed definition of coil coating operation (the collection of equipment used to apply an organic coating to the surface of metal coil that is at least 0.15 millimeter (0.006 inch) thick). The definition of coil coating operation has been removed from the final standard. The coating of metal coil for use in flexible packaging (subject to the requirements of 40 CFR part 63, subpart JJJJ) is explicitly exempted from the requirements of today's rule through a revision to the definition of metal coil stating that metal coil does not include metal webs that are coated for use in flexible packaging. A definition of flexible packaging has been added to the final rule. A definition of protective oil, which is identified as a material not considered to be a coating in this subpart, has been added to the final rule to clarify what it includes.

A paragraph that explicitly presents two criteria under which today's rule does not apply to a coil coating line has been added. The first criterion, for a coil coating line that is part of research or laboratory equipment, was proposed in § 63.5100 as an exception to the emission sources affected by this subpart, and has been moved to the applicability statement of § 63.5090. The second criterion, for a coating line that predominantly coats foil (a metal strip that is less than 0.006 inch thick), has been added to the final rule.

The paragraph that has been added provides compliance options for a coating line subject to both this subpart and 40 CFR part 63, subpart JJJJ which is currently under development. It allows you to comply only with this subpart if you operate a coating line that coats both coil and foil, regardless of the amount of each coated or if you coat only foil but the coating line is controlled by a common control device that also receives organic HAP emissions from a coil coating line that is subject to the requirements of this subpart. Compliance with this subpart would constitute compliance with subpart JJJJ.

B. Emission Standards

The proposed emission rate limit has been revised in the final rule, and an oxidizer outlet concentration limit has been added. Also, the language of the emission standards has been revised to reflect the change in the compliance period from one month to a 12-month compliance period, as is described in section III.D of this preamble.

The proposed emission rate limit would have limited organic HAP emissions to no more than 0.029 kg/l (0.24lb/gal) of solids applied for the month. The final emission rate limit requires that the level of organic HAP be no more than 0.046 kg/l (0.38lb/gal) of solids applied during each 12-month compliance period.

If you use an oxidizer to control organic HAP emissions, the final rule allows you to operate the oxidizer such that an outlet organic HAP concentration of no greater than 20 ppmv by compound on a dry basis is achieved, provided the efficiency of the capture system is 100 percent. This outlet concentration limit provides oxidizers with an alternative to the 98 percent OCE limit.

C. Operating Limits

In response to comments regarding the definition of deviation as it relates to the failure to meet operating parameters, oxidizer monitoring, and the establishment of the operating parameter to be monitored, we have added § 63.5121 entitled "What operating limits must I meet?" to the final rule. This section clarifies that the operating limits must be met at all times after you establish them and presents the applicable operating limits for oxidizers and methods of demonstrating continuous compliance with the operating limits in Table 1 to subpart SSSS.

The catalytic oxidizer operating parameter monitoring requirements have been revised to incorporate the option of catalyst bed inlet and outlet gas temperature monitoring that is described below. Regarding capture system monitoring, the proposed requirement that you submit your monitoring plan to the Administrator has been revised to require only that you make the monitoring plan available for inspection by the permitting authority upon request.

We have also added a specific operating limits paragraph to section 63.5160 of the final rule to clarify the specific procedures to be followed to establish the operating limits during a performance test. The procedures for establishing the operating limits for a catalytic oxidizer have been corrected in the final rule to require that both the outlet temperature and the inlet temperature to the catalyst bed be used as operating parameters in order to calculate the temperature change across the catalyst bed. In addition, an alternative to this monitoring has been added to the final rule. In lieu of monitoring the inlet and outlet gas temperatures to calculate temperature change across the catalyst bed, you may monitor the gas temperature at the inlet to the catalyst bed and develop and implement an inspection and maintenance plan for the catalytic oxidizer.

D. Compliance Demonstration

Revisions to the proposed compliance demonstration requirements discussed below include explicitly allowing compliance on a line-by-line basis, changing the averaging period for the emission rate limit from a monthly to a rolling 12-month average, revising the definition of the term M_j to exclude water, and removing the 98 percent cap on destruction efficiency in calculating HAP emitted to demonstrate compliance with the emission rate limit.

We intended for the proposed rule to allow line-by-line compliance. This intent has been clarified in the final rule by adding an introductory paragraph to § 63.5170 of the final rule. The introductory paragraph states that you may apply any of the compliance options to an individual coil coating line, or to multiple lines as a group, or to the entire affected source. You may use different compliance options for different coil coating lines, or at different times on the same line, but you may not use different compliance options at the same time on the same coil coating line. Recordkeeping and reporting requirements also are specified if you switch between compliance options.

The compliance period specified for the emission rate limit in the proposed rule was 1 month. The compliance period specified in the final rule is 12 months, and compliance with the emission rate limit is demonstrated on

the basis of a rolling 12-month average. The 12-month compliance period is specified in § 63.5130 of the final rule and also is reflected in the specifications of the initial compliance period and subsequent compliance periods that have been added to this section. The initial compliance period begins on the compliance date and ends on the last day of the 12th month following the compliance date. If the compliance date is not the first day of the month, then the initial compliance period extends through that month plus the next 12 months. For subsequent compliance periods, each month after the end of the initial compliance period is the end of a compliance period consisting of that month and the preceding 11 months.

The term M_j is the mass of solvent, thinner, reducer, diluent, or other nonsolids-containing coating material, j, applied in a month and is used in the mass balance to determine the recovery efficiency of a solvent recovery device. The proposed definition of M_j included water as a nonsolids-containing coating material. The definition of the term M_j in Equation 6 of § 63.5170 of the final rule has been revised to explicitly exclude water.

Finally, the proposed rule capped oxidizer destruction efficiency at 98 percent in calculating organic HAP emitted to demonstrate compliance with the emission rate limit unless performance was demonstrated with CEMS data. The final rule has been revised to allow the use of oxidizer destruction efficiencies greater than 98 percent demonstrated during performance testing, provided the oxidizer has continuously operated within the operating limits established during the performance test.

IV. What Are the Responses to Major Comments?

This section summarizes the major public comments we received on the proposed rule and our responses to those comments. A more comprehensive summary of comments and responses can be found in Docket No. A–97–47.

A. Impacts Analysis

Commenters identified flaws with EPA's impacts analysis and were concerned that inaccuracies in the impact analysis would affect bottom line figures for the costs impacts, secondary air impacts, and achievability of the standards. Two commenters asserted that EPA underestimated oven air flow rates for the model plant analysis due to failing to calculate air flows in standard cubic feet per minute (scfm) rather than actual cubic feet per minute (acfm), underestimating air flows by 1.5 to 2 times that used for model plant analysis for determining costs. They also claim that upgrading control devices to achieve the 98 percent OCE limit would generate additional air flow that has to be treated by the oxidizer due to installing new PTE with sufficient ventilation to comply with OSHA permissible exposure limits for the mix of solvents used. Failing to include the associated costs underestimates the initial capital investment and annual operating costs of an affected coating line.

Contrary to the commenter's assertion, the flow rates in acfm were derived from Information Collection Request (ICR) information and converted to scfm for the design of oxidizers; therefore, no error was made in this calculation. However, after further analysis comparing the calculated air flow rates to the reported air flow rates for all facilities that reported air flow rates in acfm, we found that model plant air flow rates should have been about 50 percent higher. Therefore, an adjustment factor was developed, resulting in a 50 percent increase in the model plant air flow rates. The adjusted oven air flow rates were used to revise compliance cost estimates. We also reviewed the additional capture measures reported by respondents to the metal coil coating ICR that use PTE. The ICR review revealed that a large majority of facilities reporting existing PTE did not report the use of additional ventilation; only 17 percent reported extra ventilation.

However, we agree that approximately 40 percent more flow is needed for a PTE if it cannot be designed with adequate local exhaust ventilation in the form of hoods and oven extensions to ensure worker safety. Therefore, we developed additional costs to reflect a 40 percent increase in flow for the 17 percent of facilities requiring extra ventilation.

One commenter stated that EPA's PTE costs are significantly underestimated based on a cost summary provided by the commenter for a PTE installed for a tandem coating line in a mezzanine arrangement. The cost summary included costs for reconfiguration of make-up air duct work, new exhaust duct work, a new plant make-up air heater, and explosion proof electrical systems. They assert that EPA estimates neglect these additional costs. Our data analysis revealed that PTE costs for a mezzanine arrangement represent the worst case situation for PTE application. Of the seven facilities in the facility database who use this configuration, four already have PTE and six comply with one of the compliance options. The seventh mezzanine PTE was under construction. Therefore, no additional costs for this design have been added. The PTE costs we derived represent typical installations; however, we agree with the commenter that electrical fittings used in the presence of flammable solvents should be explosion proof. To account for the additional cost of explosion-proof fittings, the estimated cost of auxiliaries has been increased from 50 to 80 percent of the PTE capital cost. These revised costs were used in revising the compliance cost estimates.

Two commenters believed that many of the assumptions EPA used to determine the cost of upgrading or replacing thermal oxidizers contributed to control system upgrade/replacement costs that are substantially less than what is truly needed. In addition to their comments about gas flow rate estimates for the model plant analysis, they claim the following assumptions should be revised or eliminated: (1) EPA has assumed that costs for duct work, dampers, fans, motors and stacks are not required for a replacement oxidizer, (2) a 20 percent discount is assumed for purchase of two oxidizers in the same order, (3) new oxidizers are assumed to operate with 70 percent heat recovery, which would likely preheat the inlet stream to above auto-ignition temperatures for the VOC involved, and (4) EPA assumed that existing units will be upgraded to achieve higher destruction efficiencies and accommodate increased flow. The commenter claimed that it is much more likely that a facility would choose to replace rather than upgrade a unit given the cost of modifications the commenter asserted to be necessary, including enlarging the combustion chamber, increasing the oxidizer blower capacity, increasing the size of the heat exchanger, and enlarging duct work to handle additional flow.

To address the comments on the costs of upgrading or replacing thermal oxidizers, for cases in which increased flow to the replacement oxidizer is not required, the assumption has been made that new ducting is not required. For cases in which air flow is increased, but a rotary concentrator is installed, the air flow to the oxidizer is not increased but new ducting is needed to route air to the rotary concentrator and from the concentrator to the oxidizer. New costs for the concentrator and associated equipment have been estimated for these cases and any others in which increased ventilation air is required.

Since index values for thermal oxidizers and catalytic oxidizers are

now greater than for most other control devices, discounts may not be available. New costs have been developed that have no discount for the purchase of two oxidizers in the same order.

We reviewed the heat recovery information in the facility database. In addition, we contacted two oxidizer vendors concerning the potential for auto-ignition of the inlet stream. Despite the high heat recovery efficiencies reported by some facilities in the database and the potential for designing recuperative oxidizers to avoid auto-ignition problems, we agree there is still the potential of auto-ignition problems for certain organic compounds used in the metal coil coating industry. Hence, we followed a conservative approach in reevaluating the assumptions used in costing replacement oxidizers. Replacement oxidizers are assumed to achieve a heat recovery of 60 percent versus the 50 percent heat recovery of baseline oxidizers. This number is based on our review of the database balanced by information provided by oxidizer vendors and is appropriate for impact analysis. In actuality, some sources may achieve higher heat recovery and some lower.

In determining whether an existing oxidizer would be upgraded or replaced, we assumed that the useful life of an oxidizer is 15 years based on available information. For sources with oxidizers near the end of their useful lives, we did not attribute the replacement cost to the NESHAP since the source would incur the cost in any case. To account for specific situations where oxidizers are not as old, we costed the addition of PTE which will result in increased flow requirements, and we costed the addition of concentrators. We believe these costing assumptions are reasonable and realistic.

Two commenters claimed that it is not cost effective to push the existing source OCE limit to 98 percent. The commenters stated that the incremental cost of increasing the OCE limit from their proposed 95 percent to 98 percent is approximately $35,000/ton HAP removed whereas the incremental cost of moving from the current baseline to 95 percent control is approximately $5,000/ton HAP removed based on an economic assessment done by one of the commenters.

The existing source OCE was not pushed to 98 percent, but rather was determined to be the MACT floor using data available to the Administrator. Consequently, the EPA's economic impact analysis was conducted only for the MACT floor level of 98 percent OCE. The appropriate cost effectiveness analysis considers the cost of reducing HAP emissions at the MACT floor level of control compared to the baseline level rather than the increment between 95 percent and 98 percent OCE which the commenters suggested. The MACT floor analysis results in a cost effectiveness of approximately $4,500/ton HAP removed.

One commenter noted that EPA's estimates of the nationwide incremental costs incurred by the coil coating industry to implement the rule were, at proposal, a nationwide total capital investment of $11.6 million and a total annual cost of $5.9 million. The commenter strongly disagreed with these cost estimates and cited data from an economic assessment done by their contractor which estimated the total annual incremental costs for the coil coating industry to be approximately $20.8 million. The commenter believes that EPA's estimate is incorrect because (1) EPA calculated the incremental costs by subtracting baseline costs from the upgrade or replacement cost which they believe assumes the replacement or upgrade would have been necessary for continued compliance with the VOC standards, even in the absence of the new coil NESHAP. (2) The EPA extrapolated nationwide costs by multiplying the model plant costs by the ratio of total HAP emissions reported by all facilities in the facility database divided by the emissions from all plants covered by the model plant analysis. This assumes that EPA has collected HAP emissions data on all existing coil coating lines in the country which is unlikely. (3) The EPA estimated monitoring, recordkeeping, and reporting costs by amortizing certain one time costs over a 15-year period, then adding the annual cost of compliance demonstrations, reports, and recordkeeping. Most permitting agencies would require performance testing, which EPA considered a one time cost, at a greater frequency than 15 years which would cause cost estimates to be understated.

Since we have revised our cost estimates due to corrections needed as described above, our estimated nationwide capital and annual costs have increased (see section V.D of this preamble). The nationwide cost estimates have been revised to incorporate the revised MACT floor costs associated with adding PTE, upgrading or replacing existing oxidizers and installing new condenser systems in some situations as described above. Even with these revisions, EPA's estimated costs are significantly lower than the commenters' costs. The revised nationwide total costs for all plants show an increase in capital costs to $18.1 million and an increase in annual costs to $7.6 million. Regarding the commenters' list of assumptions that should be modified, these assumptions were not changed for the following reason. No assumption concerning continued compliance with VOC standards was made. Estimating upgrade costs as the difference between the baseline and the MACT floor level of control is a technique for deriving incremental costs when detailed site specific data for all sources is not available. The EPA believes that most metal coil surface coating facilities in the country are in the database, therefore, any facilities omitted would lead to a small underestimation of nationwide costs. Finally, regarding the assumption that the control system performance test is a one time cost over the 15-year life of the oxidizer, the NESHAP only requires an initial performance test. Any subsequent testing would not be a result of the NESHAP requirements, but would be at the discretion of the permitting authority. Therefore, the cost of performance testing subsequent to the initial performance test was not attributed to the NESHAP.

One commenter questioned two of the assumptions used by EPA in determining how many facilities will have to make control system upgrades. The commenter submitted that EPA assumed that ten of the facilities would pursue synthetic minor permits and be exempt from the coil NESHAP; however, the commenter believed that there is no certainty in this assumption, as changes in market demand and/or product mix at a facility may require it to pursue a major source title V permit. The commenter also submitted that EPA estimated 26 facilities would be in compliance with the OCE or emission rate limit in the coil NESHAP; however, the commenter believed there are insufficient data to determine whether a facility will be able to comply with the monthly average requirements of the emission rate approach because the ICR data represent annual average emissions of HAP per solids applied, and the equivalent emission rate limit, as proposed, will be enforced on a monthly basis. One commenter noted that EPA's projected HAP emission reduction of 55 percent also appears to be based on the assumption that some facilities could comply with the monthly emission rate limit. The commenter's estimated reduction was based only on achieving 98 percent OCE and was estimated at 77 percent. The commenter believes that the Agency should not rely on speculation of the annual reductions

that will be achieved with the emission rate approach.

The ten facilities that the commenter describes as pursuing synthetic minor permits were facilities in the database reporting being already permitted as synthetic minors. No assumption was made that any facility not permitted as a synthetic minor source would do so to be exempt from the coil NESHAP. The commenter has a valid point that basing the assumption of whether a facility can comply with the emission rate limit during monthly compliance periods on annual emission rate data may be inappropriate. The compliance period for the emission rate limit has been revised to a rolling 12-month period to better reflect the data.

The projected HAP emission reduction (55 percent for the proposed rule; 53 percent for the final rule) is based on assuming that sources would choose the least costly means necessary to achieve either the facility 98 percent OCE or the equivalent emission rate compliance option. We believe it is reasonable to assume that some facilities will choose the emission rate limit as the least costly compliance option, particularly since it has been made less stringent than the proposed limit and since the compliance period has been changed from a monthly average to a rolling 12-month average. The revisions to the emission rate limit will result in a revised estimated HAP emission reduction of 53 percent.

B. Rule Applicability

Two commenters noted that EPA specifies that both the foil coating and the coil coating operations would be subject to the metal coil NESHAP at facilities that perform both foil and coil coating operations on the same equipment. Facilities coating only foil on their coating equipment would be subject to the Paper and Other Webs (POWC) NESHAP currently under development. The commenters suggested several ways to synchronize these two NESHAP including adopting 95 percent OCE as the MACT floor, revising the emission rate limit to reflect a representative coating with a HAP to solids ratio of 80/20, allowing sources to switch between the POWC rule currently under development and the metal coil rule through their title V permits, or specifying that the governing NESHAP be based on a threshold percentage of production time or of total surface area coated.

The metal coil rule as proposed specified that operations performing both foil coating and coil coating on the same equipment would be subject to the metal coil NESHAP only. The CAA directs EPA to develop standards that require the maximum degree of reduction in emissions of HAP that is achievable for each source category, which are commonly referred to as MACT standards. For existing major sources, MACT must be no less stringent than the average emission limitation achieved by the best preforming 12 percent of sources in the source category, which is referred to as the MACT floor. The 98 percent OCE was established using data submitted by coil coating facilities on their ICR. Data from facilities in the metal coil source category indicates that 98 percent is MACT for this source category. Selecting a 95 percent OCE is, therefore, not an option for the MACT floor.

To arrive at the emission rate limit, we used the average volume solids reported by each MACT floor facility. We used a conservative assumption (i.e., tendency to overestimate HAP) that the entire volatile fraction of the coating was HAP to determine the HAP to solids ratio for a representative coating for the metal coil industry. For proposal, this ratio was 60/40. For the final rule, we revised this ratio, using the average of the coatings with the lowest solids content reported by each facility in the MACT floor. This type of coating represents the most adverse circumstance that could reasonably be expected to occur at a floor facility. The resulting HAP to solids ratio is now 70/30. We believe this higher ratio accounts for the range in coatings used by floor facilities and reflects a HAP/solids mix of coatings that is representative for the metal coil coating industry. The resulting emission rate limit is 0.38lb of HAP/gal of solids. The HAP/solids ratio used to establish the proposed emission rate limit for the POWC rule and the final printing and publishing rule were based on information on coating characteristics for each respective source category and is not, according to our data, representative of coatings on average in the metal coil source category.

The commenters proposed that we allow a cutoff limit based on threshold percentage of activity for each source category which would determine the rule with which a facility would comply. Additional data analysis was done to determine the degree to which overlap occurs. Our data analysis revealed there are six facilities in the metal coil MACT database reporting coating application on substrates of thicknesses less than 0.006 inches, which would be considered foil. One facility reported the percentage of foil coating as confidential business information (CBI). Four facilities reported less than 25 percent foil coating, making coil coating the principal surface coating activity for their coating lines. However, one facility reported at least 85 percent of the substrate being coated as foil, making foil coating the principal surface coating activity for their coating lines. We believe that coating lines for which 85 per cent of the substrate coated is foil would be more appropriately covered by the POWC NESHAP. Therefore, using the available data, we have established a special provision for this particular circumstance. If 85 percent or more of the substrate coated on a line, based on surface area, is of a thickness of less than 0.006 inches, then that line will be covered under the POWC NESHAP currently under development and is not subject to the metal coil surface coating NESHAP. We do not anticipate that establishing this primary use provision at 85 per cent will result in a significant negative environmental impact. We expect the provision to apply to a limited number of coating lines (less than ten), and the incremental difference in emission reduction achieved at those lines will be no more than three per cent (i.e., the difference between the 98 per cent OCE achieved by the metal coil rule versus the 95 per cent OCE achieved by the POWC rule). We estimate this difference to be approximately 75 tpy.

Facilities that may have coil and foil coated on the same line, regardless of the percentage of surface area, may opt to subject that line to the metal coil surface coating NESHAP. In addition, facilities that have metal coil and foil coated on separate lines at a facility may opt to include all lines under the metal coil NESHAP if the lines are controlled by a common control device. If for any year a line utilizing this cutoff limit and complying with the POWC NESHAP coats more than 15 percent coil substrate based on surface area, that line will from that point forward be subject to the metal coil NESHAP, and will no longer be able to utilize the cutoff limit option. The applicability section of the final rule has been revised accordingly.

The commenters suggested that sources be allowed to switch between rules through their title V permits when their coating substrate changes. To do this, sources would have to keep records of substrate and coating use separately for the POWC and metal coil rules, as well as calculations for compliance demonstrations and reports for each rule. The 85 per cent primary use provision allows facilities to comply with the NESHAP representing their principal coating activity.

One commenter submitted that product and packaging companies applying coatings onto continuous metal substrates greater than 0.006 inch thick for flexible packaging should be exempt from the coil coating MACT rule. The commenter noted that the facility and its process equipment is either already subject to the printing and publishing NESHAP or will be subject to the POWC NESHAP.

We agree that the coating of metal substrates for the purpose of flexible packaging is an operation that is covered under the proposed POWC NESHAP. The final rule has been revised to clarify that the metal coil NESHAP does not apply to substrates coated for flexible packaging.

One commenter noted that the proposed applicability section 40 CFR 63.5090 provides that "The provisions of this subpart apply to each facility that is a major source of HAP, as defined in § 63.2, at which a *coil coating line is operated*" (underlined emphasis added). The commenter submitted that the phrase "coil coating line is operated" is not defined and "coil coating line" includes any coating operation, including those operations EPA seeks to exclude in the definition of "coating" in 40 CFR 63.5110. The commenter requested clarification of the proposed applicability section to clearly identify regulated facilities using the terms defined at proposed 40 CFR 63.5110.

We agree with the commenter that the proposed applicability language was not clear. The definition of coil coating line in section 63.5110 has been revised as follows: "coil coating line means a process and the collection of equipment used to apply an organic coating to the surface of a metal coil." The definition of coil coating operation has been removed from that section. This revision addresses the commenter's concern.

Two commenters requested that EPA specifically state in the preamble that all of the equipment included as part of ancillary operations has been evaluated under the metal coil NESHAP and, thus, is exempt from the proposed Miscellaneous Organic NESHAP (MON) (67 FR 16154, April 4, 2002).

The NESHAP to which the commenters refer would regulate coating manufacturing operations and would require controls on the following emission sources: storage tanks, process (mixing) vessels, equipment components, wastewater treatment and conveyance systems, transfer operations, and ancillary sources such as heat exchange systems. As the commenter stated, we evaluated all of the equipment included as part of ancillary operations as we developed the proposed rule. We requested control and emissions information on these operations as part of our information collection request. However, the information we received was not sufficiently detailed to give a clear picture of the level of control achieved for these operations. For example, mixing can occur at the coating application station inside a PTE, or it can occur at a location away from the application station without an enclosure. If a facility reported achieving 98 per cent control of mixing tanks, it was not clear if all mixing was controlled at this level or only a portion of the mixing. Due to the lack of detailed information available, we were not able to determine a MACT floor for such equipment. Consequently, equipment that is part of ancillary operations is not included in the affected source for these standards.

The proposed MON is not intended to apply to the end users of manufactured coatings. As proposed, it will apply only to sources that manufacture coatings described by SIC codes 285 or 289 or NAICS code 3255. Metal coil coating facilities are not typically in these SIC and NAICS codes and, therefore, would not be subject to the MON, as proposed. If a facility does meet the proposed definition of a coating manufacturer in the MON, its ancillary operations would most likely not meet the criteria used to determine whether controls are required (*e.g.*, the capacity of mixing vessels and storage tanks, or the concentration of total organic HAP in wastewater). The MON preamble specifically requests comment on the costs of controlling emissions and appropriate size cutoffs for coating manufacturers who produce coatings for their own use. Facilities that are potentially affected by the proposed MON or concerned about how it may apply to coating users may view comments received on the MON proposal by accessing Docket Number A–96–04.

C. Definitions

Several commenters submitted that the definition of "deviation" in the proposed rule is very broad or overly complicated and requested that the definition be deleted. The commenters are concerned that all deviations may be considered violations of the standards. Two commenters requested that in place of the term "deviation," we include a definition for "excursion" or "monitoring excursion."

We are using the term "deviation" to standardize the regulatory language used in NESHAP and to avoid any confusion that might be caused by using multiple, related terms such as excess emission, exceedence, excursion, and deviation in the same regulatory program. In the final rule, the definition of deviation clarifies that any failure to meet an emission limitation (including an operating limit or work practice standard) is a deviation, regardless of whether such a failure is specifically excused or occurs at times when the emission limitations do not apply, for example, during startup, shutdown, or malfunction. The enforcement authority determines violations. The definition of deviation is consistent with the use of the term deviation in the title V operating permit program.

D. MACT Floor Determination

One commenter asserted that the approach followed by EPA in setting the OCE MACT floor was flawed and proposed an alternative approach to setting the MACT floor. The commenter points out that the CAA gives EPA no direction on how to determine which sources are "best performing," accordingly, EPA has maximum flexibility in making that determination. In the commenter's approach, the plants in their database operating with add-on controls were sorted from the lowest to the highest post-control HAP emissions in terms of lbs of HAP per lbs of solids applied. The OCE was calculated for each facility, and the arithmetic mean of the best performing 12 percent of the data set was calculated at 93.6 percent. The commenter asserts that this approach to setting the MACT floor is more appropriate than EPA's method because it better defines the "best performing sources," basing performance on the amount of HAP emitted per solids applied rather than just focusing on OCE. The commenter claims that this approach also generates a more diverse group of coating lines in the MACT floor facilities than EPA's method. The commenter submitted that EPA followed a flexible approach in setting MACT floors for other NESHAP because of the diversity of industry sectors and types and formulation of coatings used, diversity that is also found in the coil coating industry.

We agree that we have flexibility in determining what constitutes the best-performing 12 percent of sources; however, using the methodology proposed by the commenter erroneously accepts that low post-controlled emissions is the result of OCE alone. Post-controlled emissions most often reflect a combination of low-HAP coating formulation and OCE. Given the nature of the metal coil surface coating process and the prevalence of add-on controls in the industry, we determined that ranking facilities by the highest

level of control their control devices achieve is the correct method of establishing the best performers. This methodology generated a universe of floor facilities that represents the diversity of facilities in the industry. The floor facilities coat the range of product types found in the metal coil coating source category.

Several commenters asserted that the proposed OCE of 98 percent is too stringent for existing sources. The commenters supported an OCE of 95 percent for existing sources and 98 percent for new sources. The commenters submitted that thermal oxidation (the overwhelming choice for VOC/HAP control in the coil coating industry) is limited to achieving 98 percent destruction efficiency for new, properly designed units and that existing thermal and catalytic oxidizers cannot achieve 98 percent destruction efficiency on a long-term, continuous basis.

The EPA used data submitted by coil coating facilities on their ICR as the primary basis for establishing a 98 percent OCE. Reported values show that these control systems are capable of achieving greater than 99 percent HAP destruction, based on 100 percent capture and greater than 99 percent destruction efficiencies. The average reported OCE of the MACT floor facilities is 99.4 percent. To determine the level of emission control that is consistently achievable with this technology, we also considered the level of control that the EPA has generally found to be achievable. In addition to general EPA guidance, available literature was reviewed and state agencies and vendors of control equipment were contacted (docket No. A–97–47) for further information indicating the appropriate control efficiency for thermal oxidizers. All of these sources indicate that thermal oxidizers routinely achieve destruction efficiencies of at least 98 percent.

With respect to the performance of catalytic oxidizers, for inlet concentrations greater than 100 ppm, catalytic oxidizers can achieve 95 to 98 percent destruction (docket No. A–97–47). Though 95 percent destruction is typical, 98 percent can be achieved through the use of larger catalyst volumes and/or higher temperatures.

E. Achievability of the Standards

Several commenters submitted that the emission rate limit should be less restrictive. One commenter presented an alternative emission rate proposal based on upper-bound HAP formulation. Under the commenter's proposal, the average minimum solids content for the eleven floor facilities is 29.1 percent solids by volume. Therefore, the commenters request that EPA use a representative coating of 30 percent solids and 70 percent HAP to derive the equivalent emission rate compliance option instead of the 40 percent solids and 60 percent HAP ratio used for the proposed standard. The representative coating would then yield a precontrol emission rate of 18.5 lbs HAP/gal solids applied, which then generates an equivalent emission rate of 0.37 lb HAP/gal solids applied when factored by the 98 percent OCE. The commenters also requested that the compliance averaging period be a 12-month rolling average. This would account for the use of annual average data in the derivation of the equivalent emission rate and the significant variability in the types of coatings toll coaters typically apply over a 1-year period.

We agree with the commenter that in this case, the emission rate limit should be a rolling 12-month emission rate because the data on which the limit was set reflect annual averages and some segments of the coil coating industry may experience significant variation from month to month in types of coatings used and their HAP contents. This revision has been incorporated into § 63.5170 of the final rule. In addition, we agree that the alternative emission rate limit and compliant coating option should be revised to reflect the average of the lowest solids/highest HAP applied by the MACT floor facilities in the database. The revised emission rate limit and compliant coating option is 0.38 lb of HAP per gallon of solids applied during each 12-month compliance period.

Several commenters submitted that EPA has proposed a single set of emission standards to regulate the entire coil coating industry, thereby failing to account for the significant diversity in various segments of the industry. One commenter requested that EPA subcategorize or, at a minimum, set different emission limits for different types of coil coating operations based on coating use (water-borne or solvent-borne), end use industrial sector or the type of coating business (toll coating versus captive coating). Two of the commenters note that EPA specifically requested comment on the appropriateness of requiring the proposed emission limits for electrodeposition coating (e-coat) lines using water-borne coatings that comply with NSPS and reasonably available control technology (RACT) VOC limits. One commenter added that the MACT floor facilities on which the emission limits are based are comprised of a disproportionate number of coating lines that produce stock for architectural and building products, a segment of the coil coating industry characterized by application of solvent-borne coatings with significant HAP content and use of enhanced VOC control systems.

We agree with the commenters that there is some diversity in the industry and designed the standard with sufficient flexibility to accommodate that diversity. It was based on emission control levels achieved by the MACT floor facilities which included most segments of the industry. The emission standard is in two different formats and allows four options for demonstrating compliance, providing significant compliance flexibility for the various segments of the industry. The various options for demonstrating compliance with the emission rate limit provide viable alternatives for facilities using water-borne coatings, electrodeposition coating lines, or solvent borne coatings with relatively higher solids and lower HAP contents than facilities that choose to comply with the 98 percent OCE. To account for the variability in coatings used from month to month and to allow for the most adverse conditions that could be expected, we revised the emission rate limit and compliant coating option to reflect the lowest levels of solids used at facilities over a year. In addition to this, the final rule provides a rolling 12-month compliance period over which emission rates are determined rather than a block month compliance period. These allowances and adjustments to the final rule provide greater flexibility for compliance than subcategorization or dividing facilities into sectors and setting a separate limit for each sector.

One commenter submitted that due to differences in operations and coating type, water-based deck lines with in-line tandem coating and roll forming operations must be considered separately from and treated differently than traditional coil coating lines using solvent-based coatings and requested that a water-based compliant emission rate alternative of 0.518 lb of HAP/gal of solids applied (i.e., 0.062 kg/l) be established because it is the lowest water-based HAP emission rate commercially demonstrated for all colors and all seasons of the year.

A compliant coating option in the form of an emission rate was included in the proposed rule and has been revised to be less stringent in the final rule. The final emission rate is 0.38 lb organic HAP per gallon of coating solids applied, averaged over a 12-month period. This compliance option was included as a pollution prevention

alternative for facilities using coatings that contain lower levels of HAP so that the application of controls like those needed for higher-HAP coating operations would not be necessary. Of the six facilities in the MACT database operating water-based deck lines, at least two of the facilities should be able to comply using this option without reformulating coatings or applying any controls. Data submitted by the remaining four deck facilities indicate that they will need neither oxidizers nor PTE to achieve the emission rate limit. They would be able to achieve the needed emission reductions using other options such as reformulation or solvent recovery. The commenter suggested an emission rate limit of 0.518 lb HAP per gallon of coating solids applied because purportedly, it is the lowest rate that can be achieved for all colors and for all seasons. We believe the final emission rate of 0.38 lb/gallon is achievable, in part, because the standard allows averaging of all coatings across a 12-month period. Thus, a source would be able to offset usage of higher-HAP coatings, such as the one the commenter describes, with usage of lower-HAP coatings at other times in order to average below the emission rate limit over 12 months. Therefore, given the compliance alternatives, EPA believes that the final rule provides sufficient flexibility for sources such as these to comply.

F. Monitoring

Three commenters submitted that it is inappropriate to use the catalyst bed outlet temperature as a continuous compliance operating parameter because the temperature rise across the bed is a function of the total VOC loading to the oxidizer. One of the commenters noted that the preamble discussion of monitoring requirements for catalytic incinerators (65 FR 44619) stated that the facility must establish operating parameters as the minimum gas temperatures both upstream and downstream of the catalyst bed; the appropriate section of the proposed Coil NESHAP (§ 63.5160(d)(3)) stated that the operating parameter for a catalytic oxidizer is limited to the minimum gas temperature at the inlet to the catalyst bed.

Our intent was to include in § 63.5160(d)(3) of the proposed rule that both the outlet temperature and the inlet temperature be used as the operating parameters for catalytic oxidizers, in order to calculate the temperature change across the catalyst bed. This temperature change is indicative of catalyst activity. The final rule has been corrected to agree with the proposal preamble discussion and to clarify the original intent. Also, an alternative to this monitoring has been added to the rule. In lieu of monitoring the inlet and outlet gas temperatures to calculate temperature change across the catalyst bed, facilities may meet a minimum gas temperature at the inlet to the catalyst bed established during the performance test and develop and implement an inspection and maintenance plan for the catalytic oxidizer.

One commenter noted that there are no specifications for monitoring system accuracy, calibration frequency, etc. in § 63.5150(a)(4) of the rule for capture systems. The commenter submitted that the standard should spell out what monitoring should be done, how to set the operating parameters (including appropriate averaging time) and specify reporting for various capture system options as it does for control equipment options.

At the time of proposal of this NESHAP, we had not developed criteria for the monitoring of capture systems and proposed some minimum criteria for facilities to follow to develop monitoring plans for their site-specific conditions. After proposal of this NESHAP, we developed criteria to be used for setting operating parameter limits for monitoring capture systems. These criteria will be included in implementation materials we are developing for the final metal coil surface coating rule as an example that facilities may follow in developing their monitoring plans.

G. Administrative Requirements

One commenter asserted that EPA's conclusion that the coil coating MACT proposal was not a significant regulatory action subject to Office of Management and Budget (OMB) review under Executive Order 12866 is wrong because it is in direct conflict with express CAA provisions requiring the reduction of ozone precursors such as NO_X and with the avowed policies of the Clinton-Gore Administration to reduce greenhouse gas emissions. The commenter asserts, in the terms set forth in the Executive Order, EPA's 98 percent OCE standard creates a "serious inconsistency or otherwise interferes" with actions taken or planned by EPA, by other agencies, and by the President to reduce ozone concentrations across the country and to reduce greenhouse gas emissions. Additionally, the commenter alleges the 98 percent OCE, at a minimum, raises "novel legal or policy issues" regarding whether EPA has made the correct choice between HAP emissions and NO_X and carbon dioxide emissions. The commenter estimates that establishing a 98 percent OCE limit instead of their proposed 95 percent OCE will cause approximately 230 tpy additional NO_X and 279,000 tpy additional carbon dioxide per year to reduce HAP emissions by an incremental 590 tpy. Accordingly, the commenter asserts that EPA must submit the coil coating MACT standard to OMB review under the terms of the Executive Order.

We do not agree that the coil coating NESHAP is a significant regulatory action subject to OMB review under Executive Order 12866. It does not meet any of the criteria for such a classification, including the "novel legal or policy issues" criterion. The EPA's estimates for NO_X and CO_2 emissions increases resulting from the standard are significantly lower than the commenter's estimates. We estimate these increases to be about 3 percent above baseline emissions, while HAP emissions reductions of 53 percent will be achieved by this standard. Therefore, the final metal coil NESHAP was not submitted to OMB for review.

The commenter believes that EPA also incorrectly determined that the coil coating standard would not significantly impact a substantial number of small entities. The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), requires Federal regulatory agencies to determine whether a proposed or final regulation will have a significant impact on a substantial number of small entities. According to "EPA Interim Guidance for Implementing the Small Business Regulatory Enforcement Fairness Act and Related Provisions of the Regulatory Flexibility Act" (EPA, 1997f), current Agency policy is to implement the RFA as written; that is, "regulatory flexibility analyses as specified by the RFA will not be required if the Agency certifies that the rule will not have significant economic impact on a substantial number of small entities." However, it remains Agency policy that, even when the Agency makes a certification of "no significant impact," program offices should assess the impact of every rule on small entities and minimize any impact to the extent feasible, regardless of the size of the impact or the number of small entities affected.

In accordance with SBREFA and Agency guidance, a screening analysis was conducted for the MACT floor and its projected costs to determine if the rule imposed a significant impact on a substantial number of small entities. The Agency also calculated the share of annual compliance cost relative to baseline sales for each company. This approach is consistent with

recommended criteria from EPA's Guidance on Implementing SBREFA and RFA for evaluating the economic impact of a rule on small entities. These results do not support a claim of significant impact on a substantial number of small businesses.

V. What Are the Environmental, Energy, Cost, and Economic Impacts?

As explained below, we do not expect any significant adverse environmental or energy impacts resulting from the final rule. Any negative economic impacts are also expected to be small. Actual compliance costs will depend on each source's existing equipment and the modifications made to comply with the standard. We have estimated that the installation of PTE and the installation of, or improvement to, thermal oxidizers at existing facilities could require nationwide capital costs of approximately $18.1 million and annual costs of about $7.6 million. Costs could be much lower if facilities choose to use low-HAP coatings.

A. What Are the HAP Emissions Reductions?

For existing sources in the metal coil coating industry, the nationwide baseline HAP emissions are estimated to be 2,258 Mg/yr (2,484 tpy). We estimate that implementation of the final rule will reduce emissions from these sources by 1,198 Mg/yr (1,318 tpy), or approximately 53 percent.

Since the emission limits for new and existing sources are the same, emission reductions for new sources are expected to be similar to the 53 percent emission reduction estimated for existing sources.

B. What Are the Secondary Environmental Impacts

Secondary environmental impacts are considered to be any air, water, or solid waste impacts, positive or negative, associated with the implementation of the final standards. These impacts are exclusive of the direct organic HAP air emission reductions discussed in the previous section.

Most of the organic HAP are VOC. Capture and control of HAP that are presently emitted will result in a decrease in VOC emissions. In addition, the emission control systems used to reduce HAP emissions will reduce non-HAP VOC emissions as well. We do not have information on non-HAP VOC emissions from metal coil coating operations; consequently, we cannot quantify the reduction of VOC emissions. However, the percent reduction should be similar to the percent reduction in HAP emissions (i.e., about 53 percent). Emissions of VOC have been associated with a variety of health and welfare impacts. The VOC emissions, together with nitrogen oxides, are precursors to the formation of ground level ozone, or smog. Exposure to ambient ozone is responsible for a series of public health impacts such as alterations in lung capacity and aggravation of existing respiratory disease. Ozone exposure can also damage forests and crops.

The use of newly installed or upgraded control devices will result in greater electricity consumption. Increases in emissions of nitrogen oxides, sulfur dioxide, carbon monoxide, and carbon dioxide, as well as certain HAP, from electric utilities could result. In the metal coil coating industry, some plants will comply by installing or upgrading oxidizers. Supplemental fuel, typically natural gas, will be used, particularly for thermal oxidizers. Combustion of this fuel will result in additional carbon dioxide emissions and may result in additional emissions of nitrogen oxides and carbon monoxide. We estimate that if increases in these emissions occur, they will be small (about three percent above baseline).

A small number of facilities using waterborne coatings may install condenser systems to comply with the standard. This would result in the generation of wastewater streams that may require treatment to remove the HAP. It also is expected that some metal coil coating facilities will comply with the proposed standard by substituting non-HAP materials for HAP presently in use. In some cases, the non-HAP materials may be VOC, however, in other cases, non-VOC (e.g., water) materials may be used. Facilities converting to waterborne materials as a means or partial means of compliance may have reduced Resource Conservation and Recovery Act hazardous waste disposal if the status of the waste material changes from hazardous to nonhazardous. An increase in wastewater discharge may occur if waste material and waterborne wash-up materials are discharged to publicly owned treatment works.

New and upgraded catalytic oxidizers will require catalysts. Catalyst life is estimated to be more than 10 years. Spent catalysts will represent a small amount of solid waste, and sometimes the spent catalyst will be regenerated by the manufacturer for reuse. Activated carbon used in solvent recovery systems is returned to the manufacturer at the end of its useful life and converted to other salable products. Little solid waste impact is expected from this source.

C. What Are the Energy Impacts?

The operation of new and upgraded control devices will require additional energy. Capture of previously uncontrolled solvent-laden air will require fan horsepower. Operation of oxidizers, particularly thermal oxidizers, may require supplemental fuel (typically natural gas).

The total additional electrical energy required to meet the standard is estimated to be 2.3 million kilowatt-hours per year. Nationwide incremental natural gas usage is expected to increase by approximately 170 million standard cubic feet per year.

D. What Are the Cost Impacts?

The total nationwide capital and annualized costs (1997 dollars) attributable to compliance with the final standards have been estimated for existing sources. These costs are based on model plant analysis of the least-cost measure using HAP emission controls needed for facilities to attain one of the compliance options. For existing facilities, with the exception of facilities applying waterborne coatings that do not meet the emission rate limit, the compliance costs represent the incremental costs associated with upgrading existing HAP emission controls.

Compliance Costs for New Sources. Since the HAP emission limits for existing and new sources are the same, the incremental costs required to replace existing HAP emission controls are an indication of the incremental costs (above baseline level controls) that will be incurred by new sources to install and operate the level of HAP emission controls required to achieve the emission limits. For example, for a small coating line with one application station enclosed by a PTE and a thermal oxidizer to control HAP emissions, the incremental capital costs are estimated to be about $184,000, and the annual costs including monitoring, recordkeeping, and reporting costs approximately $73,000. Similarly, for a large coating line with two application stations enclosed by PTE and two thermal oxidizers, the incremental capital costs are estimated to be about $392,000 and the annual costs around $174,000, including monitoring, recordkeeping, and reporting costs. A coating line applying waterborne coatings is estimated to incur capital costs of around $1,008,000 and annual costs of approximately $371,000, including monitoring, recordkeeping, and reporting to install and operate a condenser system to control HAP emissions.

The incremental costs incurred for coating lines controlled by thermal incinerators include retrofit factors, and, thus, for new sources the incremental costs are probably overstated. Nonetheless, the estimated costs should not deter the construction of new metal coil coating lines or the entry of new companies into the industry.

Capital Costs for Existing Sources. Capital costs will be incurred by installing capture and control systems at those facilities presently without controls and upgrading capture and control systems at existing facilities that do not meet the final standard. Additionally, the purchase of monitoring equipment may be needed as a capital investment to meet the monitoring, recordkeeping, and reporting requirements of the NESHAP. Total nationwide capital costs are estimated at $18.1 million, based on the use of PTE, thermal oxidizers, solvent recovery systems, and monitoring equipment. The total nationwide capital costs with other methods of control are expected to be lower.

Annual Costs at Existing Sources. Total nationwide annual costs of the final standard have been estimated at approximately $7.6 million per year with the use of PTE and new or upgraded thermal oxidizers or solvent recovery systems. These costs include capital recovery over a 15-year period, operating costs for the newly installed and upgraded capture and control systems, and costs for monitoring, recordkeeping, and reporting. These are net costs after taking into account the costs presently being incurred for the baseline control level. The total nationwide annual costs with methods of control other than thermal oxidizers are expected to be lower.

E. What Are the Economic Impacts

The Economic Impact Analysis (EIA) (included in the background information document (BID), EPA 453/P–00–001) shows that the expected price increase for coated metal coils would be approximately 0.2 percent as a result of the proposed standards. Therefore, no adverse impact is expected to occur for those industries that consume coated metal coils such as building and construction, appliances, automotive parts, and other consumer products.

The distribution of costs across metal coil coating facilities is slanted toward the lower impact levels with many facilities incurring no costs or only those related to initial performance testing and annually recurring monitoring, recordkeeping, and reporting. The EIA indicates that these regulatory costs are expected to represent less than 1 percent of the value of coating services, which should not cause producers to cease or alter their current operations. Hence, no firms or facilities are at risk of closure because of the proposed standards. For more information, consult the docket for this project.

IV. What Are the Administrative Requirements?

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is "significant" and therefore subject to review by OMB and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a "significant regulatory action" because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. 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." Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule. Although section 6 of Executive Order 13132 does not apply to this rule, the EPA did consult with State and local officials to enable them to provide timely input in the development of this rule.

C. 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 rule does not have tribal implications, as specified in Executive Order 13175. No tribal governments own or operate metal coil coating operations. Thus, Executive Order 13175 does not apply to this final rule.

D. 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 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 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.

The 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. Today's rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks and because it is not "economically significant."

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

This rule 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 it is not a significant regulatory action under Executive Order 12866.

F. 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 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.

The 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 1 year. The rule does not impose any enforceable duties on State, local, or tribal governments, i.e., they own or operate no sources subject to this rule and, therefore, are not required to purchase control systems to meet the requirements of this rule. Regarding the private sector, EPA believes the rule will affect approximately 90 existing facilities nationwide. The EPA projects that annual economic effects will be $7.6 million. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. Nevertheless, in developing this rule, EPA consulted with States to enable them to provide meaningful and timely input in the development of this rule.

In addition, the 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. Therefore, today's rule is not subject to the requirements of section 203 of the UMRA.

G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601, et seq.

The 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 according to Small Business Administration (SBA) size standards by NAICS code of the owning entity (in this case, ranging from 100–1,000 employees; see table below); (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.

In accordance with the RFA and SBREFA, EPA conducted an assessment of the standard on small businesses within the metal coil coating industry. Based on SBA size definitions and reported sales and employment data, EPA identified 19 of the 49 companies owning metal coil coating facilities as small businesses. Although small businesses represent almost 39 percent of the companies within the source category, they are expected to incur only 8.5 percent of the total industry compliance costs of approximately $6.0 million. The average annual compliance cost share of sales for small businesses is less than 0.2 percent with 7 of the 19 small businesses not expected to incur any additional costs because they are permitted as synthetic minor HAP emission sources. After considering the economic impacts of today's rule on small entities, we determined that this action will not have a significant economic impact on a substantial number of small entities.

Although this rule will not have a significant economic impact on a substantial number of small entities, we nonetheless tried to limit its impact on small entities. For example, the requirements of the rule only apply to major sources as defined in 40 CFR part 63 and a title V or part 70 permit application can be used in lieu of an initial notification under certain conditions. Also, during the background information development phase of the rulemaking, numerous stakeholder meetings were held at which input was solicited from small entities.

H. Paperwork Reduction Act

The information collection requirements in this rule will be submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* An ICR document has been prepared by EPA (ICR No. 1957.01) and a copy may be obtained from Sandy Farmer by mail at the Collection Strategies Division (2822), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by email at *farmer.sandy@epa.gov*, or by calling (202) 260–2740. A copy may also be downloaded off the internet at *http://www.epa.gov/icr*. The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. 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 Agency policies set forth in 40 CFR part 2, subpart B.

The public burden of monitoring, recordkeeping, and reporting for this collection is estimated to average 281 hours per year per coil coating facility for each year after the date of promulgation of the rule including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Monitoring, recordkeeping, and reporting costs also include the startup costs associated with initial performance tests and associated notifications and reports required to demonstrate initial compliance; emission rate limit monthly compliance determinations; semiannual reports when someone does not follow a plan for startups, shutdowns, and malfunctions; quarterly and semiannual reports on excess emissions; maintenance inspections; notices; and recordkeeping. The total annualized costs associated with monitoring, recordkeeping, and reporting have been estimated at $784,179 which include the estimated annualized capital costs of $232,076.

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 are in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested on the EPA's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, Collection Strategies Division (2822), U.S. EPA, 1200 Pennsylvania Ave., NW, Washington, DC 20460, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503 marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after June 10, 2002, a comment to OMB is best assured of having its full effect if OMB receives it by June 10, 2002.

I. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Public Law No. 104–113; 15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in their regulatory and procurement 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, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. The EPA cites the following standards in this rule: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 24, 25, 25A, 204, 204A–F, and 311. Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods. No applicable voluntary consensus standards were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 204, 204A through 204F, and 311. The search and review results have been documented and are placed in the docket (docket No. A–97–47) for this rule.

The three voluntary consensus standards described below were identified as acceptable alternatives to EPA test methods for the purposes of this rule.

The voluntary consensus standard ASME PTC 19–10–1981–Part 10, "Flue and Exhaust Gas Analyses," is cited in this rule for its manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas. This part of ASME PTC 19–10–1981–Part 10 is an acceptable alternative to Method 3B.

The two voluntary consensus standards, ASTM D2697–86 (Reapproved 1998) "Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings" and ASTM D6093–97 "Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer," are cited in this rule as acceptable alternatives to EPA Method 24 to determine the volume solids content of coatings. Currently, EPA Method 24 does not have a procedure for determining the volume of solids in coatings. These standards augment the procedures in Method 24, which currently states that volume solids content be calculated from the coating manufacturer's formulation.

Six voluntary consensus standards: ASTM D1475–90, ASTM D2369–95, ASTM D3792–91, ASTM D4017–96a, ASTM D4457–85 (Reapproved 91), and ASTM D5403–93 are already incorporated by reference in EPA Method 24. Five voluntary consensus standards: ASTM D1979–91, ASTM D3432–89, ASTM D4747–87, ASTM D4827–93, and ASTM PS9–94 are incorporated by reference in EPA Method 311.

In addition to the voluntary consensus standards EPA proposes to use in this rule, the search for emissions measurement procedures identified 11 other voluntary consensus standards. The EPA determined that nine of these 11 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 this determination for the nine methods are discussed below.

The voluntary consensus standard ASTM D3154–00, "Standard Method for Average Velocity in a Duct (Pitot Tube Method)," is impractical as an alternative to EPA Methods 1, 2, 2C, 3, 3B, and 4 for the purposes of this rulemaking since the standard appears to lack in quality control and quality assurance requirements. Specifically, ASTM D3154–00 does not include the

following: (1) Proof that openings of standard pitot tube have not been plugged during the test; (2) if differential pressure gauges other than inclined manometers (*e.g.*, magnehelic gauges) are used, their calibration must be checked after each test series; and (3) the frequency and validity range for calibration of the temperature sensors.

The voluntary consensus standard ASTM D3464–96 (2001), "Standard Test Method Average Velocity in a Duct Using a Thermal Anemometer," is impractical as an alternative to EPA Method 2 for the purposes of this rulemaking primarily because applicability specifications are not clearly defined, e.g., range of gas composition, temperature limits. Also, the lack of supporting quality assurance data for the calibration procedures and specifications, and certain variability issues that are not adequately addressed by the standard limit EPA's ability to make a definitive comparison of the method in these areas.

The voluntary consensus standard ISO 10780:1994, "Stationary Source Emissions-Measurement of Velocity and Volume Flowrate of Gas Streams in Ducts," is impractical as an alternative to EPA Method 2 in this rulemaking. The standard recommends the use of an L-shaped pitot, which historically has not been recommended by EPA. The EPA specifies the S-type design which has large openings that are less likely to plug up with dust.

Two voluntary consensus standards, EN 12619:1999 "Stationary Source Emissions-Determination of the Mass Concentration of Total Gaseous Organic Carbon at Low Concentrations in Flue Gases—Continuous Flame Ionization Detector Method" and ISO 14965: 2000(E) "Air Quality-Determination of Total Nonmethane Organic Compounds-Cryogenic Preconcentration and Direct Flame Ionization Method," are impractical alternatives to EPA Method 25 and 25A for the purposes of this rulemaking because the standards do not apply to solvent process vapors in concentrations greater than 40 ppm (EN 12619) and 10 ppm carbon (ISO 14965). Methods whose upper limits are this low are too limited to be useful in measuring source emissions, which are expected to be much higher.

The voluntary consensus standard, CAN/CSA Z223.2–M86 (1986), "Method for the Continuous Measurement of Oxygen, Carbon Dioxide, Carbon Monoxide, Sulphur Dioxide, and Oxides of Nitrogen in Enclosed Combustion Flue Gas Streams," is unacceptable as a substitute for EPA Method 3A since it does not include quantitative specifications for measurement system performance, most notably the calibration procedures and instrument performance characteristics. The instrument performance characteristics that are provided are nonmandatory and also do not provide the same level of quality assurance as the EPA methods. For example, the zero and span/calibration drift is only checked weekly, whereas the EPA methods requires drift checks after each run.

Two very similar standards, ASTM D5835–95, "Standard Practice for Sampling Stationary Source Emissions for Automated Determination of Gas Concentration," and ISO 10396:1993, "Stationary Source Emissions: Sampling for the Automated Determination of Gas Concentrations," are impractical alternatives to EPA Method 3A for the purposes of this rulemaking because they lack in detail and quality assurance/quality control requirements. Specifically, these two standards do not include the following: (1) Sensitivity of the method; (2) acceptable levels of analyzer calibration error; (3) acceptable levels of sampling system bias; (4) zero drift and calibration drift limits, time span, and required testing frequency; (5) a method to test the interference response of the analyzer; (6) procedures to determine the minimum sampling time per run and minimum measurement time; and (7) specifications for data recorders, in terms of resolution (all types) and recording intervals (digital and analog recorders, only).

The voluntary consensus standard ISO 12039:2001, "Stationary Source Emissions—Determination of Carbon Monoxide, Carbon Dioxide, and Oxygen—Automated Methods," is not acceptable as an alternative to EPA Method 3A. This ISO standard is similar to EPA Method 3A, but is missing some key features. In terms of sampling, the hardware required by ISO 12039:2001 does not include a 3-way calibration valve assembly or equivalent to block the sample gas flow while calibration gases are introduced. In its calibration procedures, ISO 12039:2001 only specifies a two-point calibration while EPA Method 3A specifies a three-point calibration. Also, ISO 12039:2001 does not specify performance criteria for calibration error, calibration drift, or sampling system bias tests as in the EPA method, although checks of these quality control features are required by the ISO standard.

Two of the 11 voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of this rule because they are under development by a voluntary consensus body: ASME/BSR MFC 13M, "Flow Measurement by Velocity Traverse," for EPA Method 2 (and possibly 1); and ASME/BSR MFC 12M, "Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters," for EPA Method 2.

Section 63.5160 to subpart SSSS of this standard list the EPA testing methods included in the regulation. Under § 63.7(f) of Subpart A of the General Provisions, a source may apply to EPA for permission to use alternative test methods in place of any of the EPA testing methods.

J. 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. The EPA will submit a report containing this 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 not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

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

Dated: May 15, 2002.

Christine Todd Whitman,

Administrator.

For 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.*

2. Section 63.14 is amended by revising paragraph (b) introductory text and adding new paragraphs (b)(24) and (25) and (j) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(b) The following materials are available for purchase from at least one of the following addresses: American

Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959; or ProQuest, 300 North Zeeb Road, Ann Arbor, MI 48106.

* * * * *

(24) ASTM D2697–86(1998) (Reapproved 1998), Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings, IBR approved for § 63.5160(c).

(25) ASTM D6093–97, Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer, IBR approved for § 63.5160(c).

* * * * *

(j) The following material is available for purchase from at least one of the following addresses: ASME International, Orders/Inquiries, P.O. Box 2300, Fairfield, NJ 07007–2300; or Global Engineering Documents, Sales Department, 15 Inverness Way East, Englewood, CO 80112: ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses, IBR approved for § 63.5160(d)(1)(iii).

3. Part 63 is amended by adding subpart SSSS to read as follows:

Subpart SSSS—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil

Sec.

What This Subpart Covers

63.5080 What is in this subpart?
63.5090 Does this subpart apply to me?
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63.5110 What special definitions are used in this subpart?

Emission Standards and Compliance Dates

63.5120 What emission standards must I meet?
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General Requirements for Compliance with the Emission Standards and for Monitoring and Performance Tests

63.5140 What general requirements must I meet to comply with the standards?
63.5150 If I use a control device to comply with the emission standards, what monitoring must I do?
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Requirements for Showing Compliance

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Reporting and Recordkeeping

63.5180 What reports must I submit?
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Delegation of Authority

63.5200 What authorities may be delegated to the States?
63.5201–63.5209 [Reserved]

Tables to Subpart SSSS of Part 63

Table 1 to Subpart SSSS of Part 63. Operating Limits if Using Add-on Control Devices and Capture System
Table 2 to Subpart SSSS of Part 63. Applicability of General Provisions to Subpart SSSS

What This Subpart Covers

§ 63.5080 What is in this subpart?

This subpart describes the actions you must take to reduce emissions of hazardous air pollutants (HAP) if you own or operate a facility that performs metal coil surface coating operations and is a major source of HAP. This subpart establishes emission standards and states what you must do to comply. Certain requirements apply to all who must comply with the subpart; others depend on the means you use to comply with an emission standard.

§ 63.5090 Does this subpart apply to me?

(a) The provisions of this subpart apply to each facility that is a major source of HAP, as defined in § 63.2, at which a coil coating line is operated, except as provided in paragraph (b) of this section.

(b) This subpart does not apply to any coil coating line that meets the criteria of paragraph (b)(1) or (2) of this section.

(1) A coil coating line that is part of research or laboratory equipment.

(2) A coil coating line on which at least 85 percent of the metal coil coated, based on surface area, is less than 0.15 millimeter (0.006 inch) thick, except as provided in paragraph (c) of this section.

(c) If you operate a coating line subject to subpart JJJJ of this part that also meets the criteria in either paragraph (c)(1) or (2) of this section, and you choose to comply with the requirements of this subpart, then such compliance constitutes compliance with subpart JJJJ. The coating line for which you choose this option is, therefore, included in the affected source for this subpart as defined in § 63.5110 and shall not be included in the affected source for subpart JJJJ as defined in § 63.3300.

(1) The coating line is used to coat metal coil of thicknesses both less than and greater than or equal to 0.15 millimeter (0.006 inch) thick, regardless of the percentage of surface area of each thickness coated.

(2) The coating line is used to coat only metal coil that is less than 0.15 millimeter (0.006 inch) thick and the coating line is controlled by a common control device that also receives organic HAP emissions from a coil coating line that is subject to the requirements of this subpart.

(d) Each coil coating line that does not comply with the provisions of this subpart because it meets the criteria in paragraph (b)(2) of this section, that for any rolling 12-month period fails to meet the criteria in paragraph (b)(2) would from that point forward become subject to the provisions of this subpart. After becoming subject to the provisions of this subpart, the coil coating line would no longer be eligible to use the criteria of paragraph (b)(2) of this section, even if in subsequent 12-month periods at least 85 percent of the metal coil coated, based on surface area, is less than 0.15 millimeter (0.006 inch) thick.

§ 63.5100 Which of my emissions sources are affected by this subpart?

The affected source subject to this subpart is the collection of all of the coil coating lines at your facility.

§ 63.5110 What special definitions are used in this subpart?

All terms used in this subpart that are not defined in this section have the meaning given to them in the Clean Air Act (CAA) and in subpart A of this part.

Always-controlled work station means a work station associated with a curing oven from which the curing oven exhaust is delivered to a control device with no provision for the oven exhaust to bypass the control device. Sampling lines for analyzers and relief valves needed for safety purposes are not considered bypass lines.

Capture efficiency means the fraction of all organic HAP emissions generated by a process that is delivered to a control device, expressed as a percentage.

Capture system means a hood, enclosed room, or other means of collecting organic HAP emissions and conveying them to a control device.

Car-seal means a seal that is placed on a device that is used to change the position of a valve or damper (e.g., from open to closed) in such a way that the position of the valve or damper cannot be changed without breaking the seal.

Coating means material applied onto or impregnated into a substrate for decorative, protective, or functional purposes. Such materials include, but are not limited to, paints, varnishes, sealants, inks, adhesives, maskants, and temporary coatings. Decorative, protective, or functional materials that consist only of solvents, protective oils, acids, bases, or any combination of these substances are not considered coatings for the purposes of this subpart.

Coating material means the coating and other products (e.g., a catalyst and resin in multi-component coatings) combined to make a single material at

the coating facility that is applied to metal coil. For the purposes of this subpart, an organic solvent that is used to thin a coating prior to application to the metal coil is considered a coating material.

Coil coating line means a process and the collection of equipment used to apply an organic coating to the surface of metal coil. A coil coating line includes a web unwind or feed section, a series of one or more work stations, any associated curing oven, wet section, and quench station. A coil coating line does not include ancillary operations such as mixing/thinning, cleaning, wastewater treatment, and storage of coating material.

Control device means a device such as a solvent recovery device or oxidizer which reduces the organic HAP in an exhaust gas by recovery or by destruction.

Control device efficiency means the ratio of organic HAP emissions recovered or destroyed by a control device to the total organic HAP emissions that are introduced into the control device, expressed as a percentage.

Curing oven means the device that uses heat or radiation to dry or cure the coating material applied to the metal coil.

Day means a 24-consecutive-hour period.

Deviation means any instance in which an affected source, subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart including, but not limited to, any emission limitation (including any operating limit) or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation (including any operating limit) or work practice standard in this subpart during start-up, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Existing affected source means an affected source the construction of which commenced on or before July 18, 2000, and it has not subsequently undergone reconstruction as defined in § 63.2.

Facility means all contiguous or adjoining property that is under common ownership or control, including properties that are separated only by a road or other public right-of-way.

Flexible packaging means any package or part of a package the shape of which can be readily changed. Flexible packaging includes but is not limited to bags, pouches, labels, liners and wraps utilizing paper, plastic, film, aluminum foil, metalized or coated paper or film, or any combination of these materials.

HAP applied means the organic HAP content of all coating materials applied to a substrate by a coil coating line.

Intermittently-controllable work station means a work station associated with a curing oven with provisions for the curing oven exhaust to be delivered to a control device or diverted from a control device through a bypass line, depending on the position of a valve or damper. Sampling lines for analyzers and relief valves needed for safety purposes are not considered bypass lines.

Metal coil means a continuous metal strip that is at least 0.15 millimeter (0.006 inch) thick, which is packaged in a roll or coil prior to coating. After coating, it may or may not be rewound into a roll or coil. Metal coil does not include metal webs that are coated for use in flexible packaging.

Month means a calendar month or a pre-specified period of 28 days to 35 days to allow for flexibility in recordkeeping when data are based on a business accounting period.

Never-controlled work station means a work station which is not equipped with provisions by which any emissions, including those in the exhaust from any associated curing oven, may be delivered to a control device.

New affected source means an affected source the construction or reconstruction of which commenced after July 18, 2000.

Overall organic HAP control efficiency means the total efficiency of a control system, determined either by:

(1) The product of the capture efficiency as determined in accordance with the requirements of § 63.5160(e) and the control device efficiency as determined in accordance with the requirements of § 63.5160(a)(1)(i) and (ii) or § 63.5160(d); or

(2) A liquid-liquid material balance in accordance with the requirements of § 63.5170(e)(1).

Permanent total enclosure (PTE) means a permanently installed enclosure that meets the criteria of Method 204 of appendix M, 40 CFR part 51 for a PTE, and that directs all the exhaust gases from the enclosure to a control device.

Protective oil means an organic material that is applied to metal for the purpose of providing lubrication or protection from corrosion without forming a solid film. This definition of protective oil includes but is not limited to lubricating oils, evaporative oils (including those that evaporate completely), and extrusion oils.

Research or laboratory equipment means any equipment for which the primary purpose is to conduct research and development into new processes and products, where such equipment is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for commercial sale in commerce, except in a de minimis manner.

Temporary total enclosure (TTE) means an enclosure constructed for the purpose of measuring the capture efficiency of pollutants emitted from a given source, as defined in Method 204 of 40 CFR part 51, appendix M.

Work station means a unit on a coil coating line where coating material is deposited onto the metal coil substrate.

Emission Standards and Compliance Dates

§ 63.5120 What emission standards must I meet?

(a) Each coil coating affected source must limit organic HAP emissions to the level specified in paragraph (a)(1), (2), or (3) of this section:

(1) No more than 2 percent of the organic HAP applied for each month during each 12-month compliance period (98 percent reduction); or

(2) No more than 0.046 kilogram (kg) of organic HAP per liter of solids applied during each 12-month compliance period; or

(3) If you use an oxidizer to control organic HAP emissions, operate the oxidizer such that an outlet organic HAP concentration of no greater than 20 parts per million by volume (ppmv) on a dry basis is achieved and the efficiency of the capture system is 100 percent.

(b) You must demonstrate compliance with one of these standards by following the applicable procedures in § 63.5170.

§ 63.5121 What operating limits must I meet?

(a) Except as provided in paragraph (b) of this section, for any coil coating line for which you use an add-on control device, unless you use a solvent recovery system and conduct a liquid-liquid material balance according to § 63.5170(e)(1), you must meet the applicable operating limits specified in Table 1 to this subpart. You must establish the operating limits during the

performance test according to the requirements in § 63.5160(d)(3). You must meet the operating limits at all times after you establish them.

(b) If you use an add-on control device other than those listed in Table 1 to this subpart, or wish to monitor an alternative parameter and comply with a different operating limit, you must apply to the Administrator for approval of alternative monitoring under § 63.8(f).

§ 63.5130 When must I comply?

(a) For an existing affected source, the compliance date is 3 years after June 10, 2002.

(b) If you own or operate a new affected source subject to the provisions of this subpart, you must comply immediately upon start-up of the affected source, or by June 10, 2002, whichever is later.

(c) Affected sources which have undergone reconstruction are subject to the requirements for new affected sources.

(d) The initial compliance period begins on the applicable compliance date specified in paragraph (a) or (b) of this section and ends on the last day of the 12th month following the compliance date. If the compliance date falls on any day other than the first day of a month, then the initial compliance period extends through that month plus the next 12 months.

(e) For the purpose of demonstrating continuous compliance, a compliance period consists of 12 months. Each month after the end of the initial compliance period described in paragraph (d) of this section is the end of a compliance period consisting of that month and the preceding 11 months.

General Requirements for Compliance with the Emission Standards and for Monitoring and Performance Tests

§ 63.5140 What general requirements must I meet to comply with the standards?

(a) You must be in compliance with the standards in this subpart at all times, except during periods of start-up, shutdown, and malfunction of any capture system and control device used to comply with this subpart. If you are complying with the emission standards of this subpart without the use of a capture system and control device, you must be in compliance with the standards at all times, including periods of start-up, shutdown, and malfunction.

(b) Table 2 of this subpart provides cross references to subpart A of this part, indicating the applicability of the General Provisions requirements to this subpart.

§ 63.5150 If I use a control device to comply with the emission standards, what monitoring must I do?

TABLE 1 TO § 63.5150.—CONTROL DEVICE MONITORING REQUIREMENTS INDEX

If you operate a coil coating line and have the following:	Then you must:
1. Control device	Monitor control device operating parameters (§ 63.5150(a)(3)).
2. Capture system	Monitor capture system operating parameters (§ 63.5150(a)(4)).
3. Intermittently controllable work station	Monitor parameters related to possible exhaust flow through any bypass to a control device (§ 63.5150(a)(1)).
4. Continuous emission monitors	Operate continuous emission monitors and perform a quarterly audit (§ 63.5150(a)(2)).

(a) To demonstrate continuing compliance with the standards, you must monitor and inspect each capture system and each control device required to comply with § 63.5120 following the date on which the initial performance test of the capture system and control device is completed. You must install and operate the monitoring equipment as specified in paragraphs (a)(1) through (4) of this section.

(1) *Bypass monitoring.* If you operate coil coating lines with intermittently-controllable work stations, you must follow at least one of the procedures in paragraphs (a)(1)(i) through (iv) of this section for each curing oven associated with these work stations to monitor for potential bypass of the control device:

(i) *Flow control position indicator.* Install, calibrate, maintain, and operate according to the manufacturer's specifications a flow control position indicator that provides a record indicating whether the exhaust stream from the curing oven is directed to the control device or is diverted from the control device. The time and flow control position must be recorded at least once per hour, as well as every time the flow direction is changed. The flow control position indicator must be installed at the entrance to any bypass line that could divert the exhaust stream away from the control device to the atmosphere.

(ii) *Car-seal or lock-and-key valve closures.* Secure any bypass line valve in the closed position with a car-seal or a lock-and-key type configuration when the control device is in operation; a visual inspection of the seal or closure mechanism will be performed at least once every month to ensure that the valve or damper is maintained in the closed position, and the exhaust stream is not diverted through the bypass line.

(iii) *Valve closure continuous monitoring.* Ensure that any bypass line valve or damper is in the closed position through continuous monitoring of valve position when the control device is in operation. The monitoring system must be inspected at least once every month to verify that the monitor will indicate valve position.

(iv) *Automatic shutdown system.* Use an automatic shutdown system in which the coil coating line is stopped when flow is diverted away from the control device to any bypass line when the control device is in operation. The automatic shutdown system must be inspected at least once every month to verify that it will detect diversions of flow and shut down operations.

(2) *Continuous emission monitoring system (CEMS).* If you are demonstrating continuous compliance with the standards in § 63.5120(a)(1) or (2) through continuous emission monitoring of a control device, you must install, calibrate, operate, and maintain continuous emission monitors to measure the total organic volatile matter concentration at both the control device inlet and outlet, and you must continuously monitor flow rate. If you are demonstrating continuous compliance with the outlet organic HAP concentration limit in § 63.5120(a)(3), you must install, calibrate, operate, and maintain a continuous emission monitor to measure the total organic volatile matter concentration at the control device outlet.

(i) All CEMS must comply with performance specification 8 or 9 of 40 CFR part 60, appendix B, as appropriate for the detection principle you choose.

The requirements of 40 CFR part 60, procedure 1, appendix F must also be followed. In conducting the quarterly audits of the monitors as required by procedure 1, appendix F, you must use compounds representative of the gaseous emission stream being controlled.

(ii) As specified in § 63.8(c)(4)(ii), each CEMS and each flow rate monitor must complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period. Information which must be determined for recordkeeping purposes, as required by § 63.5190(a)(1)(i) includes:

(A) The hourly average of all recorded readings;

(B) The daily average of all recorded readings for each operating day; and

(C) The monthly average for each month during the semiannual reporting period.

(3) *Temperature monitoring of oxidizers.* If you are complying with the requirements of the standards in § 63.5120 through the use of an oxidizer and demonstrating continuous compliance through monitoring of an oxidizer operating parameter, you must comply with paragraphs (a)(3)(i) through (iii) of this section.

(i) Install, calibrate, maintain, and operate temperature monitoring equipment according to manufacturer's specifications. The calibration of the chart recorder, data logger, or temperature indicator must be verified every 3 months; or the chart recorder, data logger, or temperature indicator must be replaced. You must replace the equipment either if you choose not to perform the calibration, or if the equipment cannot be calibrated properly. Each temperature monitoring device must be equipped with a continuous recorder. The device must have an accuracy of ±1 percent of the temperature being monitored in degrees Celsius, or ±1° Celsius, whichever is greater.

(ii) For an oxidizer other than a catalytic oxidizer, to demonstrate continuous compliance with the operating limit established according to § 63.5160(d)(3)(i), you must install the thermocouple or temperature sensor in the combustion chamber at a location in the combustion zone.

(iii) For a catalytic oxidizer, if you are demonstrating continuous compliance with the operating limit established according to § 63.5160(d)(3)(ii)(A) and (B), then you must install the thermocouples or temperature sensors in the vent stream at the nearest feasible point to the inlet and outlet of the catalyst bed. Calculate the temperature difference across the catalyst. If you are demonstrating continuous compliance with the operating limit established according to § 63.5160(d)(3)(ii)(C) and (D), then you must install the thermocouple or temperature sensor in the vent stream at the nearest feasible point to the inlet of the catalyst bed.

(4) *Capture system monitoring.* If you are complying with the requirements of the standards in § 63.5120 through the use of a capture system and control device, you must develop a capture system monitoring plan containing the information specified in paragraphs (a)(4)(i) and (ii) of this section. You must monitor the capture system in accordance with paragraph (a)(4)(iii) of this section. You must make the monitoring plan available for inspection by the permitting authority upon request.

(i) The monitoring plan must identify the operating parameter to be monitored to ensure that the capture efficiency measured during the initial compliance test is maintained, explain why this parameter is appropriate for demonstrating ongoing compliance, and identify the specific monitoring procedures.

(ii) The plan also must specify operating limits at the capture system operating parameter value, or range of values, that demonstrates compliance with the standards in § 63.5120. The operating limits must represent the conditions indicative of proper operation and maintenance of the capture system.

(iii) You must conduct monitoring in accordance with the plan.

(b) Any deviation from the required operating parameters which are monitored in accordance with paragraphs (a)(3) and (4) of this section, unless otherwise excused, will be considered a deviation from the operating limit.

§ 63.5160 What performance tests must I complete?

TABLE 1 TO § 63.5160.—REQUIRED PERFORMANCE TESTING SUMMARY

If you control HAP on your coil coating line by:	You must:
1. Limiting HAP or Volatile matter content of coatings	Determine the HAP or volatile matter and solids content of coating materials according to the procedures in § 63.5160(b) and (c).
2. Using a capture system and add-on control device	Conduct a performance test for each capture and control system to determine: (1) the destruction or removal efficiency of each control device according to § 63.5160(d), and (2) the capture efficiency of each capture system according to § 63.5160(e).

(a) If you use a control device to comply with the requirements of § 63.5120, you are not required to conduct a performance test to demonstrate compliance if one or more of the criteria in paragraphs (a)(1) through (3) of this section are met:

(1) The control device is equipped with continuous emission monitors for determining total organic volatile matter concentration, and capture efficiency has been determined in accordance with the requirements of this subpart; and the continuous emission monitors are used to demonstrate continuous compliance in accordance with § 63.5150(a)(2); or

(2) You have received a waiver of performance testing under § 63.7(h); or

(3) The control device is a solvent recovery system and you choose to comply by means of a monthly liquid-liquid material balance.

(b) *Organic HAP content.* You must determine the organic HAP weight fraction of each coating material applied by following one of the procedures in paragraphs (b)(1) through (4) of this section:

(1) *Method 311.* You may test the material in accordance with Method 311 of appendix A of this part. The Method 311 determination may be performed by the manufacturer of the material and the results provided to you. The organic HAP content must be calculated according to the criteria and procedures in paragraphs (b)(1)(i) through (iii) of this section.

(i) Count only those organic HAP that are measured to be present at greater than or equal to 0.1 weight percent for Occupational Safety and Health Administration (OSHA)-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and greater than or equal to 1.0 weight percent for other organic HAP compounds.

(ii) Express the weight fraction of each organic HAP you count according to paragraph (b)(1)(i) of this section as a value truncated to four places after the decimal point (for example, 0.3791).

(iii) Calculate the total weight fraction of organic HAP in the tested material by summing the counted individual organic HAP weight fractions and truncating the result to three places after the decimal point (for example, 0.763).

(2) *Method 24.* For coatings, you may determine the total volatile matter content as weight fraction of nonaqueous volatile matter and use it as a substitute for organic HAP, using Method 24 of 40 CFR part 60, appendix A. The Method 24 determination may be performed by the manufacturer of the coating and the results provided to you.

(3) *Alternative method.* You may use an alternative test method for determining the organic HAP weight fraction once the Administrator has approved it. You must follow the procedure in § 63.7(f) to submit an alternative test method for approval.

(4) *Formulation data.* You may use formulation data provided that the information represents each organic HAP present at a level equal to or greater than 0.1 percent for OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and equal to or greater than 1.0 percent for other organic HAP compounds in any raw material used, weighted by the mass fraction of each raw material used in the material. Formulation data may be provided to you by the manufacturer of the coating material. In the event of any inconsistency between test data obtained with the test methods specified in paragraphs (b)(1) through (3) of this section and formulation data, the test data will govern.

(c) *Solids content.* You must determine the solids content of each coating material applied. You may determine the volume solids content using ASTM D2697–86 (Reapproved 1998) or ASTM D6093–97 (incorporated by reference, see § 63.14), or an EPA approved alternative method. The ASTM D2697–86 (Reapproved 1998) or ASTM D6093–97 determination may be performed by the manufacturer of the material and the results provided to you. Alternatively, you may rely on formulation data provided by material providers to determine the volume solids.

(d) *Control device destruction or removal efficiency.* If you are using an add-on control device, such as an oxidizer, to comply with the standard in § 63.5120, you must conduct a performance test to establish the destruction or removal efficiency of the control device or the outlet HAP concentration achieved by the oxidizer, according to the methods and procedures in paragraphs (d)(1) and (2) of this section. During the performance test, you must establish the operating limits required by § 63.5121 according to paragraph (d)(3) of this section.

(1) An initial performance test to establish the destruction or removal efficiency of the control device must be conducted such that control device inlet and outlet testing is conducted simultaneously. To establish the outlet organic HAP concentration achieved by the oxidizer, only oxidizer outlet testing must be conducted. The data must be reduced in accordance with the test methods and procedures in paragraphs (d)(1)(i) through (ix).

(i) Method 1 or 1A of 40 CFR part 60, appendix A, is used for sample and velocity traverses to determine sampling locations.

(ii) Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A, is used to determine gas volumetric flow rate.

(iii) Method 3, 3A, or 3B of 40 CFR part 60, appendix A, used for gas analysis to determine dry molecular weight. You may also use as an alternative to Method 3B, the manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas, ANSI/ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses" (incorporated by reference, see § 63.14).

(iv) Method 4 of 40 CFR part 60, appendix A, is used to determine stack gas moisture.

(v) Methods for determining gas volumetric flow rate, dry molecular weight, and stack gas moisture must be performed, as applicable, during each test run, as specified in paragraph (d)(1)(vii) of this section.

(vi) Method 25 or 25A of 40 CFR part 60, appendix A, is used to determine total gaseous non-methane organic matter concentration. Use the same test method for both the inlet and outlet measurements, which must be conducted simultaneously. You must submit notification of the intended test method to the Administrator for approval along with notification of the performance test required under § 63.7 (b). You must use Method 25A if any of the conditions described in paragraphs (d)(1)(vi)(A) through (D) of this section apply to the control device.

(A) The control device is not an oxidizer.

(B) The control device is an oxidizer, but an exhaust gas volatile organic matter concentration of 50 ppmv or less is required to comply with the standards in § 63.5120; or

(C) The control device is an oxidizer, but the volatile organic matter concentration at the inlet to the control system and the required level of control are such that they result in exhaust gas volatile organic matter concentrations of 50 ppmv or less; or

(D) The control device is an oxidizer, but because of the high efficiency of the control device, the anticipated volatile organic matter concentration at the control device exhaust is 50 ppmv or less, regardless of inlet concentration.

(vii) Each performance test must consist of three separate runs, except as provided by § 63.7(e)(3); each run must be conducted for at least 1 hour under the conditions that exist when the affected source is operating under normal operating conditions. For the purpose of determining volatile organic matter concentrations and mass flow rates, the average of the results of all runs will apply. If you are demonstrating initial compliance with the outlet organic HAP concentration limit in § 63.5120(a)(3), only the average outlet volatile organic matter concentration must be determined.

(viii) If you are determining the control device destruction or removal efficiency, for each run, determine the volatile organic matter mass flow rates using Equation 1 of this section:

$$M_f = Q_{sd} C_C (12)(0.0416)\left(10^{-6}\right) \quad \text{(Eq. 1)}$$

Where:

M_f=total organic volatile matter mass flow rate, kg/per hour (h).

C_c=concentration of organic compounds as carbon in the vent gas, as determined by Method 25 or Method 25A, ppmv, dry basis.

Q_{sd}=volumetric flow rate of gases entering or exiting the control device, as determined by Method 2, 2A, 2C, 2D, 2F, or 2G, dry standard cubic meters (dscm)/h.

0.0416=conversion factor for molar volume, kg-moles per cubic meter (mol/m^3) (@ 293 Kelvin (K) and 760 millimeters of mercury (mmHg)).

(ix) For each run, determine the control device destruction or removal efficiency, DRE, using Equation 2 of this section:

$$DRE = \frac{M_{fi} - M_{fo}}{M_{fi}} \times 100 \quad \text{(Eq. 2)}$$

Where:

DRE=organic emissions destruction or removal efficiency of the add-on control device, percent.

M_{fi}=organic volatile matter mass flow rate at the inlet to the control device, kg/h.

M_{fo}=organic volatile matter mass flow rate at the outlet of the control device, kg/h.

(x) The control device destruction or removal efficiency is determined as the

average of the efficiencies determined in the three test runs and calculated in Equation 2 of this section.

(2) You must record such process information as may be necessary to determine the conditions in existence at the time of the performance test. Operations during periods of start-up, shutdown, and malfunction will not constitute representative conditions for the purpose of a performance test.

(3) Operating limits. If you are using a capture system and add-on control device other than a solvent recovery system for which you conduct a liquid-liquid material balance to comply with the requirements in § 63.5120, you must establish the applicable operating limits required by § 63.5121. These operating limits apply to each capture system and to each add-on emission control device that is not monitored by CEMS, and you must establish the operating limits during the performance test required by paragraph (d) of this section according to the requirements in paragraphs (d)(3)(i) through (iii) of this section.

(i) *Thermal oxidizer.* If your add-on control device is a thermal oxidizer, establish the operating limits according to paragraphs (d)(3)(i)(A) and (B) of this section.

(A) During the performance test, you must monitor and record the combustion temperature at least once every 15 minutes during each of the three test runs. You must monitor the temperature in the firebox of the thermal oxidizer or immediately downstream of the firebox before any substantial heat exchange occurs.

(B) Use the data collected during the performance test to calculate and record the average combustion temperature maintained during the performance test. This average combustion temperature is the minimum operating limit for your thermal oxidizer.

(ii) *Catalytic oxidizer.* If your add-on control device is a catalytic oxidizer, establish the operating limits according to either paragraphs (d)(3)(ii)(A) and (B) or paragraphs (d)(3)(ii)(C) and (D) of this section.

(A) During the performance test, you must monitor and record the temperature just before the catalyst bed and the temperature difference across the catalyst bed at least once every 15 minutes during each of the three test runs.

(B) Use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed and the average temperature difference across the catalyst bed maintained during the performance test. These are the minimum operating limits for your catalytic oxidizer.

(C) As an alternative to monitoring the temperature difference across the catalyst bed, you may monitor the temperature at the inlet to the catalyst bed and implement a site-specific inspection and maintenance plan for your catalytic oxidizer as specified in paragraph (d)(3)(ii)(D) of this section. During the performance test, you must monitor and record the temperature just before the catalyst bed at least once every 15 minutes during each of the three test runs. Use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed during the performance test. This is the minimum operating limit for your catalytic oxidizer.

(D) You must develop and implement an inspection and maintenance plan for your catalytic oxidizer(s) for which you elect to monitor according to paragraph (d)(3)(ii)(C) of this section. The plan must address, at a minimum, the elements specified in paragraphs (d)(3)(ii)(D)(*1*) (*3*) of this section.

(*1*) Annual sampling and analysis of the catalyst activity (*i.e.*, conversion efficiency) following the manufacturer's or catalyst supplier's recommended procedures.

(*2*) Monthly inspection of the oxidizer system including the burner assembly and fuel supply lines for problems and,

(*3*) Annual internal and monthly external visual inspection of the catalyst bed to check for channeling, abrasion, and settling. If problems are found, you must take corrective action consistent with the manufacturer's recommendations and conduct a new performance test to determine destruction efficiency according to § 63.5160.

(iii) *Other types of control devices.* If you use a control device other than an oxidizer or a solvent recovery system for which you choose to comply by means of a monthly liquid-liquid material balance, or wish to monitor an alternative parameter and comply with a different operating limit, you must apply to the Administrator for approval of alternative monitoring under § 63.8(f).

(e) *Capture efficiency.* If you are required to determine capture efficiency to meet the requirements of § 63.5170(e)(2), (f)(1) through (2), (h)(2) through (4), or (i)(2) through (3), you must determine capture efficiency using the procedures in paragraph (e)(1), (2), or (3) of this section, as applicable.

(1) For an enclosure that meets the criteria for a PTE, you may assume it achieves 100 percent capture efficiency. You must confirm that your capture system is a PTE by demonstrating that it meets the requirements of section 6 of EPA Method 204 of 40 CFR part 51, appendix M (or an EPA approved alternative method), and that all exhaust gases from the enclosure are delivered to a control device.

(2) You may determine capture efficiency, CE, according to the protocols for testing with temporary total enclosures that are specified in Method 204A through F of 40 CFR part 51, appendix M. You may exclude never-controlled work stations from such capture efficiency determinations.

(3) As an alternative to the procedures specified in paragraphs (e)(1) and (2) of this section, if you are required to conduct a capture efficiency test, you may use any capture efficiency protocol and test methods that satisfy the criteria of either the Data Quality Objective or the Lower Confidence Limit approach as described in appendix A to subpart KK of this part. You may exclude never-controlled work stations from such capture efficiency determinations.

Requirements for Showing Compliance

§ 63.5170 How do I demonstrate compliance with the standards?

You must include all coating materials (as defined in § 63.5110) used in the affected source when determining compliance with the applicable emission limit in § 63.5120. To make this determination, you must use at least one of the four compliance options listed in Table 1 of this section. You may apply any of the compliance options to an individual coil coating line, or to multiple lines as a group, or to the entire affected source. You may use different compliance options for different coil coating lines, or at different times on the same line. However, you may not use different compliance options at the same time on the same coil coating line. If you switch between compliance options for any coil coating line or group of lines, you must document this switch as required by § 63.5190(a), and you must report it in the next semiannual compliance report required in § 63.5180.

TABLE 1 TO § 63.5170.—COMPLIANCE DEMONSTRATION REQUIREMENTS INDEX

If you choose to demonstrate compliance by:	Then you must demonstrate that:
1. Use of "as purchased" compliant coatings	a. Each coating material used during the 12-month compliance period does not exceed 0.046 kg HAP per liter solids, as purchased. Paragraph (a) of this section.
2. Use of "as applied" compliant coatings	a. Each coating material used does not exceed 0.046 kg HAP per liter solids on a rolling 12-month average as applied basis, determined monthly. Paragraphs (b)(1) of this section; or b. Average of all coating materials used does not exceed 0.046 kg HAP per liter solids on a rolling 12-month average as applied basis, determined monthly. Paragraph (b)(2) of this section.
3. Use of a capture system and control device ..	Overall organic HAP control efficiency is at least 98 percent on a monthly basis for individual or groups of coil coating lines; or overall organic HAP control efficiency is at least 98 percent during initial performance test and operating limits are achieved continuously for individual coil coating lines; or oxidizer outlet HAP concentration is no greater than 20 ppmv and there is 100 percent capture efficiency during initial performance test and operating limits are achieved continuously for individual coil coating lines. Paragraph (c) of this section.
4. Use of a combination of compliant coatings and control devices and maintaining an acceptable equivalent emission rate.	Average equivalent emission rate does not exceed 0.046 kg HAP per liter solids on a rolling 12-month average as applied basis, determined monthly. Paragraph (d) of this section.

(a) *As-purchased compliant coatings.* If you elect to use coatings that individually meet the organic HAP emission limit in § 63.5120(a)(2) as-purchased, to which you will not add HAP during distribution or application, you must demonstrate that each coating material applied during the 12-month compliance period contains no more than 0.046 kg HAP per liter of solids on an as-purchased basis.

(1) Determine the organic HAP content for each coating material in accordance with § 63.5160(b) and the volume solids content in accordance with § 63.5160(c).

(2) Combine these results using Equation 1 of this section and compare the result to the organic HAP emission limit in § 63.5120(a)(2) to demonstrate that each coating material contains no more organic HAP than the limit.

$$H_{siap} = \frac{C_{hi} D_i}{V_{si}} \qquad \text{(Eq. 1)}$$

Where:

H_{siap} = as-purchased, organic HAP to solids ratio of coating material, i, kg organic HAP/liter solids applied.

C_{hi} = organic HAP content of coating material, i, expressed as a weight-fraction, kg/kg.

D_i = density of coating material, i, kg/l.

Vsi = volume fraction of solids in coating, i, l/l.

(b) *As-applied compliant coatings.* If you choose to use "as-applied" compliant coatings, you must demonstrate that the average of each coating material applied during the 12-month compliance period contains no more than 0.046 kg of organic HAP per liter of solids applied in accordance with (b)(1) of this section, or demonstrate that the average of all coating materials applied during the 12-month compliance period contain no more than 0.046 kg of organic HAP per liter of solids applied in accordance with paragraph (b)(2) of this section.

(1) To demonstrate that the average organic HAP content on the basis of solids applied for each coating material applied, $H_{Si\ yr}$, is less than 0.046 kg HAP per liter solids applied for the 12-month compliance period, use Equation 2 of this section:

$$H_{Si\ yr} = \frac{\sum_{y=1}^{12}\left[V_i D_i C_{ahi} + \sum_{i=1}^{q} V_j D_j C_{hij}\right]}{\sum_{y=1}^{12} V_i V_{si}} \qquad \text{(Eq. 2)}$$

Where:

$H_{si\ yr}$ = average for the 12-month compliance period, as-applied, organic HAP to solids ratio of material, i, kg organic HAP/liter solids applied.

V_i = volume of coating material, i, l.

D_i = density of coating material, i, kg/l.

C_{ahi} = monthly average, as-applied, organic HAP content of solids-containing coating material, i, expressed as a weight fraction, kilogram (kg)/kg.

V_j = volume of solvent, j, l.

D_j = density of solvent, j, kg/l.

C_{hij} = organic HAP content of solvent, j, added to coating material, i, expressed as a weight fraction, kg/kg.

V_{si} = volume fraction of solids in coating, i, l/l.

y = identifier for months.

q = number of different solvents, thinners, reducers, diluents, or other non-solids-containing coating materials applied in a month.

(2) To demonstrte that the average organic HAP content on the basis of solids applied, $H_{S\ yr}$, of all coating materials applied is less than 0.046 kg HAP per liter solids applied for the 12-month compliance period, use Equation 3 of this section:

$$H_{S\ yr} = \frac{\sum_{y=1}^{12}\left[\sum_{i=1}^{p} V_i D_i C_{ahi} + \sum_{j=1}^{q} V_j D_j C_{hij}\right]}{\sum_{y=1}^{12}\left[\sum_{i=1}^{p} V_i V_{si}\right]} \qquad \text{(Eq. 3)}$$

Where:

$H_{S\ yr}$ = average for the 12-month compliance period, as-applied, organic HAP to solids ratio of all materials applied, kg organic HAP/liter solids applied.

Vi = volume of coating material, i, l.

D_i = density of coating material, i, kg/l.

C_{ahi} = monthly average, as-applied, organic HAP content of solids-containing coating material, i, expressed as a weight fraction, kilogram (kg)/kg.

Vj = volume of solvent, j, l.

D_j = density of solvent, j, kg/l.

C_{hij} = organic HAP content of solvent, j, added to coating material, i, expressed as a weight fraction, kg/kg.

Vsi = volume fraction of solids in coating, i, l/l.

p = number of different coating materials applied in a month.

q = number of different solvents, thinners, reducers, diluents, or other non-solids-containing coating materials applied in a month.

y = identifier for months.

(c) *Capture and control to reduce emissions to no more than the allowable limit.* If you use one or more capture systems and one or more control devices and demonstrate an average overall organic HAP control efficiency of at least 98 percent for each month to comply with § 63.5120(a)(1); or operate a capture system and oxidizer so that the capture efficiency is 100 percent and the oxidizer outlet HAP concentration is no greater than 20 ppmv on a dry basis to comply with § 63.5120(a)(3), you must follow one of the procedures in paragraphs (c)(1) through (4) of this section. Alternatively, you may demonstrate compliance for an individual coil coating line by operating its capture system and control device and continuous parameter monitoring system according to the procedures in paragraph (i) of this section.

(1) If the affected source uses one compliance procedure to limit organic HAP emissions to the level specified in § 63.5120(a)(1) or (2) and has only always-controlled work stations, then you must demonstrate compliance with the provisions of paragraph (e) of this section when emissions from the affected source are controlled by one or more solvent recovery devices.

(2) If the affected source uses one compliance procedure to limit organic HAP emissions to the level specified in § 63.5120(a)(1) or (2) and has only always-controlled work stations, then you must demonstrate compliance with the provisions of paragraph (f) of this section when emissions are controlled by one or more oxidizers.

(3) If the affected source operates both solvent recovery and oxidizer control devices, one or more never-controlled work stations, or one or more intermittently-controllable work stations, or uses more than one compliance procedure, then you must demonstrate compliance with the provisions of paragraph (g) of this section.

(4) The method of limiting organic HAP emissions to the level specified in § 63.5120(a)(3) is the installation and operation of a PTE around each work station and associated curing oven in the coating line and the ventilation of all organic HAP emissions from each PTE to an oxidizer with an outlet organic HAP concentration of no greater than 20 ppmv on a dry basis. An enclosure that meets the requirements in § 63.5160(e)(1) is considered a PTE. Initial compliance of the oxidizer with the outlet organic HAP concentration limit is demonstrated either through continuous emission monitoring according to paragraph (c)(4)(ii) of this section or through performance tests using the procedure in § 63.5160(d). If this method is selected, you must meet the requirements of paragraph (c)(4)(i) of this section to demonstrate continuing achievement of 100 percent capture of organic HAP emissions and either paragraph (c)(4)(ii) or paragraph (c)(4)(iii) of this section, respectively, to demonstrate continuous compliance with the oxidizer outlet organic HAP concentration limit through continuous emission monitoring or continuous operating parameter monitoring:

(i) Whenever a work station is operated, continuously monitor the capture system operating parameter established in accordance with § 63.5150(a)(4).

(ii) To demonstrate that the value of the exhaust gas organic HAP concentration at the outlet of the oxidizer is no greater than 20 ppmv, on a dry basis, install, calibrate, operate, and maintain CEMS according to the requirements of § 63.5150(a)(2).

(iii) To demonstrate continuous compliance with operating limits established in accordance with § 63.5150(a)(3), whenever a work station is operated, continuously monitor the applicable oxidizer operating parameter.

(d) *Capture and control to achieve the emission rate limit.* If you use one or more capture systems and one or more control devices and limit the organic HAP emission rate to no more than 0.046 kg organic HAP emitted per liter of solids applied on a 12-month average as-applied basis, then you must follow one of the procedures in paragraphs (d)(1) through (3) of this section.

(1) If you use one or more solvent recovery devices, you must demonstrate compliance with the provisions in paragraph (e) of this section.

(2) If you use one or more oxidizers, you must demonstrate compliance with the provisions in paragraph (f) of this section.

(3) If you use both solvent recovery devices and oxidizers, or operate one or more never-controlled work stations or one or more intermittently controllable work stations, you must demonstrate compliance with the provisions in paragraph (g) of this section.

(e) *Use of solvent recovery to demonstrate compliance.* If you use one or more solvent recovery devices to control emissions from always-controlled work stations, you must show compliance by following the procedures in either paragraph (e)(1) or (2) of this section:

(1) *Liquid-liquid material balance.* Perform a liquid-liquid material balance for each month as specified in paragraphs (e)(1)(i) through (vi) of this section and use Equations 4 through 6 of this section to convert the data to units of this standard. All determinations of quantity of coating and composition of coating must be made at a time and location in the process after all ingredients (including any dilution solvent) have been added to the coating, or appropriate adjustments must be made to account for any ingredients added after the amount of coating has been determined.

(i) Measure the mass of each coating material applied on the work station or group of work stations controlled by one or more solvent recovery devices during the month.

(ii) If demonstrating compliance with the organic HAP emission rate based on solids applied, determine the organic HAP content of each coating material applied during the month following the procedure in § 63.5160(b).

(iii) Determine the volatile matter content of each coating material applied during the month following the procedure in § 63.5160(c).

(iv) If demonstrating compliance with the organic HAP emission rate based on solids applied, determine the solids content of each coating material applied during the month following the procedure in § 63.5160(c).

(v) For each solvent recovery device used to comply with § 63.5120(a), install, calibrate, maintain, and operate according to the manufacturer's specifications, a device that indicates the cumulative amount of volatile matter recovered by the solvent recovery device on a monthly basis. The device must be initially certified by the manufacturer to be accurate to within ± 2.0 percent.

(vi) For each solvent recovery device used to comply with § 63.5120(a),

measure the amount of volatile matter recovered for the month.

(vii) *Recovery efficiency, R_v.* Calculate the volatile organic matter collection and recovery efficiency, R_v, using Equation 4 of this section:

$$R_v = 100\frac{\sum_{k=1}^{s} M_{kvr}}{\sum_{i=1}^{p} M_i C_{vi} + \sum_{j=1}^{q} M_j} \quad \text{(Eq. 4)}$$

Where:

R_v = organic volatile matter collection and recovery efficiency, percent.

M_{kvr} = mass of volatile matter recovered in a month by solvent recovery device, k, kg.

M_i = mass of coating material, i, applied in a month, kg.

C_{vi} = volatile matter content of coating material, i, expressed as a weight fraction, kg/kg.

M_j = mass of solvent, thinner, reducer, diluent, or other non-solids-containing coating material (excluding H_2O), j, applied in a month, kg.

p = number of different coating materials applied in a month.

q = number of different solvents, thinners, reducers, diluents, or other non-solids-containing coating materials applied in a month.

s = number of solvent recovery devices used to comply with the standard of § 63.5120 of this subpart, in the facility.

(viii) *Organic HAP emitted, H_e.* Calculate the mass of organic HAP emitted during the month, H_e, using Equation 5 of this section:

$$H_e = \left[1 - \frac{R_v}{100}\right]\left[\sum_{i=1}^{p}\left(C_{hi}M_i + \sum_{j=1}^{q} C_{hij}M_{ij}\right)\right] \quad \text{(Eq. 5)}$$

Where:

H_e = total monthly organic HAP emitted, kg.

R_v = organic volatile matter collection and recovery efficiency, percent.

C_{hi} = organic HAP content of coating material, i, expressed as a weight-fraction, kg/kg.

M_i = mass of coating material, i, applied in a month, kg.

C_{hij} = organic HAP content of solvent, j, added to coating material, i, expressed as a weight fraction, kg/kg.

M_{ij} = mass of solvent, thinner, reducer, diluent, or other non-solids-containing coating material, j, added to solids-containing coating material, i, in a month, kg.

p = number of different coating materials applied in a month.

q = number of different solvents, thinners, reducers, diluents, or other non-solids-containing coating materials applied in a month.

(ix) *Organic HAP emission rate based on solids applied for the 12-month compliance period, L_{ANNUAL}.* Calculate the organic HAP emission rate based on solids applied for the 12-month compliance period, L_{ANNUAL}, using Equation 6 of this section:

$$L_{ANNUAL} = \frac{\sum_{y=1}^{12} H_e}{\sum_{y=1}^{12}\left[\sum_{i=1}^{p} C_{si}M_i\right]} \quad \text{(Eq. 6)}$$

Where:

L_{ANNUAL} = mass organic HAP emitted per volume of solids applied for the 12-month compliance period, kg/liter.

H_e = total monthly organic HAP emitted, kg.

C_{si} = solids content of coating material, i, expressed as liter of solids/kg of material.

M_i = mass of coating material, i, applied in a month, kg.

y = identifier for months.

p = number of different coating materials applied in a month.

(x) *Compare actual performance to performance required by compliance option.* The affected source is in compliance with § 63.5120(a) if it meets the requirement in either paragraph (e)(1)(x)(A) or (B) of this section:

(A) The average volatile organic matter collection and recovery efficiency, R_v, is 98 percent or greater each month of the 12-month compliance period; or

(B) The organic HAP emission rate based on solids applied for the 12-month compliance period, L_{ANNUAL}, is 0.046 kg organic HAP per liter solids applied or less.

(2) *Continuous emission monitoring of control device performance.* Use continuous emission monitors to demonstrate recovery efficiency, conduct an initial performance test of capture efficiency and volumetric flow rate, and continuously monitor a site specific operating parameter to ensure that capture efficiency and volumetric flow rate are maintained following the procedures in paragraphs (e)(2)(i) through (xi) of this section:

(i) *Control device destruction or removal efficiency, DRE.* For each control device used to comply with § 63.5120(a), continuously monitor the gas stream entering and exiting the control device to determine the total volatile organic matter mass flow rate (e.g., by determining the concentration of the vent gas in grams per cubic meter and the volumetric flow rate in cubic meters per second, such that the total volatile organic matter mass flow rate in grams per second can be calculated using Equation 1 of § 63.5160, and the percent destruction or removal efficiency, DRE, of the control device can be calculated for each month using Equation 2 of § 63.5160.

(ii) Determine the percent capture efficiency, CE, for each work station in accordance with § 63.5160(e).

(iii) *Capture efficiency monitoring.* Whenever a work station is operated, continuously monitor the operating parameter established in accordance with § 63.5150(a)(4).

(iv) *Control efficiency, R.* Calculate the overall organic HAP control efficiency, R, achieved for each month using Equation 7 of this section:

$$R = 100\frac{\sum_{A=1}^{w}\left[\left(DRE_K CE_A\right)\left(\sum_{i=1}^{p} M_{Ai}C_{vi} + \sum_{j=1}^{q} M_{Aj}\right)\right]}{\sum_{i=1}^{p} M_i C_{vi} + \sum_{j=1}^{q} M_j} \quad \text{(Eq. 7)}$$

Where:
R=overall organic HAP control efficiency, percent.
DRE_k=organic volatile matter destruction or removal efficiency of control device, k, percent.
CE_A=organic volatile matter capture efficiency of the capture system for work station, A, percent.
M_{Ai}=mass of coating material, i, applied on work station, A, in a month, kg.
C_{vi}=volatile matter content of coating material, i, expressed as a weight fraction, kg/kg.
M_{Aj}=mass of solvent, thinner, reducer, diluent, or other non-solids-containing coating material (including H_2O), j, applied on work station, A, in a month, kg.
M_i=mass of coating material, i, applied in a month, kg.
M_j=mass of solvent, thinner, reducer, diluent, or other non-solids-containing coating material (excluding H_2O), j, applied in a month, kg.
w=number of always-controlled work stations in the facility.
p=number of different coating materials applied in a month.
q=number of different solvents, thinners, reducers, diluents, or other non-solids-containing coating materials applied in a month.

(v) If demonstrating compliance with the organic HAP emission rate based on solids applied, measure the mass of each coating material applied on each work station during the month.

(vi) If demonstrating compliance with the organic HAP emission rate based on solids applied, determine the organic HAP content of each coating material applied during the month in accordance with § 63.5160(b).

(vii) If demonstrating compliance with the organic HAP emission rate based on solids applied, determine the solids content of each coating material applied during the month in accordance with § 63.5160(c).

(viii) If demonstrating compliance with the organic HAP emission rate based on solids applied, calculate the organic HAP emitted during the month, H_e, for each month using Equation 8 of this section:

$$H_e = \sum_{A=1}^{w}\left[\left(1-(DRE_K CE_A)\left(\sum_{i=1}^{p}\left(C_{hi}M_{Ai}+\sum_{j=1}^{q}C_{hij}M_{Aij}\right)\right)\right]\right. \quad \text{(Eq. 8)}$$

Where:
H_e=total monthly organic HAP emitted, kg.
DRE_k=organic volatile matter destruction or removal efficiency of control device, k, percent.
CE_A=organic volatile matter capture efficiency of the capture system for work station, A, percent.
C_{hi}=organic HAP content of coating material, i, expressed as a weight-fraction, kg/kg.
M_{Ai}=mass of coating material, i, applied on work station, A, in a month, kg.
C_{hij}=organic HAP content of solvent, j, added to coating material, i, expressed as a weight fraction, kg/kg.
M_{Aij}=mass of solvent, thinner, reducer, diluent, or other non-solids-containing coating material, j, added to solids-containing coating material, i, applied on work station, A, in a month, kg.
w=number of always-controlled work stations in the facility.
p=number of different coating materials applied in a month.
q=number of different solvents, thinners, reducers, diluents, or other non-solids-containing coating materials applied in a month.

(ix) *Organic HAP emission rate based on solids applied for the 12-month compliance period, L_{ANNUAL}.* Calculate the organic HAP emission rate based on solids applied for the 12-month compliance period, L_{ANNUAL}, using Equation 6 of this section.

(x) *Compare actual performance to performance required by compliance option.* The affected source is in compliance with § 63.5120(a) if each capture system operating parameter is operated at an average value greater than or less than (as appropriate) the operating parameter value established in accordance with § 63.5150 for each 3-hour period; and

(A) The overall organic HAP control efficiency, R, is 98 percent or greater for each; or

(B) The organic HAP emission rate based on solids applied for the 12-month compliance period, L_{ANNUAL}, is 0.046 kg organic HAP per liter solids applied or less.

(f) *Use of oxidation to demonstrate compliance.* If you use one or more oxidizers to control emissions from always controlled work stations, you must follow the procedures in either paragraph (f)(1) or (2) of this section:

(1) *Continuous monitoring of capture system and control device operating parameters.* Demonstrate initial compliance through performance tests of capture efficiency and control device efficiency and continuing compliance through continuous monitoring of capture system and control device operating parameters as specified in paragraphs (f)(1)(i) through (xi) of this section:

(i) For each oxidizer used to comply with § 63.5120(a), determine the oxidizer destruction or removal efficiency, DRE, using the procedure in § 63.5160(d).

(ii) Whenever a work station is operated, continuously monitor the operating parameter established in accordance with § 63.5150(a)(3).

(iii) Determine the capture system capture efficiency, CE, for each work station in accordance with § 63.5160(e).

(iv) Whenever a work station is operated, continuously monitor the operating parameter established in accordance with § 63.5150(a)(4).

(v) Calculate the overall organic HAP control efficiency, R, achieved using Equation 7 of this section.

(vi) If demonstrating compliance with the organic HAP emission rate based on solids applied, measure the mass of each coating material applied on each work station during the month.

(vii) If demonstrating compliance with the organic HAP emission rate based on solids applied, determine the organic HAP content of each coating material applied during the month following the procedure in § 63.5160(b).

(viii) If demonstrating compliance with the organic HAP emission rate based on solids applied, determine the solids content of each coating material applied during the month following the procedure in § 63.5160(c).

(ix) Calculate the organic HAP emitted during the month, H_e, for each month:

(A) For each work station and its associated oxidizer, use Equation 8 of this section.

(B) For periods when the oxidizer has not operated within its established operating limit, the control device efficiency is determined to be zero.

(x) *Organic HAP emission rate based on solids applied for the 12-month compliance period, L_{ANNUAL}.* If demonstrating compliance with the organic HAP emission rate based on solids applied for the 12-month compliance period, calculate the organic HAP emission rate based on solids applied, L_{ANNUAL}, for the 12-month compliance period using Equation 6 of this section.

(xi) *Compare actual performance to performance required by compliance*

option. The affected source is in compliance with § 63.5120(a) if each oxidizer is operated such that the average operating parameter value is greater than the operating parameter value established in § 63.5150(a)(3) for each 3-hour period, and each capture system operating parameter average value is greater than or less than (as appropriate) the operating parameter value established in § 63.5150(a)(4) for each 3-hour period; and the requirement in either paragraph (f)(1)(xi)(A) or (B) of this section is met.

(A) The overall organic HAP control efficiency, R, is 98 percent or greater for each; or

(B) The organic HAP emission rate based on solids applied, L_{ANNUAL}, is 0.046 kg organic HAP per liter solids applied or less for the 12-month compliance period.

(2) *Continuous emission monitoring of control device performance.* Use continuous emission monitors, conduct an initial performance test of capture efficiency, and continuously monitor a site specific operating parameter to ensure that capture efficiency is maintained. Compliance must be demonstrated in accordance with paragraph (e)(2) of this section.

(g) *Combination of capture and control.* You must demonstrate compliance according to the procedures in paragraphs (g)(1) through (8) of this section if both solvent recovery and oxidizer control devices, one or more never controlled coil coating stations, or one or more intermittently controllable coil coating stations are operated; or more than one compliance procedure is used.

(1) *Solvent recovery system using liquid/liquid material balance compliance demonstration.* For each solvent recovery system used to control one or more work stations for which you choose to comply by means of a liquid-liquid material balance, you must determine the organic HAP emissions each month of the 12-month compliance period for those work stations controlled by that solvent recovery system according to either paragraph (g)(1)(i) or (ii) of this section:

(i) In accordance with paragraphs (e)(1)(i) through (iii) and (e)(1)(v) through (viii) of this section if the work stations controlled by that solvent recovery system are only always-controlled work stations; or

(ii) In accordance with paragraphs (e)(1)(ii) through (iii), (e)(1)(v) through (vi), and (h) of this section if the work stations controlled by that solvent recovery system include one or more never-controlled or intermittently-controllable work stations.

(2) *Solvent recovery system using performance test and continuous monitoring compliance demonstration.* For each solvent recovery system used to control one or more coil coating stations for which you choose to comply by means of an initial test of capture efficiency, continuous emission monitoring of the control device, and continuous monitoring of a capture system operating parameter, each month of the 12-month compliance period you must meet the requirements of paragraphs (g)(2)(i) and (ii) of this section:

(i) For each capture system delivering emissions to that solvent recovery system, monitor an operating parameter established in § 63.5150(a)(4) to ensure that capture system efficiency is maintained; and

(ii) Determine the organic HAP emissions for those work stations served by each capture system delivering emissions to that solvent recovery system according to either paragraph (g)(2)(ii)(A) or (B) of this section:

(A) In accordance with paragraphs (e)(2)(i) through (iii) and (e)(2)(v) through (viii) of this section if the work stations served by that capture system are only always-controlled coil coating stations; or

(B) In accordance with paragraphs (e)(2)(i) through (iii), (e)(2)(v) through (vii), and (h) of this section if the work stations served by that capture system include one or more never-controlled or intermittently-controllable work stations.

(3) *Oxidizer using performance test and continuous monitoring of operating parameters compliance demonstration.* For each oxidizer used to control emissions from one or more work stations for which you choose to demonstrate compliance through performance tests of capture efficiency, control device efficiency, and continuing compliance through continuous monitoring of capture system and control device operating parameters, each month of the 12-month compliance period you must meet the requirements of paragraphs (g)(3)(i) through (iii) of this section:

(i) Monitor an operating parameter established in § 63.5150(a)(3) to ensure that control device destruction or removal efficiency is maintained; and

(ii) For each capture system delivering emissions to that oxidizer, monitor an operating parameter established in § 63.5150(a)(4) to ensure capture efficiency; and

(iii) Determine the organic HAP emissions for those work stations served by each capture system delivering emissions to that oxidizer according to either paragraph (g)(3)(iii)(A) or (B) of this section:

(A) In accordance with paragraphs (f)(1)(i) through (v) and (ix) of this section if the work stations served by that capture system are only always-controlled work stations; or

(B) In accordance with paragraphs (f)(1)(i) through (v), (ix), and (h) of this section if the work stations served by that capture system include one or more never-controlled or intermittently-controllable work stations.

(4) *Oxidizer using continuous emission monitoring compliance demonstration.* For each oxidizer used to control emissions from one or more work stations for which you choose to demonstrate compliance through an initial capture efficiency test, continuous emission monitoring of the control device, and continuous monitoring of a capture system operating parameter, each month of the 12-month compliance period you must meet the requirements in paragraphs (g)(4)(i) and (ii) of this section:

(i) For each capture system delivering emissions to that oxidizer, monitor an operating parameter established in § 63.5150(a)(4) to ensure capture efficiency; and

(ii) Determine the organic HAP emissions for those work stations served by each capture system delivering emissions to that oxidizer according to either paragraph (g)(4)(ii)(A) or (B) of this section:

(A) In accordance with paragraphs (e)(2)(i) through (iii) and (e)(2)(v) through (viii) of this section if the work stations served by that capture system are only always-controlled work stations; or

(B) In accordance with paragraphs (e)(2)(i) through (iii), (e)(2)(v) through (vii), and (h) of this section if the work stations served by that capture system include one or more never-controlled or intermittently-controllable work stations.

(5) *Uncontrolled work stations.* For uncontrolled work stations, each month of the 12-month compliance period you must determine the organic HAP applied on those work stations using Equation 9 of this section. The organic HAP emitted from an uncontrolled work station is equal to the organic HAP applied on that work station:

$$H_m = \sum_{A=1}^{x}\left(\sum_{i=1}^{p} C_{hi} M_{Ai} + \sum_{j=1}^{q} C_{hij} M_{Aij}\right) \quad \text{(Eq. 9)}$$

Where:

H_m=facility total monthly organic HAP applied on uncontrolled coil coating stations, kg.

C_{hi}=organic HAP content of coating material, i, expressed as a weight-fraction, kg/kg.

M_{Ai}=mass of coating material, i, applied on work station, A, in a month, kg.

C_{hij}=organic HAP content of solvent, j, added to coating material, i, expressed as a weight fraction, kg/kg.

M_{Aij}=mass of solvent, thinner, reducer, diluent, or other non-solids-containing coating material, j, added to solids-containing coating material, i, applied on work station, A, in a month, kg.

x=number of uncontrolled work stations in the facility.

p=number of different coating materials applied in a month.

q=number of different solvents, thinners, reducers, diluents, or other non-solids-containing coating materials applied in a month.

(6) If demonstrating compliance with the organic HAP emission rate based on solids applied, each month of the 12-month compliance period you must determine the solids content of each coating material applied during the month following the procedure in § 63.5160(c).

(7) *Organic HAP emitted.* You must determine the organic HAP emissions for the affected source for each 12-month compliance period by summing all monthly organic HAP emissions calculated according to paragraphs (g)(1), (g)(2)(ii), (g)(3)(iii), (g)(4)(ii), and (g)(5) of this section.

(8) *Compare actual performance to performance required by compliance option.* The affected source is in compliance with § 63.5120(a) for the 12-month compliance period if all operating parameters required to be monitored under paragraphs (g)(2) through (4) of this section were maintained at the values established in § 63.5150; and it meets the requirement in either paragraph (g)(8)(i) or (ii) of this section.

(i) The total mass of organic HAP emitted by the affected source was not more than 0.046 kg HAP per liter of solids applied for the 12-month compliance period; or

(ii) The total mass of organic HAP emitted by the affected source was not more than 2 percent of the total mass of organic HAP applied by the affected source each month. You must determine the total mass of organic HAP applied by the affected source in each month of the 12-month compliance period using Equation 9 of this section.

(h) *Organic HAP emissions from intermittently-controllable or never-controlled coil coating stations.* If you have been expressly referenced to this paragraph by paragraphs (g)(1)(ii), (g)(2)(ii)(B), (g)(3)(iii)(B), or (g)(4)(ii)(B) of this section for calculation procedures to determine organic HAP emissions, you must for your intermittently-controllable or never-controlled work stations meet the requirements of paragraphs (h)(1) through (6) of this section:

(1) Determine the sum of the mass of all solids-containing coating materials which are applied on intermittently-controllable work stations in bypass mode, and the mass of all solids-containing coating materials which are applied on never-controlled coil coating stations during each month of the 12-month compliance period, M_{Bi}.

(2) Determine the sum of the mass of all solvents, thinners, reducers, diluents, and other nonsolids-containing coating materials which are applied on intermittently-controllable work stations in bypass mode, and the mass of all solvents, thinners, reducers, diluents and other nonsolids-containing coating materials which are applied on never-controlled work stations during each month of the 12-month compliance period, M_{Bj}.

(3) Determine the sum of the mass of all solids-containing coating materials which are applied on intermittently-controllable work stations in controlled mode, and the mass of all solids-containing coating materials which are applied on always-controlled work stations during each month of the 12-month compliance period, M_{Ci}.

(4) Determine the sum of the mass of all solvents, thinners, reducers, diluents, and other nonsolids-containing coating materials which are applied on intermittently-controllable work stations in controlled mode, and the mass of all solvents, thinners, reducers, diluents, and other nonsolids-containing coating materials which are applied on always-controlled work stations during each month of the 12-month compliance period, M_{Cj}.

(5) *Liquid-liquid material balance calculation of HAP emitted.* For each work station or group of work stations for which you use the provisions of paragraph (g)(1)(ii) of this section, you must calculate the organic HAP emitted during the month using Equation 10 of this section:

$$H_e = \left[\sum_{i=1}^{p} M_{Ci} C_{hi} + \sum_{j=1}^{q} M_{Cj} C_{hj}\right]\left[1 - \frac{\sum_{k=1}^{s} M_{kvr}}{\sum_{i=1}^{p} M_{Ci} C_{vi} + \sum_{j=1}^{q} M_{Cj}}\right] + \left[\sum_{i=1}^{p} M_{Bi} C_{hi} + \sum_{j=1}^{q} M_{Bj} C_{hj}\right] \quad \text{(Eq. 10)}$$

Where:

H_e = total monthly organic HAP emitted, kg.

M_{ci}= sum of the mass of solids-containing coating material, i, applied on intermittently-controllable work stations operating in controlled mode and the mass of solids-containing coating material, i, applied on always-controlled work stations, in a month, kg.

C_{hi} = organic HAP content of coating material, i, expressed as a weight-fraction, kg/kg.

M_{cj} = sum of the mass of solvent, thinner, reducer, diluent, or other non-solids-containing coating material, j, applied on intermittently-controllable work stations operating in controlled mode and the mass of solvent, thinner, reducer, diluent, or other non-solids-containing coating material, j, applied on always-controlled work stations in a month, kg.

C_{hj} = organic HAP content of solvent, j, expressed as a weight fraction, kg/kg.

M_{kvr} = mass of volatile matter recovered in a month by solvent recovery device, k, kg.

C_{vi} = volatile matter content of coating material, i, expressed as a weight fraction, kg/kg.

M_{Bi} = sum of the mass of solids-containing coating material, i, applied on intermittently-controllable work stations operating in bypass mode and the mass of solids-containing coating material, i, applied on never-controlled work stations, in a month, kg.

M_{Bj} = sum of the mass of solvent, thinner, reducer, diluent, or other non-solids-containing coating material, j, applied on intermittently-controllable work stations operating in bypass mode and the mass of solvent, thinner, reducer, diluent, or other non-solids-containing coating material, j, applied on never-controlled work stations, in a month, kg.

p = number of different coating materials applied in a month.

q = number of different solvents, thinners, reducers, diluents, or other non-solids-containing coating materials applied in a month.

s = number of solvent recovery devices used to comply with the standard of § 63.5120 of this subpart, in the facility.

(6) *Control efficiency calculation of HAP emitted.* For each work station or group of work stations for which you use the provisions of paragraphs (g)(2)(ii)(B), (g)(3)(iii)(B), or (g)(4)(ii)(B) of this section, you must calculate the organic HAP emitted during the month, H_e, using Equation 11 of this section:

$$H_e = \sum_{A=1}^{w_i} \left[\left(\sum_{i=1}^{p} M_{Ci} C_{hi} + \sum_{j=1}^{q} M_{Cj} C_{hj} \right) \left(1 - DRE_K CE_A\right) \right] + \left[\sum_{i=1}^{p} M_{Bi} C_{hi} + \sum_{j=1}^{q} M_{Bj} C_{hj} \right] \quad \text{(Eq. 11)}$$

Where:

H_e = total monthly organic HAP emitted, kg.

M_{ci} = sum of the mass of solids-containing coating material, i, applied on intermittently-controllable work stations operating in controlled mode and the mass of solids-containing coating material, i, applied on always-controlled work stations, in a month, kg.

C_{hi} = organic HAP content of coating material, i, expressed as a weight-fraction, kg/kg.

M_{cj} = sum of the mass of solvent, thinner, reducer, diluent, or other non-solids-containing coating material, j, applied on intermittently-controllable work stations operating in controlled mode and the mass of solvent, thinner, reducer, diluent, or other non-solids-containing coating material, j, applied on always-controlled work stations in a month, kg.

C_{hj} = organic HAP content of solvent, j, expressed as a weight fraction, kg/kg.

DRE_k = organic volatile matter destruction or removal efficiency of control device, k, percent.

CE_A = organic volatile matter capture efficiency of the capture system for work station, A, percent.

M_{Bi} = sum of the mass of solids-containing coating material, i, applied on intermittently-controllable work stations operating in bypass mode and the mass of solids-containing coating material, i, applied on never-controlled work stations, in a month, kg.

M_{Bj} = sum of the mass of solvent, thinner, reducer, diluent, or other non-solids-containing coating material, j, applied on intermittently-controllable work stations operating in bypass mode and the mass of solvent, thinner, reducer, diluent, or other non-solids-containing coating material, j, applied on never-controlled work stations, in a month, kg.

w_i = number of intermittently-controllable work stations in the facility.

p = number of different coating materials applied in a month.

q = number of different solvents, thinners, reducers, diluents, or other non-solids-containing coating materials applied in a month.

(i) *Capture and control system compliance demonstration procedures using a CPMS for a coil coating line.* If you use an add-on control device, to demonstrate initial compliance for each capture system and each control device through performance tests and continuing compliance through continuous monitoring of capture system and control device operating parameters, you must meet the requirements in paragraphs (i)(1) through (3) of this section.

(1) Conduct an initial performance test to determine the control device destruction or removal efficiency, DRE, using the applicable test methods and procedures in § 63.5160(d).

(2) Determine the emission capture efficiency, CE, in accordance with § 63.5160(e).

(3) Whenever a coil coating line is operated, continuously monitor the operating parameters established according to § 63.5150(a)(3) and (4) to ensure capture and control efficiency.

Reporting and Recordkeeping

§ 63.5180 What reports must I submit?

(a) Submit the reports specified in paragraphs (b) through (i) of this section to the EPA Regional Office that serves the State or territory in which the affected source is located and to the delegated State agency:

(b) You must submit an initial notification required in § 63.9(b).

(1) Submit an initial notification for an existing source no later than 2 years after June 10, 2002.

(2) Submit an initial notification for a new or reconstructed source as required by § 63.9(b).

(3) For the purpose of this subpart, a title V permit application may be used in lieu of the initial notification required under § 63.9(b), provided the same information is contained in the permit application as required by § 63.9(b), and the State to which the permit application has been submitted has an approved operating permit program under part 70 of this chapter and has received delegation of authority from the EPA.

(4) Submit a title V permit application used in lieu of the initial notification required under § 63.9(b) by the same due dates as those specified in paragraphs (b)(1) and (2) of this section for the initial notifications.

(c) You must submit a Notification of Performance Test as specified in §§ 63.7 and 63.9(e) if you are complying with the emission standard using a control device. This notification and the site-specific test plan required under § 63.7(c)(2) must identify the operating parameter to be monitored to ensure that the capture efficiency measured during the performance test is maintained. You may consider the operating parameter identified in the site-specific test plan to be approved unless explicitly disapproved, or unless comments received from the Administrator require monitoring of an alternate parameter.

(d) You must submit a Notification of Compliance Status as specified in § 63.9(h). You must submit the Notification of Compliance Status no later than 30 calendar days following the end of the initial 12-month compliance period described in § 63.5130.

(e) You must submit performance test reports as specified in § 63.10(d)(2) if you are using a control device to comply with the emission standards and you have not obtained a waiver from the performance test requirement.

(f) You must submit start-up, shutdown, and malfunction reports as specified in § 63.10(d)(5) if you use a control device to comply with this subpart.

(1) If your actions during a start-up, shutdown, or malfunction of an affected source (including actions taken to correct a malfunction) are not completely consistent with the

procedures specified in the source's start-up, shutdown, and malfunction plan specified in § 63.6(e)(3), you must state such information in the report. The start-up, shutdown, or malfunction report will consist of a letter containing the name, title, and signature of the responsible official who is certifying its accuracy, that will be submitted to the Administrator.

(2) Separate start-up, shutdown, or malfunction reports are not required if the information is included in the report specified in paragraph (g) of this section.

(g) You must submit semi-annual compliance reports containing the information specified in paragraphs (g)(1) and (2) of this section.

(1) Compliance report dates.

(i) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.5130(a) and ending on June 30 or December 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in § 63.5130(a).

(ii) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date that is specified for your affected source in § 63.5130(a).

(iii) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(iv) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(v) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or part 71, and the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (g)(1)(i) through (iv) of this section.

(2) The semi-annual compliance report must contain the following information:

(i) Company name and address.

(ii) Statement by a responsible official with that official's name, title, and signature, certifying the accuracy of the content of the report.

(iii) Date of report and beginning and ending dates of the reporting period. The reporting period is the 6-month period ending on June 30 or December 31. Note that the information reported for each of the 6 months in the reporting period will be based on the last 12 months of data prior to the date of each monthly calculation.

(iv) Identification of the compliance option or options specified in Table 1 to § 63.5170 that you used on each coating operation during the reporting period. If you switched between compliance options during the reporting period, you must report the beginning dates you used each option.

(v) A statement that there were no deviations from the standards during the reporting period, and that no CEMS were inoperative, inactive, malfunctioning, out-of-control, repaired, or adjusted.

(h) You must submit, for each deviation occurring at an affected source where you are not using CEMS to comply with the standards in this subpart, the semi-annual compliance report containing the information in paragraphs (g)(2)(i) through (iv) of this section and the information in paragraphs (h)(1) through (3) of this section:

(1) The total operating time of each affected source during the reporting period.

(2) Information on the number, duration, and cause of deviations (including unknown cause, if applicable) as applicable, and the corrective action taken.

(3) Information on the number, duration, and cause for monitor downtime incidents (including unknown cause other than downtime associated with zero and span and other daily calibration checks, if applicable).

(i) You must submit, for each deviation occurring at an affected source where you are using CEMS to comply with the standards in this subpart, the semi-annual compliance report containing the information in paragraphs (g)(2)(i) through (iv) of this section, and the information in paragraphs (i)(1) through (12) of this section:

(1) The date and time that each malfunction started and stopped.

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

(3) The date and time that each CEMS was out-of-control, including the information in § 63.8(c)(8).

(4) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of start-up, shutdown, or malfunction or during another period.

(5) A summary of the total duration of the deviation during the reporting period, and the total duration as a percent of the total source operating time during that reporting period.

(6) A breakdown of the total duration of the deviations during the reporting period into those that are due to start-up, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(7) A summary of the total duration of CEMS downtime during the reporting period, and the total duration of CEMS downtime as a percent of the total source operating time during that reporting period.

(8) A breakdown of the total duration of CEMS downtime during the reporting period into periods that are due to monitoring equipment malfunctions, nonmonitoring equipment malfunctions, quality assurance/quality control calibrations, other known causes, and other unknown causes.

(9) A brief description of the metal coil coating line.

(10) The monitoring equipment manufacturer(s) and model number(s).

(11) The date of the latest CEMS certification or audit.

(12) A description of any changes in CEMS, processes, or controls since the last reporting period.

§ 63.5190 What records must I maintain?

(a) You must maintain the records specified in paragraphs (a) and (b) of this section in accordance with § 63.10(b)(1):

(1) Records of the coating lines on which you used each compliance option and the time periods (beginning and ending dates and times) you used each option.

(2) Records specified in § 63.10(b)(2) of all measurements needed to demonstrate compliance with this subpart, including:

(i) Continuous emission monitor data in accordance with § 63.5150(a)(2);

(ii) Control device and capture system operating parameter data in accordance with § 63.5150(a)(1), (3), and (4);

(iii) Organic HAP content data for the purpose of demonstrating compliance in accordance with § 63.5160(b);

(iv) Volatile matter and solids content data for the purpose of demonstrating compliance in accordance with § 63.5160(c);

(v) Overall control efficiency determination or alternative outlet HAP concentration using capture efficiency tests and control device destruction or removal efficiency tests in accordance with § 63.5160(d), (e), and (f); and

(vi) Material usage, HAP usage, volatile matter usage, and solids usage and compliance demonstrations using these data in accordance with § 63.5170(a), (b), and (d);

(3) Records specified in § 63.10(b)(3); and

(4) Additional records specified in § 63.10(c) for each continuous monitoring system operated by the owner or operator in accordance with § 63.5150(a)(2).

(b) Maintain records of all liquid-liquid material balances that are performed in accordance with the requirements of § 63.5170.

Delegation of Authority

§ 63.5200 What authorities may be delegated to the States?

(a) This subpart can be implemented and enforced by us, the EPA, or a delegated authority such as your State, local, or tribal agency. If the EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. You should contact your EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under section 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the EPA Administrator and not transferred to the State, local, or tribal agency.

(c) Authority which will not be delegated to States, local, or tribal agencies:

(1) Approval of alternatives to the emission limitations in § 63.5120;

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.5160;

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.5150; and

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in §§ 63.5180 and 63.5190.

§§ 63.5201—63.5209 [Reserved]

Tables to Subpart SSSS of Part 63

If you are required to comply with operating limits by § 63.5121, you must comply with the applicable operating limits in the following table:

TABLE 1 TO SUBPART SSSS OF PART 63. OPERATING LIMITS IF USING ADD-ON CONTROL DEVICES AND CAPTURE SYSTEM

For the following device . . .	You must meet the following operating limit . . .	And you must demonstrate continuous compliance with the operating limit by . . .
1. thermal oxidizer	a. the average combustion temperature in any 3-hour period must not fall below the combustion temperature limit established according to § 63.5160(d)(3)(i).	i. collecting the combustion temperature data according to § 63.5150(a)(3); ii. reducing the data to 3-hour block averages; and iii. maintaining the 3-hour average combustion temperature at or above the temperature limit.
2. catalytic oxidizer	a. the average temperature measured just before the catalyst bed in any 3-hour period must not fall below the limit established according to § 63.5160(d)(3)(ii); and either	i. collecting the temperature data according to § 63.5150(a)(3); ii. reducing the data to 3-hour block averages; and iii. maintaining the 3-hour average temperature before the catalyst bed at or above the temperature limit.
	b. ensure that the average temperature difference across the catalyst bed in any 3-hour period does not fall below the temperature difference limit established according to § 63.5160(d)(3)(ii); or	i. collecting the temperature data according to § 63.5150(a)(3); ii. reducing the data to 3-hour block averages; and iii. maintaining the 3-hour average temperature difference at or above the temperature difference limit.
	c. develop and implement an inspection and maintenance plan according to § 63.5160(d)(3)(ii).	maintaining an up-to-date inspection and maintenance plan, records of annual catalyst activity checks, records of monthly inspections of the oxidizer system, and records of the annual internal inspections of the catalyst bed. If a problem is discovered during a monthly or annual inspection required by § 63.5160(d)(3)(ii), you must take corrective action as soon as practicable consistent with the manufacturer's recommendations.
3. emission capture system	develop a monitoring plan that identifies operating parameter to be monitored and specifies operating limits according to § 63.5150(a)(4).	conducting monitoring according to the plan § 63.5150(a)(4).

You must comply with the applicable General Provisions requirements according to the following table:

TABLE 2 TO SUBPART SSSS OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART SSSS

General provisions reference	Applicable to subpart SSSS	Explanation
§ 63.1(a)(1)–(4)	Yes.	
§ 63.1(a)(5)	No	Reserved.
§ 63.1(a)(6)–(8)	Yes.	
§ 63.1(a)(9)	No	Reserved.

TABLE 2 TO SUBPART SSSS OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART SSSS—Continued

General provisions reference	Applicable to subpart SSSS	Explanation
§ 63.1(a)(10)–(14)	Yes.	
§ 63.1(b)(1)	No	Subpart SSSS specifies applicability.
§ 63.1(b)(2)–(3)	Yes.	
§ 63.1(c)(1)	Yes.	
§ 63.1(c)(2)	Yes.	
§ 63.1(c)(3)	No	Reserved.
§ 63.1(c)(4)	Yes.	
§ 63.1(c)(5)	Yes.	
§ 63.1(d)	No	Reserved.
§ 63.1(e)	Yes.	
§ 63.2	Yes	Additional definitions in subpart SSSS.
§ 63.3(a)–(c)	Yes.	
§ 63.4(a)(1)–(3)	Yes.	
§ 63.4(a)(4)	No	Reserved.
§ 63.4(a)(5)	Yes.	
§ 63.4(b)–(c)	Yes.	
§ 63.5(a)(1)–(2)	Yes.	
§ 63.5(b)(1)	Yes.	
§ 63.5(b)(2)	No	Reserved.
§ 63.5(b)(3)–(6)	Yes.	
§ 63.5(c)	No	Reserved.
§ 63.5(d)	Yes	Only total HAP emissions in terms of tons per year are required for § 63.5(d)(1)(ii)(H).
§ 63.5(e)	Yes.	
§ 63.5(f)	Yes.	
§ 63.6(a)	Yes.	
§ 63.6(b)(1)–(5)	Yes.	
§ 63.6(b)(6)	No	Reserved.
§ 63.6(b)(7)	Yes.	
§ 63.6(c)(1)–(2)	Yes.	
§ 63.6(c)(3)–(4)	No	Reserved.
§ 63.6(c)(5)	Yes.	
§ 63.6(d)	No	Reserved.
§ 63.6(e)	Yes	Provisions in § 63.6(e)(3) pertaining to startups, shutdowns, malfunctions, and CEMS only apply if an add-on control system is used.
§ 63.6(f)	Yes.	
§ 63.6(g)	Yes.	
§ 63.6(h)	No	Subpart SSSS does not require continuous opacity monitoring systems (COMS).
§ 63.6(i)(1)–(14)	Yes.	
§ 63.6(i)(15)	No	Reserved.
§ 63.6(i)(16)	Yes.	
§ 63.6(j)	Yes.	
§ 63.7	Yes	With the exception of § 63.7(a)(2)(vii) and (viii), which are reserved.
§ 63.8(a)(1)–(2)	Yes.	
§ 63.8(a)(3)	No	Reserved.
§ 63.8(a)(4)	Yes.	
§ 63.8(b)	Yes.	
§ 63.8(c)(1)–(3)	Yes	Provisions only apply if an add-on control system is used.
§ 63.8(c)(4)	No.	
§ 63.8(c)(5)	No	Subpart SSSS does not require COMS.
§ 63.8(c)(6)	Yes	Provisions only apply if CEMS are used.
§ 63.8(c)(7)–(8)	Yes.	
§ 63.8(d)–(e)	Yes	Provisions only apply if CEMS are used.
§ 63.8(f)(1)–(5)	Yes.	
§ 63.8(f)(6)	No	Section 63.8(f)(6) provisions are not applicable because subpart SSSS does not require CEMS.
§ 63.8(g)(1)–(4)	Yes.	
§ 63.8(g)(5)	No.	
§ 63.9(a)	Yes.	
§ 63.9(b)(1)	Yes.	
§ 63.9(b)(2)	Yes	With the exception that § 63.5180(b)(1) provides 2 years after the proposal date for submittal of the initial notification.
§ 63.9(b)(3)–(5)	Yes.	
§ 63.9(c)–(e)	Yes.	
§ 63.9(f)	No	Subpart SSSS does not require opacity and visible emissions observations.
§ 63.9(g)	No	Provisions for COMS are not applicable.
§ 63.9(h)(1)–(3)	Yes.	

TABLE 2 TO SUBPART SSSS OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART SSSS—Continued

General provisions reference	Applicable to subpart SSSS	Explanation
§ 63.9(h)(4)	No	Reserved.
§ 63.9(h)(5)–(6)	Yes.	
§ 63.9(i)	Yes.	
§ 63.9(j)	Yes.	
§ 63.10(a)	Yes.	
§ 63.10(b)(1)–(3)	Yes	Provisions pertaining to startups, shutdowns, malfunctions, and maintenance of air pollution control equipment and to CEMS do not apply unless an add-on control system is used. Also, paragraphs (b)(2)(vi), (x), (xi), and (xiii) do not apply.
§ 63.10(c)(1)	No.	
§ 63.10(c)(2)–(4)	No	Reserved.
§ 63.10(c)(5)–(8)	No.	
§ 63.10(c)(9)	No	Reserved.
§ 63.10(c)(10)–(15)	No.	
§ 63.10(d)(1)–(2)	Yes.	
§ 63.10(d)(3)	No	Subpart SSSS does not require opacity and visible emissions observations.
§ 63.10(d)(4)–(5)	Yes.	
§ 63.10(e)	No.	
§ 63.10(f)	Yes.	
§ 63.11	Yes.	
§ 63.12	Yes.	
§ 63.13	Yes.	
§ 63.14	Yes	Subpart SSSS includes provisions for alternative ASTM and ASME test methods that are incorporated by reference.
§ 63.15	Yes.	

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Federal Register

Tuesday,
June 11, 2002

Part II

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7214–8]

RIN 2060–AH11

National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for cellulose products manufacturing. Cellulose products manufacturing includes both the Miscellaneous Viscose Processes source category and the Cellulose Ethers Production source category. The Miscellaneous Viscose Processes source category comprises the cellulose food casing, rayon, cellulosic sponge, and cellophane manufacturing industries. The Cellulose Ethers Production source category comprises the methyl cellulose, hydroxypropyl methyl cellulose, hydroxypropyl cellulose, hydroxyethyl cellulose, and carboxymethyl cellulose manufacturing industries. The EPA has identified the Miscellaneous Viscose Processes source category and the Cellulose Ethers Production source category as including major sources of emissions of hazardous air pollutants (HAP), such as carbon disulfide (CS_2), carbonyl sulfide, ethylene oxide, methanol, methyl chloride, propylene oxide, and toluene. The final rule will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). The final rule will reduce HAP emissions by approximately 1,600 megagrams per year (Mg/yr) (1,700 tons per year (tpy)). In addition, the final rule will reduce hydrogen sulfide (H_2S) emissions by approximately 410 Mg/yr (450 tpy).

EFFECTIVE DATE: June 11, 2002.

ADDRESSES: Docket No. A–99–39 contains supporting information used in developing the promulgated standards. The docket is available for public inspection between 8:30 a.m. and 5:30 p.m., Monday through Friday, excluding Federal holidays, at the following address: U.S. EPA, Air and Radiation Docket and Information Center (6102), 401 M Street SW., Washington, DC 20460, telephone number (202) 260–7548. The docket is located at the above address in room M–1500, Waterside Mall (ground floor). A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For further information concerning applicability and rule determinations, contact the appropriate State or local agency representative. If no State or local representative is available, contact the EPA Regional Office staff listed in 40 CFR 63.13. For information concerning the analyses performed in developing this rule, contact Mr. William Schrock, U.S. EPA, Office of Air Quality Planning and Standards, Organic Chemicals Group (Mail Code C504–04), Research Triangle Park, North Carolina 27711, telephone number (919) 541–5032, facsimile number (919) 541–3470, electronic mail address schrock.bill@epa.gov.

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Categories and entities potentially regulated by this action include those listed in the following table.

Category	NAICS code	Examples of regulated entities . . .
Industry	326121	cellulose food casing operations.
	325221	rayon operations.
	326199, 325211	cellulosic sponge operations.
	326199	cellophane operations.
	325199	cellulose ether operations.

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 operation is regulated by this action, you should examine the applicability criteria in § 63.5481 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.

Judicial Review. The NESHAP for cellulose products manufacturing was proposed on August 28, 2000 (65 FR 52166). Today's action announces EPA's final decisions on the rule. Under section 307(b)(1) of the CAA, judicial review of the final rule is available by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by August 12, 2002. Only those objections to the rule which were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2) of the CAA, the requirements that are the subject of today's final rule may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements. *World Wide Web (WWW).* In addition to being available in the docket, an electronic copy of today's final rule will also be available on the WWW through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or final rules at http://www.epa.gov/ttn/oarpg/t3pfpr.html. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN Help Line at (919) 541–5384. *Outline.* The information presented in this preamble is organized as follows:

I. Background and Public Participation
II. Summary of Major Changes Since Proposal
  A. All Affected Sources
  B. Viscose Process Affected Sources
  C. Cellulose Ether Affected Sources
III. Summary of Responses to Major Comments
  A. Emission Limits, Operating Limits, and Work Practice Standards
  B. Testing and Initial Compliance Requirements
  C. Continuous Compliance Requirements
  D. Notifications and Reports
IV. Summary of Impacts
  A. Air Quality Impacts
  B. Cost Impacts
  C. Economic Impacts
  D. Non-Air Environmental Impacts
  E. Energy Impacts
V. Administrative Requirements
  A. Executive Order 12866, Regulatory Planning and Review
  B. Executive Order 13132, Federalism
  C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
  D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
  E. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
  F. Unfunded Mandates Reform Act of 1995

G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
H. Paperwork Reduction Act
I. National Technology Transfer and Advancement Act of 1995
J. Congressional Review Act

I. Background and Public Participation

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. A major source of HAP is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit any single HAP at a rate of 9.1 Mg/yr (10 tpy) or more or any combination of HAP at a rate of 23 Mg/yr (25 tpy) or more.

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

On July 16, 1992 (57 FR 31576), we published an initial list of source categories slated for regulation under section 112(c) of the CAA. That initial list included the Cellulose Food Casings, Rayon, Cellophane, Methyl Cellulose, Carboxymethyl Cellulose, and Cellulose Ethers Production source categories. The Cellulose Ethers Production source category on the initial list included the hydroxyethyl cellulose, hydroxypropyl cellulose, and hydroxypropyl methyl cellulose manufacturing industries.

In developing the proposed rule for cellulose products manufacturing, we identified another cellulose products manufacturing industry, cellulosic sponge manufacturing, that was not on the initial source category list. We added Cellulosic Sponges to the source category list on November 18, 1999 (64 FR 63026) in accordance with section 112(c) of the CAA.

We proposed the standards for cellulose products manufacturing on August 28, 2000 (65 FR 52166). In the proposal, we combined the various cellulose products manufacturing source categories on the initial source category list with the Cellulosic Sponge source category to create two new source categories. Specifically, we combined the existing Cellulose Food Casing, Rayon, Cellulosic Sponge, and Cellophane source categories to create a new source category which is called "Miscellaneous Viscose Processes." We combined the existing Methyl Cellulose, Carboxymethyl Cellulose, and Cellulose Ethers Production source categories to create a newly expanded "Cellulose Ethers Production" source category. On February 12, 2002 (67 FR 6521), we published an updated source category list that includes the Miscellaneous Viscose Processes and Cellulose Ethers Production source categories.

As in the proposal, the final standards for cellulose products manufacturing give most existing sources 3 years from the date of promulgation to comply. The final standards also give existing rayon operations 8 years from the date of promulgation to comply with the 40 percent reduction emission limit for their viscose process vents. Sources that begin construction or reconstruction after August 28, 2000 must comply with the standards for new sources by June 11, 2002 or upon startup, whichever is later.

Emission limits, operating limits, and work practice standards, as well as initial and continuous compliance requirements, and notification, reporting, and recordkeeping requirements are included in the final rule. All of these components are necessary to ensure that sources comply with the standards both initially and over time. However, we have made every effort to simplify the requirements in the rule.

The preamble for the proposed standards described the rationale for the proposed standards. Public comments were solicited at the time of proposal. The public comment period lasted from August 28, 2000 to October 27, 2000. Industry representatives, regulatory agencies, environmental groups, and the general public were given the opportunity to comment on the proposed rule and to provide additional information during and after the public comment period. Although we offered at proposal the opportunity for oral presentation of data, views, or arguments concerning the proposed rule, no one requested a hearing, and a hearing was not held.

We received a total of 23 letters containing comments on the proposed rule during and after the public comment period. Commenters included individual cellulose products manufacturing companies, industry trade associations, and an association of State and local regulatory agencies. Today's final rule reflects our full consideration of all of the comments received. Major public comments on the proposed rule, along with our responses to those comments, are summarized in this preamble. See the Summary of Public Comments and Responses memorandum for a more detailed discussion of public comments and our responses (Docket No. A–99–39).

II. Summary of Major Changes Since Proposal

The major changes made to the proposed rule based on public comments are described in the sections below. A more comprehensive summary of changes can be found in Docket No. A–99–39.

A. All Affected Sources

In today's final rule, we have added an exemption for research and development facilities. We have revised the definition for "process vent" to include exemptions for small vents with very low concentrations and flow rates. We have added a section that discusses the overlap between the requirements of the final rule and the requirements of other rules.

We have added definitions for "process unit" and revised definitions for "operation" for the various viscose process and cellulose ether industries to provide greater clarification of what is covered under the final rule. Each process unit includes all equipment used to manufacture the respective products and any associated storage vessels, liquid streams in open systems, and equipment components. Each operation includes the collection of the

respective process units and other equipment, including heat exchanger systems, wastewater and waste management units, and cooling towers.

Consistent with the revised definitions for "operation" for the various viscose process and cellulose ether industries, we have adopted work practice standards for heat exchanger systems from 40 CFR 63.104. For all affected sources with a closed-vent system containing a bypass line that could divert a vent stream away from a control device, we have adopted work practice standards for bypass lines from 40 CFR 63.148. In order to provide this exemption, we have adopted the related work practice standards for closed-vent systems from 40 CFR 63.148. We have also adopted the applicable initial and continuous compliance provisions, reporting and recordkeeping provisions, and definitions associated with heat exchanger systems, bypass lines, and closed-vent systems from 40 CFR part 63, subparts F and G of the Hazardous Organic NESHAP (HON).

We have reduced the number of biofilter operating limits to three (pressure drop, inlet gas temperature, and effluent pH), which would be less burdensome and more easily measurable than the eight operating limits at proposal. We have also added alternative parameters for condensers (outlet liquid temperature) and scrubbers (conductivity and alkalinity).

We have clarified the proposed performance test requirements to require that all affected sources conducting a performance test only test the inlet and outlet of their control device. We are not requiring sources to test their uncontrolled stacks. We have revised the batch process vent testing provisions, replacing the worst-case testing provisions adopted from 40 CFR 63.1257 with alternative testing provisions adopted from 40 CFR 63.490. We have added two voluntary consensus standards as alternatives to EPA Methods 3B and 18. We have added performance test exemptions for boilers, process heaters, and hazardous waste incinerators that meet certain conditions specified in the final rule. We have clarified the initial compliance requirements to state that sources are not required to conduct a performance test to determine the flare control efficiency, based on the assumption that a properly operated flare will achieve an emission reduction of 98 percent.

We have changed the deadline for conducting the initial compliance demonstration from 180 days before to 180 days after the compliance date. To enable affected sources to demonstrate compliance between the compliance date and the date of the initial compliance demonstration, we have added a provision requiring sources to maintain an operation and maintenance (O&M) log of the process and emissions control equipment during this period.

We have adopted the methods in 40 CFR 63.505 for determining operating limits to allow sources to establish operating limits for batch process vents based on the average of all values obtained during the compliance demonstration and to establish operating limits for continuous process vents (and combined batch and continuous process vents) based on the average of the maximum (or minimum) values of the parameter.

For those sources that decide to use continuous emissions monitoring systems (CEMS) to demonstrate compliance, we have added CEMS performance specifications, recordkeeping and reporting provisions, and monitoring installation, operation, and maintenance provisions. We have replaced the proposed requirement for 3-hour averages of recorded readings with daily averages. We have changed the proposed data availability requirement for valid hourly data from 66 percent of every averaging period (e.g., two valid hourly values for a 3-hour averaging period) to 75 percent of the hours during an operating day. A valid hour of data means that sources must have data for all 15-minute periods that were not excluded for no flow.

We have revised the submittal date for the notification of compliance status (NOCS) report to require that it be submitted 240 days after the compliance date, rather than 60 days after completion of the initial performance test or 30 days after completion of the initial compliance demonstration. In this way, if sources conduct more than one test or other compliance demonstration, they would not have to submit multiple NOCS reports at different times.

We have also replaced the requirement that sources submit immediate startup, shutdown, and malfunction (SSM) reports if they take actions inconsistent with this SSM plan. Now, sources must submit those reports with the next semiannual compliance report.

We have extended the report filing deadline for semiannual compliance reports from 30 to 60 days after the end of the compliance period, consistent with 40 CFR part 63, subpart G HON, because some sources are subject to several NESHAP.

B. Viscose Process Affected Sources

We have revised the proposed 55 percent reduction emission limit for viscose process vents at existing rayon operations. In today's final rule, we are requiring existing rayon operations to meet a two-stage emission reduction requirement—35 percent reduction within 3 years after the effective date and 40 percent reduction within 8 years after the effective date. We have revised the compliance dates for existing rayon operations accordingly. We have also revised the proposed 85 percent reduction emission limit for viscose process vents at cellophane operations. In today's final rule, we are requiring cellophane operations to meet a 75 percent reduction emission limit.

We have added a fourth alternative standard for CS_2 unloading and storage operations that allows affected sources to comply by installing a nitrogen unloading system and obtaining a 0.045 percent reduction from viscose process vents. We have also added initial and continuous compliance provisions and recordkeeping provisions that correspond to this alternative. We have clarified that the 83 percent reduction emission limit, and the corresponding initial and continuous compliance provisions, for CS_2 unloading and storage operations apply to affected sources using an alternative control technique not listed in the final rule.

We have revised the initial compliance demonstration requirements to require viscose process affected sources to conduct a month-long compliance demonstration to demonstrate initial compliance, as opposed to the 3-hour performance test specified at proposal. The sources would report the results of the initial compliance demonstration in the NOCS report and keep records of the initial compliance demonstration. The sources would also establish their operating limits over the period of the month-long compliance demonstration.

Affected sources that use recovery devices and/or process changes to meet the applicable emission limit would demonstrate initial compliance during the month-long compliance demonstration using information on raw material receipts, measured CS_2 recovered, etc., in their material balance calculations to determine their overall percent reduction in emissions. No recovery device testing would be necessary.

Affected sources that must use non-recovery control devices to meet the applicable emission limit would be required to conduct a performance test to determine the control efficiency of

their non-recovery control device. The sources would incorporate this control efficiency information into their material balance calculations, which they would use during the month-long compliance demonstration to determine their overall percent reduction in emissions.

C. Cellulose Ether Affected Sources

In today's final rule, we have revised the definition for "cellulose ether process" to specifically exclude solids handling steps downstream of the drying process. We have replaced 40 CFR part 65, subpart F (Consolidated Air Rule), with 40 CFR part 63, subpart UU (Generic MACT NESHAP), as an alternative to 40 CFR part 63, subpart H (HON), for equipment leak provisions. We have added work practice standards for maintenance wastewater from 40 CFR 63.105 and liquid streams in open systems from 40 CFR 63.149. We have also adopted the applicability provisions, initial and continuous compliance provisions, reporting and recordkeeping provisions, and definitions associated with equipment leaks, wastewater, and liquid streams in open systems from 40 CFR part 63, subparts F, G, and H of the HON.

We have eliminated the proposed requirement for cellulose ether affected sources to demonstrate continuous compliance by complying with an ongoing 99 percent reduction determination. However, these sources must still comply with the applicable operating limits to demonstrate continuous compliance. We have added initial and continuous compliance requirements and recordkeeping requirements for sources using extended cookout to comply with the 99 percent reduction emission limit. We have added a voluntary consensus standard as an alternative to EPA Method 624.

III. Summary of Responses to Major Comments

This section summarizes major comments we received on the proposed rule and our responses to those comments. Only those major comments that resulted in an appreciable change to the proposed rule are included. A more comprehensive summary of comments and responses can be found in Docket No. A–99–39.

A. Emission Limits, Operating Limits, and Work Practice Standards

Comment: One commenter did not support the process vent MACT floor for rayon operations (55 percent reduction). The commenter stated that selecting the highest CS_2 recovery operation as the MACT floor is not appropriate because both rayon operations have control equipment in place. The commenter stated that the fairest, most equitable approach would be to average the 25 and 55 percent control levels of the two rayon operations, resulting in an average 40 percent MACT floor control level which the commenter felt their rayon operation could meet with available technology. The commenter estimated that, because of their fragile business environment, a 35 percent reduction is the maximum that their rayon operation could achieve in the next 3 years, and they requested an additional 5 years (8 years total) to make the additional investment to meet a 40 percent MACT floor control level.

Response: Due to the shutdown of the MACT floor rayon operation, the commenter's lesser-controlled rayon operation is the only remaining rayon operation in the United States. Because the shutdown occurred after proposal, we have the option of keeping the current 55 percent reduction as the MACT floor or establishing a less stringent MACT floor. In light of the shutdown of the only other rayon operation providing information regarding available control technology, we have decided to establish a less stringent MACT floor (40 percent), which the commenter stated would be achievable with available technology. This less stringent MACT floor is higher than the 25 percent control level achieved by the commenter's rayon operation at proposal. Based on the information provided by the commenter, we have decided to implement a staged reduction strategy to facilitate the remaining rayon operation's achieving the 40 percent MACT floor control level. In today's final rule, we are requiring the remaining rayon operation to achieve a 35 percent reduction by 3 years after the effective date and achieve a 40 percent reduction 5 years later (8 years after the effective date).

Comment: One commenter stated that the 85 percent MACT floor control rate for viscose process vents at cellophane operations is overstated. The commenter stated that because theirs is the only cellophane operation in the United States, the MACT floors for the cellophane industry should be based on the information that they submitted and should reflect their source's current operational status. The commenter noted that the 85 percent control rate was based on information that they submitted in their response to EPA's section 114 information collection request (ICR), and their company had been operating the cellophane operation for only a few months when the ICR was issued. The commenter stated that they did not have long-term data on sulfide control rates or operational parameters at the time, so they determined the sulfide control rate for their section 114 ICR response using annualized engineering estimates based on their best estimate of actual operating conditions at the source. Based on new data, which they provided to EPA, the commenter calculated that their cellophane operation actually controls approximately 75 to 80 percent of total uncontrolled sulfide emissions. The commenter recommended that the MACT floor control rate be reduced to 75 percent to accurately reflect their source's current operational status, taking into account variability in the emission control rate.

Response: We agree with the commenter that the proposed MACT floor control rate is overstated. We have examined the corroborating data provided by the commenter, agree with the findings, and have revised the process vent MACT floor and emission limit for the cellophane industry to require 75 percent control of sulfide emissions.

Comment: Two commenters noted that, in establishing MACT standards for CS_2 unloading and storage operations, EPA failed to address the situation in which a nitrogen control system includes CS_2 unloading but not CS_2 storage. One of the commenters requested that EPA add a fourth compliance option to account for this situation and allow the reduction of emissions from the process vents by the appropriate amount. The commenter noted that their source has installed a nitrogen system for CS_2 unloading but is keeping the existing water system for CS_2 storage. The commenter stated that EPA should provide appropriate credit for this nitrogen unloading system. Analyses by the commenter on the amount of CS_2 emitted from their storage tanks during tank car unloading suggested that the additional reduction of emissions from the process vents should be 0.045 percent.

Response: We agree with the request from the commenter for a fourth alternative for sources with nitrogen unloading but no nitrogen padding for CS_2 storage. The fourth alternative requires affected sources to install a nitrogen unloading system and reduce emissions from process vents by 0.045 percent, which, based on the commenter's data, is equivalent to the emission reduction achieved by converting from water padding to nitrogen padding for CS_2 storage.

B. Testing and Initial Compliance Requirements

Comment: Several commenters from the viscose process industry objected to the initial performance testing requirements in the proposed rule. Pointing out that their operations have multiple stacks, process vents, and control devices, the commenters stated that performing tests on all of these simultaneously would be impractical and expensive. Commenters noted that the low flow and high humidity typical of viscose process vents would make it difficult to obtain a flow sufficient for testing. Commenters also pointed out that EPA's testing approach would yield a highly concentrated CS_2 emission stream, but EPA's test method (EPA Method 15 in Appendix A of 40 CFR part 60) is designed for relatively low pollutant concentrations. One commenter stated that the inlet/outlet testing approach is irrelevant where the entire operation serves as the control device, and CS_2 is being removed throughout the process. Commenters also stated that the initial performance testing requirements in the proposed rule would be dangerous to implement. They pointed out that EPA Method 15 would require drilling holes and inserting a heated probe into the lines before and after the control device; these procedures would allow leakage of air into the system and invite the risk of fire and explosion because of CS_2's wide flammable range, very low autoignition temperature, and very low autoignition energy.

Three commenters indicated that the initial performance testing requirements are also inconsistent with the material balance approach which is the method EPA used to establish the cellulose MACT standards and the required method for viscose process affected sources to demonstrate ongoing compliance with the cellulose MACT standards. The commenter stated that it would make sense to require the demonstration of initial compliance to be on the same basis as the demonstration of ongoing compliance.

Two commenters stated that it would also be difficult to get a meaningful range of monitoring parameter values from three short tests. One of the commenters stated that monitoring parameter values should be established based on data from performance tests conducted over a longer period, such as 1 month. The two commenters stated that a longer test period is necessary, particularly since continuous compliance with the various percent emission reduction requirements in the rule is based on a 6-month rolling average.

Response: We acknowledge that the initial compliance requirements should be revised for greater clarity. For today's final rule, we are requiring viscose process affected sources to demonstrate their initial compliance with the applicable percent reduction emission limit by conducting a month-long compliance demonstration using a material balance for their sources. This approach is consistent with the material balance approach presented by the commenters. This material balance requirement would not apply to cellulose ether affected sources. For those viscose process affected sources that use recovery devices (e.g., carbon adsorbers, condensers, or oil absorbers) and/or process changes to meet the applicable emission limit, initial compliance would be demonstrated during the month-long compliance demonstration with material balance calculations using raw material receipts, measured CS_2 recovered, etc. No recovery device testing would be necessary. For those viscose process affected sources that must use non-recovery control devices (e.g., biofilters, flares, scrubbers, or thermal oxidizers) to meet the applicable emission limit, testing would be required at the inlet and outlet of the non-recovery control devices to determine the control efficiency of the non-recovery control devices. Testing would not be required at uncontrolled stacks. The viscose process affected sources would incorporate the control efficiency information from the performance test into their material balance calculations, which they would then use during the month-long compliance demonstration to determine their overall percent reduction in emissions.

We disagree with the commenters' assumption that they would need to test everything at their operations simultaneously. We also disagree with the commenters' assertions that EPA Method 15 cannot be used on viscose process streams because of the high concentration of CS_2 in the streams. Sources should be able to simply dilute the emission stream sample prior to the analysis. Regarding the commenters' other concerns about using EPA Method 15, viscose process affected sources are not limited to using EPA Method 15 to measure the emissions at the inlet and outlet of the control device. Sources are being given the option to use an EPA-approved alternative test method or emissions monitoring devices such as CEMS to measure the inlet and outlet emissions and determine the control efficiency.

Comment: Three commenters questioned EPA's use of provisions from 40 CFR part 63, subpart GGG (Pharmaceuticals NESHAP) regarding worst-case testing conditions for batch process vents. Noting that this requirement applies only to vents with control devices, two of the commenters argued that the concept of a worst-case scenario is not appropriate for the viscose process industries, where the vents are uncontrolled. One of these two commenters also noted that, because CS_2 is emitted during only certain portions of the production cycle, the worst-case emission scenario lasts only for a matter of minutes, so extrapolating from this scenario would result in a very elevated, artificial emission level. The two commenters stated that measuring the total amount of HAP emitted over a cycle is the only appropriate way to measure CS_2 emissions from viscose process vents, rather than some artificial worst-case scenario. According to one of the commenters, variations inherent in the viscose process make it impossible to identify a representative cycle in advance, but these variations could be accounted for more effectively over a longer period, such as a month-long compliance determination.

A third commenter stated that in order to generate the absolute worst-case conditions required under 40 CFR part 63, subpart GGG, they would have to change the way their processes run, which could include running at maximum production rates, making the highest-HAP recipe, or changing process variables to generate the highest-HAP emission stream. According to the commenter, these situations could result in substantial amounts of unordered or off-spec product, causing severe financial hardship as well as environmental impacts from the disposal of the unwanted product and the artificially increased HAP emissions from performing the test. Finally, putting their equipment under unusual stress could result in expensive breakdowns or even hazards to safety or the environment. As one alternative, the commenter suggested that EPA defer entirely to 40 CFR part 63, subpart U (Group I Polymers and Resins (P&R I) NESHAP) or subpart JJJ (Group IV Polymers and Resins (P&R IV) NESHAP) for all batch process vent testing requirements. The commenter stated that these provisions would still require them to conduct the test during the most rigorous conditions but would not damage their equipment or make unwanted products.

Response: In response to the various comments, we have decided to replace the worst-case testing provisions in 40

CFR part 63, subpart GGG (Pharmaceuticals NESHAP), with alternative batch process vent testing provisions in 40 CFR part 63, subpart U (P&R I NESHAP). Similar to the approach in subpart GGG, this approach would still require industry to conduct the performance test during the most rigorous conditions. This change should address the concerns voiced by all of the commenters.

As we have already noted in another response, viscose process affected sources that use recovery devices and/or process changes to meet the applicable emission limit would demonstrate initial compliance during the month-long compliance demonstration with material balance calculations, using information about raw material receipts, measured CS_2 recovered, etc. No recovery device testing would be necessary.

Comment: Several commenters stated that the testing requirements during the initial compliance demonstration create problems with establishing operating limits. Two of the commenters (viscose process operations) stated that it would not be possible to determine suitable ranges for the operating limits during only 3 hours of testing in the initial performance test. One commenter stated that operating limits should be determined over a variety of operating scenarios in order to define the boundaries of monitoring parameter values upon which to demonstrate compliance. The other commenter stated that a test conducted over a longer period, such as 1 month, using their operation's proposed material balance method, would identify the full acceptable range of parameter values to monitor.

A third commenter (a cellulose ether operation) recommended that a minimum or maximum operating limit be established based on the monitoring parameter values measured during the performance test and extended beyond those values if it can be demonstrated by engineering assessments and/or manufacturer's recommendations that the unit will still meet the proposed standard. The commenter stated that performance testing should not be required to be conducted over the source's entire operational range. The commenter also stated that affected sources would have a very narrow window of compliance if monitored parameter data are collected during "normal" operating conditions and further "normalized" by averaging all the data points. The commenter stated that it must be clear that all data points measured during the performance test are acceptable. The commenter also stated that the source should not be required to retest every time there is some normal variation in production relative to the conditions of the initial performance test.

Response: In response to the first two commenters (viscose process operations), we have decided to revise the cellulose rule to allow viscose process affected sources to establish their operating limits over the month-long initial compliance demonstration, which should provide the sources sufficient time to establish their operating limits.

In response to one comment by the third commenter (a cellulose ether operation), we have decided to revise the procedures for determining operating limits consistent with the approach taken in 40 CFR part 63, subpart U (P&R I NESHAP). For batch process vents, we are requiring that sources establish the operating limit based on the average of all monitoring values obtained during the performance test (or month-long compliance demonstration for viscose process affected sources), consistent with the approach in 40 CFR 63.505(b)(3). For continuous process vents, we are requiring that the sources establish the operating limit based on the average of the maximum (or minimum) values of the monitoring parameter for the three test runs (or daily averages during the compliance demonstration for viscose process affected sources), consistent with the approach in 40 CFR 63.505(b)(2). If sources combine their batch and continuous process vents, we are requiring that they establish their operating limit using the continuous process vent approach.

In response to another comment by the third commenter, testing would not be required over their source's entire operational range. We disagree with the third commenter's suggestion to supplement or extend the values from the test as in the HON. The HON was written that way because we were trying to have the owner/operator justify a range, not establish a limit. We have also clarified that affected sources would establish what are considered "normal" operating conditions for continuous operation during the initial performance test. The sources would then be required to meet the operating limits established during the initial performance test.

Comment: Several commenters objected to the proposed requirement for sources to conduct the initial performance test at least 180 days before the compliance date. Commenters argued that EPA had provided no justification, as required, for this deviation from EPA's past practice. With the notification of performance test due at least 60 days before the performance test, commenters stated that this would require sources to start preparing for the performance test 240 to 360 days prior to the compliance date in order to be confident that the test can be passed. Two commenters noted that requests for an alternative monitoring method may have to occur even earlier, making it unrealistic for an affected source to apply for EPA approval to use the alternative method because of insufficient time to obtain EPA approval and purchase and install the alternative equipment. One commenter stated that it makes more technical sense to conduct a performance test after the unit is required to be in compliance rather than before. Therefore, the commenters recommended that EPA revise the deadline for performance testing consistent with 40 CFR 63.7(a), which requires an initial performance test be conducted within 180 days after the compliance date.

Response: Based on these comments, we have decided to revise the proposed requirement and allow sources to complete their performance test or other initial compliance demonstration no later than 180 days after the compliance date. Our intention for requiring the earlier date was to ensure that sources would be in compliance by the compliance date and allow sources to avoid severe penalties for noncompliance if they found themselves out of compliance based on a test conducted 180 days after the compliance date. To ensure that a record of compliance is kept between the compliance date and the date that operating limits are set (i.e., date of the performance test or other initial compliance demonstration), today's final rule also requires sources to maintain an O&M log of the process and emissions control equipment during this period.

C. Continuous Compliance Requirements

Comment: One commenter suggested that EPA allow outlet liquid temperature as an alternative operating limit to outlet gas temperature for condensers, stating that this variable is directly related to outlet gas temperature and is the control point for changing air temperature. Noting that the pH of caustic liquids used in a wet scrubber may be on the extreme end of the pH scale, a second commenter suggested that EPA allow either a pH or conductivity measuring device for determining compliance with the operating limit for wet scrubbers. A

third commenter stated that their operation measures the available alkalinity, not the pH, in the circulating system for their wet scrubbers, and stated that pH meters would not be as reliable as the current system. A fourth commenter stated that liquid flow rate and pressure drop measurements do not always indicate the required wet scrubber performance. The commenter stated that it is possible for a scrubber to meet required control efficiencies and still sustain a pressure or liquid flow reduction. The commenter noted that other parameters, such as adequate pack height and liquid distribution, are technically more accurate indicators of scrubber performance.

Response: In response to these comments, we have revised the proposed requirements to include some of the additional parameters requested by commenters (i.e., condenser liquid outlet temperature for condensers and conductivity and alkalinity for wet scrubbers). However, we have not added adequate pack height and liquid distribution as additional wet scrubber parameters because we are not convinced that they are good parameters. Adequate pack height is a characteristic of the control device, not the kind of parameter that could be monitored continuously, and liquid distribution is a difficult type of parameter to monitor. Nonetheless, sources have the option under the rule to apply to the Administrator for approval to use alternative parameters.

Comment: One commenter stated that the proposed rule lacks the following essential provisions, developed for other MACT standards, regarding the proper use of parameter monitoring data for purposes of enforcement: (1) Specify that excursions violate an operating limit, not an emission limit; (2) base excursions on a 24-hour daily average to account for short-term fluctuations, which typically self-correct so that the daily average reading is normal; (3) allow a number of excused excursions in each semiannual reporting period to account for periods when something goes wrong despite how carefully an emission control device is designed, operated, and maintained (according to the commenter, without excused excursions, sources would be unable to ensure compliance); (4) exclude data from certain periods (e.g., startups, shutdowns, malfunctions, calibrations, periods of nonoperation of all or part of the process) from daily averages because those data are of questionable validity; (5) require no monitoring when the process is shut down and there are no emissions, and, if sources do monitor, specify that the data do not constitute an excursion; (6) specify that only one excursion will be assigned if two or more parameters go beyond their limits at the same time for the same control device; (7) clearly define what constitutes an excursion; and (8) specify that some limited percentage of data points can be missing or fail to meet applicable criteria without that being an excursion.

The commenter requested that EPA revise the data availability requirement to match 40 CFR part 63, subpart G (HON), for continuous vents and wastewater vents and 40 CFR part 63, subpart U (P&R I NESHAP) or subpart JJJ (P&R IV NESHAP), for batch vents and storage vessel vents. The commenter noted that because the daily average in 40 CFR part 63, subpart G, is based on having valid data points for 75 percent of the operating day, the actual operating day for a batch process could be adjusted for periods when the unit was not operating or not sending vents to the control device. The commenter contrasted this with the 3-hour averages required in the proposed rule, which may or may not coincide accurately with the operational time of a batch process.

In separate comments, two other commenters recommended that EPA insert data availability language similar to 40 CFR 60.48b(f) (Performance Standard for Industrial-Commercial-Institutional Steam Generating Units). According to the commenters, this subpart requires that data must be available for a minimum of 75 percent of the operating hours for each control device operating day in at least 22 out of 30 successive control device operating days. The commenters stated that this change would allow EPA to account for the realities of operating computerized systems, which require periodic backup and occasionally break down and cannot be repaired in 1 hour in order to comply with the proposed 66 percent data availability requirement (e.g., two valid hourly values for a 3-hour averaging period).

Response: Regarding the first requested provision, the proposed rule does not link deviations in operating limits with violations of emission limits.

Regarding the second provision, the concept of a 24-hour average would be consistent with other rules and seems reasonable. Therefore, we have made the requested change to today's final rule.

Regarding the third provision, we are not allowing excused excursions (deviations) in today's final rule. Excused excursions were allowed in the HON to give sources time to become familiar with the new monitoring provisions in the HON. The excursions were not meant to be precedent-setting for all future rules. We believe that industry in general has had sufficient time to develop strategies for complying with monitoring requirements, and that excused excursions are no longer necessary. Other recent rules also have been issued without excused excursions.

Regarding the fourth and fifth provisions, there is no problem with including the requested exemption for periods of nonoperation for all or part of a source, and we have made the requested change to today's final rule. However, we are not adding exemptions to today's final rule for startups, shutdowns, and malfunctions. According to 40 CFR 63.6(e)(1)(i) of the NESHAP General Provisions, sources are required to minimize emissions during periods of startup, shutdown, or malfunction. If the daily average parameter value (including data from the startup, shutdown, or malfunction period) does not exceed the specified limit, then there is no deviation to report. However, deviations on days when you have startup, shutdown, or malfunction events would not be violations if you follow the procedures in your SSM plan.

Regarding the sixth provision, we have not included the requested exemption to allow sources only one excursion when two or more parameters go beyond their limits at the same time for the same control device. We do not want to specify in each rule exactly how we are going to assess penalties.

Regarding the eighth provision, we agree with the requests from the three commenters that the data availability requirements be revised. Consistent with the approach taken in 40 CFR part 63, subpart GGG (Pharmaceuticals NESHAP) and subpart MMM (Pesticide Active Ingredients NESHAP), we are requiring that at least 75 percent of the hours during an operating day be valid. We are including a 100 percent data availability requirement for a valid hour of data. A valid hour of data means that sources must have data for all 15-minute periods that were not excluded for no flow. For batch vents, if there is no flow at the time when a monitoring reading is taken, then that reading does not count in the average. In this way, we are able to take into account both batch and continuous vents, with a clear definition of what constitutes an excursion in each case, which was requested in the seventh provision. However, we do not agree with the request by two of the commenters for data to be available in at least 22 out of 30 successive operating days. We believe that such a

requirement could create a problem under some situations, such as if a source were to shut down for maintenance for an extended period of time.

D. Notifications and Reports

Comment: One commenter recommended that EPA revise the proposed cellulose rule to require that all NOCS reports be due on the same date following the compliance date, rather than after a certain number of days following the initial performance test or the initial compliance demonstration. According to the commenter, multiple performance tests for a process unit would make the original requirement to submit based on the performance test date very confusing, possibly requiring sources to submit multiple NOCS reports at various times, making it very easy to miscalculate a date and create inadvertent noncompliance. The commenter stated that there should also be no difference in the timeframe to submit the NOCS reports based on whether or not a performance test is required. According to the commenter, it would be more efficient for sources to send, and for EPA to receive, one set of NOCS reports. The commenter recommended that EPA take a standardized approach to NOCS reports by adding text similar to 40 CFR 63.152(b) and deleting references to 40 CFR 63.9(h) and 63.10(d)(2), which address the submittal dates for NOCS reports.

Response: We agree with the commenter that requiring sources to submit NOCS reports at various times could be confusing. To eliminate this source of confusion, we have decided to tie the date to submit all initial NOCS reports to the compliance date rather than the test date. Sources would be required to submit the NOCS reports no later than 240 days after the compliance date. This submittal date is based on the requirements in 40 CFR part 63, subpart A (NESHAP General Provisions), to conduct the initial performance test no later than 180 days after the compliance date and submit the NOCS report no later than 60 days after the performance test (180 days plus 60 days equals 240 days). To accomplish this standardized schedule, we have, as suggested, adapted text from 40 CFR 63.152(b) for today's final rule and excluded the provisions of 40 CFR 63.9(h) and 63.10(d)(2) regarding the submittal date for NOCS reports.

IV. Summary of Impacts

A. Air Quality Impacts

We have determined nationwide baseline HAP emissions from existing sources in the Miscellaneous Viscose Processes source category and Cellulose Ethers Production source category to be approximately 12,800 Mg/yr (14,100 tpy) at the current level of control. We have determined that the promulgated standards will reduce total HAP emissions from these sources by approximately 1,600 Mg/yr (1,700 tpy).

In addition to reducing emissions of HAP, the promulgated standards will also reduce emissions of non-HAP, such as H_2S. We have determined that the promulgated standards will reduce H_2S emissions from existing sources by approximately 410 Mg/yr (450 tpy) from a baseline level of approximately 2,800 Mg/yr (3,100 tpy).

We have determined that the promulgated standards will increase secondary emissions of criteria pollutants (particulate matter, sulfur dioxide, carbon monoxide, and nitrogen oxides) by approximately 190 Mg/yr (210 tpy). Secondary emissions were assumed to be generated from the utility boilers that produce the electricity and the industrial boilers that produce the steam for the control devices.

B. Cost Impacts

We have determined that the capital costs of the promulgated standards for existing sources will be approximately $30.8 million for emission control and $0.6 million for monitoring, which results in a total capital cost of approximately $31.4 million. The capital costs include the costs to purchase and install the emission control and monitoring equipment.

We have determined that the total annual costs for the rule will be approximately $9.7 million. Specifically, we have determined that the incremental annual costs of the promulgated standards for existing sources will be approximately $9.2 million for emission control and $0.4 million for monitoring. The annual costs include the direct annual costs (comprised of labor, materials, and utilities) plus the indirect annual costs (comprised of overhead, taxes, insurance, administrative charges, and capital recovery).

In addition, we expect that the total annual costs for recordkeeping and reporting required by the promulgated standards for existing sources will average approximately $67,900 over the first 3 years after implementation of the standards. We project no new sources over the first 3 years after implementation of the standards.

C. Economic Impacts

Because of the variability in end products in cellulose products manufacturing, we assessed impacts on five separate market segments. We treated the Cellulose Ethers Production source category as one segment, and divided the Miscellaneous Viscose Processes source category into four segments: cellulose food casing, rayon, cellulosic sponge, and cellophane. The total annualized social cost (in 1998 dollars) of the final rule on the industry is $6.0 million, with costs to the firms affected by the final rule ranging from 0.01 to 1 percent of sales.

For individual facilities, the cost-to-sales ratios ranged from less than 0.01 to 8.2 percent of sales. Since the higher facility cost-to-sales ratios were found among the cellulose food casing, rayon, and cellulosic sponge segments, we performed a market analysis, using 1998 as the baseline. The results indicated less than 1.5 percent change in both the market prices and in the quantity produced for the cellulose food casing and cellulosic sponge segments.

One of the two rayon firms has left the market since the proposal of this rule. For this reason, the remaining firm was modeled assuming full absorption of the control costs. This firm was already operating with a negative profit. It is possible that the closure of the other rayon firm may increase sales and profitability for the remaining firm. However, this is uncertain given the decline in the rayon industry since 1998. Available economic data suggest that an additional facility in this source category has experienced negative profits since 1998, so two facilities could reasonably close if current trends in the industry continue, even if they did not incur compliance costs from the final rule. The impact of the promulgated standards may be that the closures may occur sooner than they would otherwise.

D. Non-Air Environmental Impacts

We have determined that wastewater generation for existing sources will increase by approximately 8.1 million liters per year (L/yr) (2.1 million gallons per year (gal/yr)) relative to a baseline level of approximately 23 billion L/yr (6.2 billion gal/yr), and solid waste generation will increase by approximately 420 Mg/yr (460 tpy). We determined these impacts based on the additional wastewater and solid waste generated by control devices (e.g., Lo-Cat® scrubbers and carbon adsorbers) installed to meet the promulgated

standards for existing sources. We do not expect these increased impacts to adversely affect the ability of sources to comply with the promulgated standards.

E. Energy Impacts

We have determined that the overall energy demand (electricity plus steam) for existing sources in the Miscellaneous Viscose Processes source category and Cellulose Ethers Production source category will increase by approximately 300 million megajoules per year (284 billion British thermal units per year) under the promulgated standards. We determined this net increase based on the additional energy demand for control devices (e.g., scrubbers, carbon adsorbers, condensers, and oil absorbers) installed or upgraded to meet the promulgated standards for existing sources. We do not expect this increased energy demand to adversely affect the ability of sources to comply with the promulgated standards.

V. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a "significant regulatory action" because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. 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" 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." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless EPA consults with State and local officials early in the process of developing the regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and EPA's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, it must include a certification from EPA's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

The 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. Thus, the requirements of section 6 of the Executive Order do not apply to the rule.

C. 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 rule does not have tribal implications, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to the rule.

D. 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 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 rule is preferable to other potentially effective and reasonably feasible alternatives that EPA considered.

The 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 rule. Today's rule is not subject to Executive Order 13045 because it is based solely on technology performance. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, the rule has been determined not to be "economically significant" as defined under Executive Order 12866.

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

Today's final rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

F. 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 aggregate, or by 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 this 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's regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that today's 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 1 year. The capital cost of the rule has been determined to be approximately 31.4 million. The maximum total annual cost of the final rule for any year has been determined to be approximately $9.7 million. 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 the final 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. Therefore, today's final rule is not subject to the requirements of section 203 of the UMRA.

G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The 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 on small entities, a small entity is defined as: (1) A small business that has fewer than 1,000 employees for NAICS codes 325221, 325188, and 325199; fewer than 750 employees for NAICS code 325211; or fewer than 500 employees for NAICS codes 326121 and 326199; (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, it has been determined that this action will not have a significant economic impact on a substantial number of small entities. We have determined that only one firm meets one of the definitions of small entity—a small business that has fewer than 500 employees for NAICS code 326199. This firm owns only 1 of the 13 operations subject to today's final rule. There are several firms subject to today's final rule whose costs will be a greater percentage of sales than this small business. Furthermore, the market impacts on this firm are minimal and are in line with impacts experienced by other firms subject to today's final rule.

H. Paperwork Reduction Act

The information collection requirements in the final rule will be submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The EPA has prepared an Information Collection Request (ICR) document (ICR No. 1974.02), and you may obtain a copy from Sandy Farmer by mail at the Office of Environmental Information, Collection Strategies Division (2822), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by electronic mail at *farmer.sandy@epa.gov;* or by calling (202) 260–2740. You may also download a copy off the Internet at *http://www.epa.gov/icr.* The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in 40 CFR part 63, subpart A (NESHAP General Provisions), which are mandatory for all operators subject to national emission standards. 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's policies set forth in 40 CFR part 2, subpart B.

Today's final rule would require maintenance inspections of the control devices but would not require any notifications or reports beyond those required by 40 CFR part 63, subpart A (NESHAP General Provisions). The recordkeeping requirements require only the specific information needed to determine compliance.

The annual recordkeeping and reporting burden for this collection (averaged over the first 3 years after the effective date of the rule) has been determined to be approximately 1,400 labor hours per year, at a total annual cost of approximately $67,900. This burden estimate includes one-time notifications of applicability and performance test, reading instructions, training personnel, and developing a record system, SSM plan, and site-specific monitoring plan. The total annualized capital cost for monitoring equipment and for file cabinets used for storing collected data and reports averages approximately $56,600 over the 3-year period of the ICR. The total annual O&M cost for file storage, photocopying, and postage for notifications and reports averages approximately $200 over the 3-year period of the ICR.

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: (1) Review instructions; (2) 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; (3) adjust the existing ways to comply with any previously applicable instructions and

requirements; (4) train personnel to be able to respond to a collection of information; (5) search data sources; (6) complete and review the collection of information; and (7) 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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

I. National Technology Transfer and Advancement Act of 1995

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 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) 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.

Today's final rule involves the following technical standards: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 15, 18, 21, 22, 25, and 25A (40 CFR part 60, appendix A); Performance Specification 7 (PS–7), PS–8, PS–9, and PS–15 (40 CFR part 60, appendix B); and the applicable wastewater test methods and procedures in 40 CFR 63.144 and 63.145. Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods and performance specifications. The search and review results were documented and placed in the docket for today's final rule (Docket No. A–99–39).

No applicable voluntary consensus standards were identified as alternatives to EPA Methods 1A, 2A, 2D, 2F, 2G, 22, PS–7, PS–8, PS–9, and PS–15 for the purposes of the rule. However, three voluntary consensus standards were identified as acceptable alternatives to EPA Methods 3B, 18, and 624 for the purposes of the rule. The three standards are ASME Performance Test Code (PTC) 19.10–1981—Part 10 (Flue and Exhaust Gas Analysis), ASTM D6420–99 (Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry (GC/MS)), and ASTM D5790–95 (Standard Test Method for Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography-Mass Spectrometry).

The voluntary consensus standard ASME PTC 19.10–1981—Part 10 is cited in today's final rule for its manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas. This part of ASME PTC 19.10–1981—Part 10 is an acceptable alternative to EPA Method 3B.

The voluntary consensus standard ASTM D6420–99 is appropriate in certain cases as an alternative to EPA Method 18 for the measurement of toluene and total organic HAP. Similar to EPA Method 18, ASTM D6420–99 is also a performance-based method for measuring 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 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 parts per million by volume. For target compound(s) not listed in Section 1.1 of ASTM D6420–99, but potentially detected by mass spectrometry, today's final rule 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 today's final rule. The EPA will also cite EPA Method 18 as a gas chromatography (GC) option in addition to ASTM D6420–99, which will allow the continued use of GC configurations other than GC/MS.

The voluntary consensus standard ASTM D5790–95 is a "purge and trap" method that is acceptable as an alternative analytical procedure for the wastewater test methods and procedures in 40 CFR 63.144 and 63.145 for the analysis of total organic HAP in wastewater samples. As a result, EPA will cite ASTM D5790–95 in today's final rule. However, this ASTM method should be used with the sampling procedures of EPA Method 25D or an equivalent method in order to be a complete alternative for the purposes of this rule, as per 40 CFR 63.144. The standard ASTM D5790–95 is similar to EPA Method 624, which is also a "purge and trap" procedure. The standard ASTM D5790–95 is validated for all of the 21 volatile organic HAP targeted by EPA Method 624, but it is also validated for an additional 14 HAP not targeted by the EPA method.

In addition to the three voluntary consensus standards EPA uses in the rule, the search for emissions measurement procedures identified 14 other voluntary consensus standards as potential alternatives to EPA Methods 1, 2, 2C, 3, 3A, 3B, 4, 15, 18, 21, 25, and 25A. The EPA determined that 12 of the 14 standards identified for measuring emissions of the HAP or surrogates subject to emission limits in today's final rule were impractical alternatives to EPA test methods for the purposes of the rule. Two of the 14 standards identified in the search were not available at the time the review was conducted because they are under development by a voluntary consensus body. For these reasons, EPA does not intend to adopt these 14 standards for today's final rule.

Sections 63.5535 and 63.5545 and Table 4 to Subpart UUUU of 40 CFR part 63 list the EPA test methods and performance specifications included in today's final rule. Under 40 CFR 63.7(f) and 63.8(f) of the NESHAP General Provisions, an affected source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any of the EPA test methods, performance specifications, or procedures.

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J. 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. The EPA will submit a report containing this 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 not a "major rule" as defined by 5 U.S.C. 804(2). This rule is effective June 11, 2002.

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: May 15, 2002.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of the 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.*

2. Part 63 is amended by adding subpart UUUU to read as follows:

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

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What This Subpart Covers

§ 63.5480 What is the purpose of this subpart?

This subpart establishes emission limits, operating limits, and work practice standards for hazardous air pollutants (HAP) emitted from cellulose products manufacturing operations. Carbon disulfide, carbonyl sulfide, ethylene oxide, methanol, methyl chloride, propylene oxide, and toluene are the HAP emitted in the greatest quantities from cellulose products manufacturing operations. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limits, operating limits, and work practice standards.

§ 63.5485 Am I subject to this subpart?

You are subject to this subpart if you own or operate a cellulose products manufacturing operation that is located at a major source of HAP emissions.

(a) Cellulose products manufacturing includes both the Miscellaneous Viscose Processes source category and the Cellulose Ethers Production source category. The Miscellaneous Viscose Processes source category includes all of the operations that use the viscose process. These operations include the cellulose food casing, rayon, cellulosic sponge, and cellophane operations, as defined in § 63.5610. The Cellulose Ethers Production source category includes all of the cellulose ether operations, as defined in § 63.5610, that use the cellulose ether process.

(b) A major source of HAP is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit any single HAP at a rate of 9.1 megagrams per year (Mg/yr) (10 tons per year (tpy)) or more or any combination of HAP at a rate of 23 Mg/yr (25 tpy) or more.

(c) The provisions of this subpart do not apply to research and development facilities, as defined in section 112(b)(7) of the Clean Air Act (CAA), regardless of whether the facilities are located at the same plant site as an operation subject to the provisions of this subpart.

(d) For cellulose ether operations, the applicability provisions in paragraph (d)(1) or (2) of this section apply.

(1) The applicability provisions in §§ 63.100(a) through (f) and 63.160 apply if you are complying with the equipment leak provisions of subpart H of this part.

(2) The applicability provisions in § 63.1019 apply if you are complying with the equipment leak provisions in subpart UU of this part.

(e) For cellulose ether operations, the applicability provisions in §§ 63.100(a) through (f) and 63.110(a), (e) and (h) apply if you are complying with the wastewater provisions in subparts F and G of this part.

§ 63.5490 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, or existing affected source for the Miscellaneous Viscose Processes and Cellulose Ethers Production source categories.

(b) The affected source for the Miscellaneous Viscose Processes source category is each cellulose food casing, rayon, cellulosic sponge, or cellophane operation, as defined in § 63.5610. The affected source for the Cellulose Ethers Production source category is each

cellulose ether operation, as defined in § 63.5610.

(c) You must consider storage vessels to be part of your process unit, as defined in § 63.5610, under either of the conditions described in paragraphs (c)(1) and (2) of this section. Otherwise, you may assign your storage vessels according to paragraph (c)(3) or (4) of this section.

(1) The input to the storage vessel from your viscose process or cellulose ether process (either directly or through other storage vessels assigned to your process unit) is greater than or equal to the input from any other process.

(2) The output from the storage vessel to your viscose process or cellulose ether process (either directly or through other storage vessels assigned to your process unit) is greater than or equal to the output to any other process.

(3) If the greatest input to and/or output from a shared storage vessel is the same for two or more processes, including at least one viscose process or cellulose ether process, you may assign the storage vessel to any process unit that has the greatest input or output.

(4) If the use varies from year to year, then you must base the determination on the utilization that occurred during the year preceding June 11, 2002 or, if the storage vessel was not operating during that year, you must base the use on the expected use for the first 5-year period after startup. You must include this determination in the Notification of Compliance Status Report specified in Table 7 to this subpart.

(d) An affected source is a new affected source if you began construction of the affected source after August 28, 2000 and you meet the applicability criteria in § 63.5485 at the time you began construction.

(e) An affected source is reconstructed if you meet the criteria as defined in § 63.2.

(f) An affected source is existing if it is not new or reconstructed.

(g) For the purposes of this subpart, the definitions of new and existing affected source in paragraphs (d) through (f) of this section supersede the definitions of new and existing affected source in subparts F, G, H, U and UU of this part.

§ 63.5495 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, then you must comply with this subpart according to the requirements in paragraphs (a)(1) and (2) of this section.

(1) If you start up your affected source before June 11, 2002, then you must comply with the emission limits, operating limits, and work practice standards for new and reconstructed sources in this subpart no later than June 11, 2002.

(2) If you start up your affected source after June 11, 2002, then you must comply with the emission limits, operating limits, and work practice standards for new and reconstructed sources in this subpart upon startup of your affected source.

(b) If you have an existing affected source, then you must comply with this subpart according to the requirements in paragraphs (b)(1) and (2) of this section.

(1) Cellulose food casing, cellulosic sponge, cellophane, and cellulose ether operations must comply with the emission limits, operating limits, and work practice standards for existing sources in this subpart no later than June 13, 2005.

(2) Rayon operations must comply with this subpart according to the requirements in paragraphs (b)(2)(i) through (iii) of this section.

(i) Rayon operations must comply with the 35 percent reduction emission limit and associated operating limits and work practice standards for existing sources in this subpart no later than June 13, 2005.

(ii) Rayon operations must comply with the work practice standard for carbon disulfide unloading and storage operations for existing sources in this subpart no later than June 13, 2005.

(iii) Rayon operations must comply with the 40 percent reduction emission limit and associated operating limits and work practice standards for existing sources in this subpart no later than June 11, 2010.

(c) If you have an area source that increases its emissions or its potential to emit so that it becomes a major source of HAP and an affected source subject to this subpart, then the requirements in paragraphs (c)(1) and (2) of this section apply.

(1) An area source that meets the criteria of a new affected source, as specified in § 63.5490(d), or a reconstructed affected source, as specified in § 63.5490(e), must be in compliance with this subpart upon becoming a major source.

(2) An area source that meets the criteria of an existing affected source, as specified in § 63.5490(f), must be in compliance with this subpart no later than 3 years after it becomes a major source.

(d) You must meet the notification requirements in § 63.5575 and in subpart A of this part. Some of the notifications must be submitted before you are required to comply with the emission limits, operating limits, and work practice standards in this subpart.

(e) For the purposes of this subpart, the compliance dates in this section supersede the compliance dates in subparts F, G, H, U and UU of this part.

Emission Limits, Operating Limits, and Work Practice Standards

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

(a) You must meet each emission limit and work practice standard in Table 1 to this subpart that applies to you.

(b) You must meet each operating limit in Table 2 to this subpart that applies to you.

(c) As provided in § 63.6(g), you may apply to EPA for permission to use an alternative to the work practice standards in this section.

(d) Opening of a safety device, as defined in § 63.5610, is allowed at any time that conditions require venting to avoid unsafe conditions.

(e) The emission limits in Table 1 to this subpart used to control emissions from storage vessels do not apply during periods of planned routine maintenance. Periods of planned routine maintenance of each control device, during which the control device does not meet the emission limit specified in Table 1 to this subpart, must not exceed 240 hours per year.

General Compliance Requirements

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

(a) You must be in compliance with the emission limits, operating limits, and work practice standards in this subpart at all times, except during periods of startup, shutdown, and malfunction.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(1) During the period between the compliance date specified for your affected source in § 63.5495 and the date upon which continuous monitoring systems (CMS) have been installed and validated and any applicable operating limits have been set, you must maintain a log detailing the operation and maintenance of the process and emissions control equipment.

(c) You must develop and implement a written startup, shutdown, and malfunction (SSM) plan according to the provisions in § 63.6(e)(3).

(d) After you treat a wastewater stream according to the provisions of

subparts F and G of this part, it is no longer subject to this subpart.

(e) If you use a boiler or process heater to comply with an emission limit or work practice standard in Table 1 to this subpart, then the vent stream must be introduced into the flame zone of the boiler or process heater.

(f) You are not required to conduct a performance test when you use any of the units specified in paragraphs (f)(1) through (5) of this section to comply with the applicable emission limit or work practice standard in Table 1 to this subpart. You are also exempt from the continuous compliance, reporting, and recordkeeping requirements specified in Tables 5 through 9 to of this subpart for any of these units. This exemption applies to units used as control devices or wastewater treatment units.

(1) A boiler or process heater with a design heat input capacity of 44 megawatts or greater;

(2) A boiler or process heater into which the vent stream is introduced with the primary fuel or is used as the primary fuel;

(3) A boiler or process heater burning hazardous waste that meets the requirements in paragraph (f)(3)(i) or (ii) of this section.

(i) The boiler or process heater has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 266, subpart H; or

(ii) The boiler or process heater has certified compliance with the interim status requirements of 40 CFR part 266, subpart H.

(4) A hazardous waste incinerator that has been issued a final permit under 40 CFR part 270 and that complies with the requirements of 40 CFR part 264, subpart O, or that has certified compliance with the interim status requirements of 40 CFR part 265, subpart O.

(5) A control device for which a performance test was conducted for determining compliance with a rule promulgated by EPA and the test was conducted using the same test methods specified in Table 4 to this subpart and either you have made no deliberate process changes since the test, or you can demonstrate that the results of the performance test with or without adjustments, reliably demonstrate compliance despite process changes.

(g) For purposes of meeting any of the emission limits in Table 1 to this subpart, you may use either a single control technique or any combination of control techniques, as defined in § 63.5610.

(h) You must be in compliance with the provisions of subpart A of this part, except as noted in Table 10 to this subpart.

Testing and Initial Compliance Requirements

§ 63.5530 How do I demonstrate initial compliance with the emission limits and work practice standards?

(a) You must demonstrate initial compliance with each emission limit and work practice standard that applies to you according to Table 3 to this subpart. You must also install and operate the monitoring equipment according to the requirements in § 63.5545 that apply to you.

(b) You must establish each site-specific operating limit in Table 2 to this subpart that applies to you according to the requirements in § 63.5535 and Table 4 to this Subpart UUUU.

(c) You must submit the Notification of Compliance Status Report containing the results of the initial compliance demonstration according to the requirements in § 63.5575 and Table 7 to this Subpart UUUU.

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

(a) You must conduct each performance test in Table 4 to this Subpart UUUU that applies to you.

(b) You must conduct each performance test for continuous process vents and combinations of batch and continuous process vents according to the requirements in § 63.7(e)(1) and under the specific conditions in Table 4 to this Subpart UUUU. Normal operating conditions will be defined by the affected source. You must conduct each performance test for batch process vents under the specific conditions in Table 4 to this subpart and not under normal operating conditions as specified in § 63.7(e)(1).

(c) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(d) You must conduct three separate test runs for each performance test required in this section, as specified in § 63.7(e)(3). Each test run must last at least 1 hour.

(e) You must use the equations in paragraphs (e)(1) through (3) of this section to determine the control efficiency for each performance test.

(1) The total organic HAP emission rate is the sum of the emission rates of the individual HAP components. You must calculate the total organic HAP emission rate at the inlet and outlet of each control device for each test run using Equation 1 of this section:

$$ER_{HAP_t} = \sum_{j=1}^{m} ER_{HAP_j} \qquad \text{(Eq. 1)}$$

Where:

ER_{HAP_t} = total emission rate of organic HAP in vent stream, kilograms per hour (kg/hr) (pounds per hour (lb/hr)).

ER_{HAP_j} = emission rate of individual organic HAP in vent stream, kg/hr (lb/hr).

j = individual HAP.

m = number of individual HAP sampled in each test run.

(2) The total sulfide emission rate is the sum of the emission rates of the individual sulfide components, expressed as carbon disulfide. You must calculate the total sulfide emission rate at the inlet and outlet of each control device for each test run using Equation 2 of this section:

$$ER_{sulf_t} = ER_{CS_2} + \left(ER_{H_2S^*} \frac{M_{CS_2}}{M_{H_2S}} \right) + \left(ER_{COS^*} \frac{M_{CS_2}}{M_{COS}} \right) \qquad \text{(Eq. 2)}$$

Where:

ER_{sulf_t} = total emission rate of sulfide in vent stream, kg/hr (lb/hr), as carbon disulfide.

ER_{CS_2} = emission rate of carbon disulfide in vent stream, kg/hr (lb/hr).

ER_{H_2S} = emission rate of hydrogen sulfide in vent stream, kg/hr (lb/hr).

M_{CS_2} = mass of carbon disulfide per mole of carbon disulfide, 76 kilograms per kilogram-mole (kg/kg-mol) (76 pounds per pound-mole (lb/lb-mol)).

M_{H_2S} = mass of hydrogen sulfide per mole of carbon disulfide, 68 kg/kg-mol (68 lb/lb-mol).

ER_{COS} = emission rate of carbonyl sulfide in vent stream, kg/hr (lb/hr).

M_{COS} = mass of carbonyl sulfide per mole of carbon disulfide, 120 kg/kg-mol (120 lb/lb-mol).

(3) You must calculate the control efficiency for each control device for each test run using Equation 3 of this section:

$$CE = \frac{ER_i - ER_o}{ER_i}(100\%) \qquad \text{(Eq. 3)}$$

Where:

CE = control efficiency, percent.

ER_i = total emission rate of organic HAP (ER_{HAP_i}) or sulfide (ER_{sulf_i}) in the inlet vent stream of the control device, kg/hr (lb/hr).

ER_o = total emission rate of organic HAP (ER_{HAP_i}) or sulfide (ER_{sulf_i}) in the outlet vent stream of the control device, kg/hr (lb/hr).

(f) When a flare is used to comply with the applicable emission limit or work practice standard in Table 1 to this subpart, you must comply with the requirements in paragraphs (f)(1) through (3) of this section. You are not required to conduct a performance test to determine the control efficiency of the flare or the outlet organic HAP concentration. If you have previously conducted a compliance demonstration for a flare using the techniques specified in paragraphs (f)(1) through (3) of this section, you may use that compliance demonstration to satisfy the requirements of this paragraph if either no deliberate process changes have been made since the compliance demonstration, or the results of the compliance demonstration reliably demonstrate compliance despite process changes.

(1) Conduct a visible emission test using the techniques specified in § 63.11(b)(4);

(2) Determine the net heating value of the gas being combusted using the techniques specified in § 63.11(b)(6); and

(3) Determine the exit velocity using the techniques specified in either § 63.11(b)(7) or (b)(8), as appropriate.

(g) Viscose process affected sources must conduct a month-long initial compliance demonstration according to the requirements in paragraphs (g)(1) through (5) of this section and Table 3 to this subpart.

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

(2) Viscose process affected sources that use recovery devices to meet the applicable emission limit in Table 1 to this subpart must determine the quantity of carbon disulfide fed to the process and the quantity of carbon disulfide recovered using the recovery device and incorporate this information in their material balance.

(3) Viscose process affected sources that use viscose process changes to meet the applicable emission limit in Table 1 to this subpart must determine the quantity of carbon disulfide used before and after the process change and incorporate this information in their material balance.

(4) Cellophane operations that use recovery devices to meet the 95 percent toluene emission limit in Table 1 to this subpart must determine the quantity of toluene fed to the process and the toluene recovered using the solvent recovery device and incorporate this information in their material balance.

(5) Using the pertinent material balance information obtained according to paragraphs (g)(1) through (4) of this section, viscose process affected sources must calculate the monthly average percent reduction for their affected source over the month-long period of the compliance demonstration.

(h) During the period of each compliance demonstration, you must establish each site-specific operating limit in Table 2 to this subpart that applies to you according to the requirements in paragraphs (h)(1) through (10) of this section.

(1) For continuous process vents and combinations of batch and continuous process vents, establish your site-specific operating limit using the procedures in § 63.505(b)(2), except that, if you demonstrate initial compliance using a month-long compliance demonstration, references to "compliance testing" and "1-hour runs" mean "compliance demonstration" and references to "three test runs" mean "daily averages during the compliance demonstration" for purposes of this subpart.

(2) For batch process vents, establish your site-specific operating limit using the procedures in § 63.505(b)(3), except that, if you demonstrate initial compliance using a month-long compliance demonstration, references to "compliance testing" and "performance test" mean "compliance demonstration" for purposes of this subpart.

(3) For condensers, record the outlet (product side) gas or condensed liquid temperature averaged over the same period as the compliance demonstration while the vent stream is routed and constituted normally. Locate the temperature sensor in a position that provides a representative temperature.

(4) For thermal oxidizers, record the firebox temperature averaged over the same period as the compliance demonstration. Locate the temperature sensor in a position that provides a representative temperature.

(5) For water scrubbers, record the pressure drop and flow rate of the scrubber liquid averaged over the same time period as the compliance demonstration while the vent stream is routed and constituted normally. Locate the pressure and flow sensors in positions that provide representative measurements of these parameters.

(6) For caustic scrubbers, record the pressure drop, flow rate of the scrubber liquid, and either the pH, conductivity, or alkalinity of the scrubber liquid averaged over the same time period as the compliance demonstration while the vent stream is routed and constituted normally. Locate the pressure sensors, flow sensors, and pH, conductivity, or alkalinity sensors in positions that provide representative measurements of these parameters. Ensure the sample is properly mixed and representative of the fluid to be measured.

(7) For flares, record the presence of a pilot flame. Locate the pilot flame sensor in a position that provides an accurate and continuous determination of the presence of the pilot flame.

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

(9) For carbon adsorbers, record the total regeneration stream mass or volumetric flow during each carbon bed regeneration cycle during the period of the compliance demonstration. Record the temperature of the carbon bed after each carbon bed regeneration cycle during the period of the compliance demonstration (and within 15 minutes of completion of any cooling cycle(s)). Record the operating time since the end of the last carbon bed regeneration cycle and the beginning of the next carbon bed regeneration cycle during the period of the compliance demonstration. Locate the temperature and flow sensors in positions that provide representative measurement of these parameters.

(10) For oil absorbers, record the flow of absorption liquid through the absorber, the temperatures of the absorption liquid before and after the

steam stripper, and the steam flow through the steam stripper averaged during the same period of the compliance demonstration. Locate the temperature and flow sensors in positions that provide representative measurement of these parameters.

§ 63.5540 By what date must I conduct a performance test or other initial compliance demonstration?

(a) You must conduct performance tests or other initial compliance demonstrations no later than 180 calendar days after the compliance date that is specified for your source in § 63.5495 and according to the provisions in § 63.7(a)(2).

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

(a) For each CMS required in this section, you must develop and make available for inspection by the permitting authority, upon request, a site-specific monitoring plan that addresses the provisions in paragraphs (a)(1) through (3) of this section.

(1) Installation of the CMS sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (e.g., on or downstream of the last control device);

(2) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system; and

(3) Performance evaluation procedures and acceptance criteria (e.g., calibrations).

(b) In your site-specific monitoring plan, you must also address the provisions in paragraphs (b)(1) through (3) of this section.

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

(2) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d)(2); and

(3) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of §§ 63.10(c), (e)(1), (e)(2)(i) and 63.5585.

(c) You must conduct a performance evaluation of each CMS in accordance with your site-specific monitoring plan.

(d) You must operate and maintain the CMS in continuous operation according to the site-specific monitoring plan.

(e) For each continuous emissions monitoring system (CEMS), you must meet the requirements in paragraphs (e)(1) through (6) of this section.

(1) Each CEMS must be installed, operated, and maintained according to the applicable performance specification (PS) listed in paragraphs (e)(1)(i) through (iv) of this section:

(i) PS–7 of 40 CFR part 60, appendix B, for CEMS used to measure hydrogen sulfide emissions;

(ii) PS–8 of 40 CFR part 60, appendix B, for CEMS used to measure volatile organic compound emissions;

(iii) PS–9 of 40 CFR part 60, appendix B, for CEMS that use gas chromatography to measure organic HAP emissions; and

(iv) PS–15 of 40 CFR part 60, appendix B, for CEMS that use Fourier transform infrared spectroscopy to measure organic HAP emissions.

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

(3) As specified in § 63.8(c)(4)(ii), each CEMS must complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.

(4) The CEMS data must be reduced to operating data averages computed using valid data from at least 75 percent of the hours during the averaging period. To have a valid hour of data, you must have four or more data points equally spaced over the 1-hour period (or at least two data points during an hour when calibration, quality assurance, or maintenance activities are being performed), except as specified in paragraph (a)(5) of this section.

(5) The CEMS data taken during periods in which the control devices are not functioning in controlling emissions, as indicated by periods of no flow for all or a portion of an affected source, must not be considered in the averages.

(6) Determine the daily average of all recorded readings for each operating day during the semiannual reporting period described in Table 8 to this subpart.

(f) For each continuous parameter monitoring system (CPMS), you must meet the requirements in paragraphs (f)(1) through (9) of this section.

(1) Satisfy all requirements of performance specifications for CPMS upon promulgation of such performance specifications.

(2) Satisfy all requirements of quality assurance (QA) procedures for CPMS upon promulgation of such QA procedures.

(3) The CPMS must complete a minimum of one cycle of operation for each successive 15-minute period.

(4) To calculate a valid hourly average, there must be at least four equally spaced values for that hour, excluding data collected during the periods described in paragraph (f)(6) of this section.

(5) Have valid hourly data for at least 75 percent of the hours during the averaging period.

(6) The CPMS data taken during periods in which the control devices are not functioning in controlling emissions, as indicated by periods of no flow for all or a portion of an affected source, must not be considered in the averages.

(7) Calculate a daily average using all of the valid hourly averages for each operating day during the semiannual reporting period.

(8) Record the results of each inspection, calibration, and validation check.

(9) Except for redundant sensors, any device that is used to conduct an initial validation or accuracy audit of a CPMS must meet the accuracy requirements specified in paragraphs (f)(9)(i) and (ii) of this section.

(i) The device must have an accuracy that is traceable to National Institute of Standards and Technology (NIST) standards.

(ii) The device must be at least three times as accurate as the required accuracy for the CPMS.

(g) If flow to a control device could be intermittent, you must install, calibrate, and operate a flow indicator at the inlet or outlet of the control device to identify periods of no flow.

Continuous Compliance Requirements

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

(a) You must demonstrate continuous compliance with each emission limit, operating limit, and work practice standard in Tables 1 and 2 to this subpart that applies to you according to methods specified in Tables 5 and 6 to this subpart.

(b) You must report each instance in which you were not in continuous compliance (as specified in Tables 5 and 6 to this subpart) with each emission limit, each operating limit, and each work practice standard that apply to you. This includes periods of startup, shutdown, and malfunction. These instances are deviations from the emission limits, operating limits, and work practice standards in this subpart. These deviations must be reported

according to the requirements in § 63.5580.

(c) During periods of startup, shutdown, and malfunction, you must operate according to the SSM plan.

(d) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating according to the SSM plan.

§ 63.5560 How do I monitor and collect data to demonstrate continuous compliance?

(a) You must monitor and collect data according to this section.

(b) Except for monitor malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating, including periods of startup, shutdown, and malfunction.

(c) You may not use data recorded during monitoring malfunctions, associated repairs, required quality assurance or control activities, and periods of no flow for all or a portion of an affected source in data averages and calculations used to report emission or operating levels, nor may such data be used in fulfilling a minimum data availability requirement, if applicable. You must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

(d) All terms in this subpart that define a period of time for completing required tasks (e.g., weekly, monthly, quarterly, or annually) refer to the standard calendar periods.

(1) You may change time periods specified in this subpart for completing required tasks by mutual agreement with the Administrator, as specified in subpart A of this part. For example, a period could begin on the compliance date or another date, rather than on the first day of the standard calendar period. For each time period that is changed by agreement, the revised period must remain in effect until it is changed. A new request is not necessary for each recurring period.

(2) Where the period specified for compliance is a standard calendar period, if the initial compliance date occurs after the beginning of the period, then you must comply according to the schedule specified in paragraph (d)(2)(i) or (ii) of this section, as appropriate.

(i) You must comply before the end of the standard calendar period within which the compliance deadline occurs, if there remain at least 3 days for tasks that must be performed weekly, at least 2 weeks for tasks that must be performed monthly, at least 1 month for tasks that must be performed quarterly, or at least 3 months for tasks that must be performed annually; or

(ii) In all instances where a provision of this subpart requires completing a task during each of multiple successive periods, you may perform the required task at any time during the specified period, provided that the task is conducted at a reasonable interval after completion of the task during the previous period.

Notifications, Reports, and Records

§ 63.5575 What notifications must I submit and when?

You must submit each notification in Table 7 to this subpart that applies to you by the date specified in Table 7 to this subpart.

§ 63.5580 What reports must I submit and when?

(a) You must submit each report in Table 8 to this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submitting reports under § 63.10, you must submit each compliance report by the date in Table 8 to this subpart and according to the requirements in paragraphs (b)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.5495 and ending on June 30 or December 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in § 63.5495.

(2) The first compliance report must be postmarked or delivered no later than August 31 or February 28, whichever date follows the end of the first calendar half after the compliance date that is specified for your affected source in § 63.5495.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

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

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section.

(c) The compliance report must contain the information in paragraphs (c)(1) through (6) of this section.

(1) Company name and address.

(2) Statement by a responsible official, with that official's name, title, and signature, certifying that, based on information and belief formed after reasonable inquiry, the statements and information in the report are true, accurate, and complete.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).

(5) If there are no deviations from any emission limits, operating limits, or work practice standards that apply to you (see Tables 5 and 6 to this subpart), the compliance report must contain a statement that there were no deviations from the emission limits, operating limits, or work practice standards during the reporting period.

(6) If there were no periods during which the CMS was out-of-control, the compliance report must contain a statement that there were no periods during which the CMS was out-of-control during the reporting period. You must include specifications for out-of-control operation in the quality control plan required under § 63.8(d)(2).

(d) For each deviation from an emission limit or work practice standard that occurs at an affected source where you are not using a CMS to demonstrate continuous compliance with the emission limits or work practice standards in this subpart (see Table 5 to this subpart), the compliance report must contain the information in paragraphs (c)(1) through (4) and (d)(1) and (2) of this section. This includes periods of startup, shutdown, and malfunction.

(1) The total operating time of each affected source during the reporting period.

(2) Information on the number, duration, and cause of deviations

(including unknown cause, if applicable), as applicable, and the corrective action taken.

(e) For each deviation from an emission limit or operating limit occurring at an affected source where you are using a CMS to demonstrate continuous compliance with the emission limit or operating limit in this subpart (see Tables 5 and 6 to this subpart), you must include the information in paragraphs (c)(1) through (4) and (e)(1) through (13) of this section. This includes periods of startup, shutdown, and malfunction.

(1) The date and time that each malfunction started and stopped.

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

(3) The date, time, and duration that each CMS was out-of-control.

(4) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(5) A summary of the total duration of the deviation during the reporting period and the total duration as a percent of the total source operating time during that reporting period.

(6) A breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(7) A summary of the total duration of CMS downtime during the reporting period and the total duration of CMS downtime as a percent of the total source operating time during that reporting period.

(8) An identification of each HAP that is known to be in the emission stream at the affected source.

(9) A brief description of the process units.

(10) A brief description of the CMS.

(11) The date of the latest CEMS certification or audit or CPMS inspection, calibration, or validation check.

(12) A description of any changes in CMS, processes, or controls since the last reporting period.

(13) The operating day average values of monitored parameters.

(f) If you have obtained a title V operating permit according to 40 CFR part 70 or 40 CFR part 71, you must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If you submit a compliance report according to Table 8 to this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the compliance report includes all required information concerning deviations from any emission limit, operating limit, or work practice standard in this subpart, then submitting the compliance report will satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submitting a compliance report will not otherwise affect any obligation you may have to report deviations from permit requirements to the permit authority.

§ 63.5585 What records must I keep?

You must keep the records in Table 9 to this subpart that apply to you.

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

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record onsite for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records offsite for the remaining 3 years.

(d) You may keep records in hard copy or computer-readable form including, but not limited to, paper, microfilm, computer, floppy disk, magnetic tape, or microfiche.

Other Requirements and Information

§ 63.5595 What compliance options do I have if part of my affected source is subject to both this subpart and another subpart?

(a) For any Group 1 or Group 2 wastewater stream that is subject to the wastewater provisions in this subpart and the wastewater provisions in 40 CFR parts 260 through 272, you must comply with the requirements of either paragraph (a)(1) or (2) of this section.

(1) You must comply with more stringent control, testing, monitoring, recordkeeping, and reporting requirements that overlap between the provisions of this subpart and the provisions of 40 CFR parts 260 through 272. You must keep a record of the information used to determine which requirements were the most stringent and submit this information if requested by the Administrator.

(2) You must submit, no later than 4 months before the applicable compliance date specified in § 63.5495, a request for a case-by-case determination of requirements. The request must include the information specified in paragraphs (a)(2)(i) and (ii) of this section.

(i) Identification of the wastewater streams that are subject to this subpart and to provisions in 40 CFR parts 260 through 272, determination of the Group 1/Group 2 status of those streams, determination of whether or not those streams are listed or exhibit a characteristic as specified in 40 CFR part 261, and determination of whether the waste management unit is subject to permitting under 40 CFR part 270.

(ii) Identification of the specific control, testing, monitoring, recordkeeping, and reporting requirements that overlap between the provisions of this subject and the provisions of 40 CFR parts 260 through 272.

(b) If any combustion device, recovery device, or recapture device, as defined in § 63.111, subject to this subpart is also subject to the monitoring, recordkeeping, and reporting requirements in 40 CFR part 264, subpart AA or CC, or is subject to monitoring and recordkeeping requirements in 40 CFR part 265, subpart AA or CC, and you comply with the periodic reporting requirements under 40 CFR part 264, subpart AA or CC, that would apply to the device if the affected source had final-permitted status, you may elect to comply either with the monitoring, recordkeeping, and reporting requirements of this subpart, or with the monitoring, recordkeeping, and reporting requirements in 40 CFR parts 264 and/or 265, as described in this paragraph (b), which will constitute compliance with the monitoring, recordkeeping, and reporting requirements of this subpart. You must identify which option has been selected in the Notification of Compliance Status Report required in § 63.5575 and Table 7 to this subpart.

§ 63.5600 What other requirements apply to me?

(a) Table 10 to this subpart shows which provisions of the General Provisions in §§ 63.1 through 63.15 apply to you.

(b) For the purposes of this subpart, the applicable subpart A requirements in Table 10 to this subpart supersede the applicable subpart A requirements in subparts F, G, H, U and UU of this part.

§ 63.5605 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the US Environmental Protection Agency

(EPA), or a delegated authority, such as your State, local, or tribal agency. If the Administrator has delegated authority to your State, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. You should contact your EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the Administrator keeps the authorities contained in paragraphs (b)(1) through (4) of this section and does not delegate such authorities to a State, local, or tribal agency.

(1) Approval of alternatives to the non-opacity emission limits, operating limits, and work practice standards in § 63.5505(a) through (c) and under § 63.6(g).

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.5610 What definitions apply to this subpart?

(a) For all affected sources complying with the batch process vent testing provisions in § 63.490(c) and the operating limit provisions in § 63.505(b), the terms used in this subpart and in subpart U of this part are defined in § 63.482 and paragraph (g) of this section.

(b) For all affected sources complying with the closed-vent system and bypass line requirements in § 63.148, the terms used in this subpart and in subpart G of this part are defined in § 63.111 and paragraph (g) of this section.

(c) For all affected sources complying with the heat exchanger system requirements in § 63.104, the terms used in this subpart and in subpart F of this part are defined in § 63.101 and paragraph (g) of this section.

(d) For cellulose ether affected sources complying with the maintenance wastewater, process wastewater, and liquid stream in open system requirements of subparts F and G of this part, the terms used in this subpart and in subparts F and G of this part are defined in §§ 63.101 and 63.111 and paragraph (g) of this section.

(e) For cellulose ether affected sources complying with the equipment leak requirements of subpart H of this part, the terms used in this subpart and in subpart H of this part are defined in § 63.161 and paragraph (g) of this section.

(f) For cellulose ether affected sources complying with the equipment leak requirements of subpart UU of this part, the terms used in this subpart and in subpart UU of this part are defined in § 63.1020 and paragraph (g) of this section.

(g) All other terms used in this subpart have the meaning given them in § 63.2 and this paragraph (g). If a term is defined in § 63.2, 63.101, 63.111, 63.161, or 63.1020 and in this paragraph (g), the definition in this paragraph (g) applies for purposes of this subpart.

Bottoms receiver means a tank that collects distillation bottoms before the stream is sent for storage or for further downstream processing.

Carbon disulfide unloading and storage operation means a system at an affected source that includes unloading of carbon disulfide from a railcar using nitrogen or water displacement and storage of carbon disulfide in a storage vessel using nitrogen or water padding.

Cellophane means a thin, transparent cellulose material, which is manufactured using the viscose process and used in food packaging (e.g., candy, cheese, baked goods), adhesive tapes, and membranes for industrial uses, such as batteries.

Cellophane operation means the collection of the cellophane process unit and any other equipment, such as heat exchanger systems, wastewater and waste management units, or cooling towers, that are not associated with an individual cellophane process unit, but are located at a cellophane operation for the purpose of manufacturing cellophane and are under common control.

Cellophane process unit means all equipment which collectively function to manufacture cellophane and any associated storage vessels, liquid streams in open systems (as defined in § 63.149), and equipment (as defined in § 63.161) that are used in the manufacturing of cellophane.

Cellulose ether means a compound, such as carboxymethyl cellulose, hydroxyethyl cellulose, hydroxypropyl cellulose, methyl cellulose, or hydroxypropyl methyl cellulose, which is manufactured using the cellulose ether process and used mainly as a thickener, viscosifier, or binder in a wide variety of consumer and other products.

Cellulose ether operation means the collection of the cellulose ether process unit and any other equipment, such as heat exchanger systems, wastewater and waste management units, or cooling towers, that are not associated with an individual cellulose ether process unit, but are located at a cellulose ether operation for the purpose of manufacturing a particular cellulose ether and are under common control.

Cellulose ether process means the following:

(1) A manufacturing process that includes the following process steps:

(i) Reaction of cellulose (e.g., wood pulp or cotton linters) with sodium hydroxide to produce alkali cellulose;

(ii) Reaction of the alkali cellulose with a chemical compound(s), such as ethylene oxide, propylene oxide, methyl chloride, or chloroacetic acid, to produce a particular cellulose ether;

(iii) Washing and purification of the cellulose ether; and

(iv) Drying of the cellulose ether.

(2) Solids handling steps downstream of the drying process are not considered part of the cellulose ether process.

Cellulose ether process change means a change to the cellulose ether process that occurred no earlier than January 1992 that allows the recovery of organic HAP, reduction in organic HAP usage, or reduction in organic HAP leaving the reactor. Includes extended cookout.

Cellulose ether process unit means all equipment which collectively function to manufacture a particular cellulose ether and any associated storage vessels, liquid streams in open systems (as defined in § 63.149), and equipment (as defined in § 63.161 or 63.1020) that are used in the manufacturing of a particular cellulose ether.

Cellulose Ethers Production source category means the collection of operations that use the cellulose ether process to manufacture a particular cellulose ether.

Cellulose food casing means a cellulose casing, which is manufactured using the viscose process, used in forming meat products (e.g., hot dogs, sausages) and, in most cases, removed from the meat products before sale.

Cellulose food casing operation means the collection of the cellulose food casing process unit and any other equipment, such as heat exchanger systems, wastewater and waste management units, or cooling towers, that are not associated with an individual cellulose food casing process unit, but are located at a cellulose food casing operation for the purpose of manufacturing cellulose food casings and are under common control.

Cellulose food casing process unit means all equipment which collectively function to manufacture cellulose food casings and any associated storage vessels, liquid streams in open systems (as defined in § 63.149), and equipment

(as defined in § 63.161) that are used in the manufacturing of cellulose food casings.

Cellulosic sponge means a porous cellulose product, which is manufactured using the viscose process and used mainly for consumer use (e.g., for cleaning).

Cellulosic sponge operation means the collection of the cellulosic sponge process unit and any other equipment, such as heat exchanger systems, wastewater and waste management units, or cooling towers, that are not associated with an individual cellulosic sponge process unit, but are located at a cellulosic sponge operation for the purpose of manufacturing cellulosic sponges and are under common control.

Cellulosic sponge process unit means all equipment which collectively function to manufacture cellulosic sponges and any associated storage vessels, liquid streams in open systems (as defined in § 63.149), and equipment (as defined in § 63.161) that are used in the manufacturing of cellulosic sponges.

Closed-loop system means a system wherein the emission stream is not normally vented to the atmosphere but is recycled back to the process.

Control technique means any equipment or process control used for capturing, recovering, treating, or preventing HAP emissions. The equipment includes recovery devices and non-recovery control devices, as defined in this paragraph. The process control includes cellulose ether process changes and viscose process changes, as defined in this paragraph.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including, but not limited to, any emission limit, operating limit, or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limit, operating limit, or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Emission point means an individual process vent, storage vessel, waste management unit, or equipment leak.

Extended cookout (ECO) means a cellulose ether process change that reduces the amount of unreacted ethylene oxide, propylene oxide, methyl chloride, or chloroacetic acid leaving the reactor. This is accomplished by allowing the product to react for a longer time, thereby leaving less unreacted ethylene oxide, propylene oxide, methyl chloride, or chloroacetic acid and reducing emissions of ethylene oxide, propylene oxide, methyl chloride, or chloroacetic acid that might have occurred otherwise.

Miscellaneous Viscose Processes source category means the collection of operations that use the viscose process to manufacture a particular cellulose product. These cellulose products include cellulose food casings, rayon, cellulosic sponges, and cellophane.

Nitrogen storage system means a system of padding the carbon disulfide storage vessels with nitrogen to prevent contact with oxygen.

Nitrogen unloading and storage system means the combination of a nitrogen unloading system for unloading carbon disulfide and a nitrogen storage system for storing carbon disulfide.

Nitrogen unloading system means a system of unloading carbon disulfide from railcars to storage vessels using nitrogen displacement to prevent gaseous carbon disulfide emissions to the atmosphere and to preclude contact with oxygen.

Non-recovery control device means an individual unit of equipment capable of and normally used for the purpose of capturing or treating HAP emissions. Examples of equipment that may be non-recovery control devices include, but are not limited to, biofilters, caustic scrubbers, flares, thermal oxidizers, and water scrubbers.

Oil absorber means a packed-bed absorber that absorbs pollutant vapors using a type of oil (e.g., kerosene) as the absorption liquid.

Onsite means that records are stored at a location within a major source which encompasses the affected source. Onsite includes, but is not limited to, storage at the affected source or process unit to which the records pertain or storage in central files elsewhere at the major source.

Process vent means a point of discharge to the atmosphere (or the point of entry into a control device, if any) of a HAP-containing gas stream from the process operation. Process vents do not include vents with a flow rate less than 0.005 standard cubic meter per minute or with a concentration less than 50 parts per million by volume (ppmv), vents on storage tanks, vents on wastewater emission sources, or pieces of equipment regulated under equipment leak standards.

Rayon means cellulose fibers, which are manufactured using the viscose process and used in the production of either textiles (e.g., apparel, drapery, upholstery) or non-woven products (e.g., feminine hygiene products, wipes, computer disk liners, surgical swabs).

Rayon operation means the collection of the rayon process unit and any other equipment, such as heat exchanger systems, wastewater and waste management units, or cooling towers, that are not associated with an individual rayon process unit, but are located at a rayon operation for the purpose of manufacturing rayon and are under common control.

Rayon process unit means all equipment which collectively function to manufacture rayon and any associated storage vessels, liquid streams in open systems (as defined in § 63.149), and equipment (as defined in § 63.161) that are used in the manufacturing of rayon.

Recovery device means an individual unit of equipment capable of and normally used for the purpose of recovering HAP emissions for fuel value (i.e., net positive heating value), use, reuse, or for sale for fuel value, use, or reuse. Examples of equipment that may be recovery devices include, but are not limited to, absorbers, carbon adsorbers, condensers, oil-water separators or organic-water separators, or organic removal devices such as decanters, strippers, or thin-film evaporation units.

Responsible official means responsible official as defined in 40 CFR 70.2.

Safety device means a closure device such as a pressure relief valve, frangible disc, fusible plug, or any other type of device which functions exclusively to prevent physical damage or permanent deformation to a unit or its air emission control equipment by venting gases or vapors directly to the atmosphere during unsafe conditions resulting from an unplanned, accidental, or emergency event. For the purposes of this subpart, a safety device is not used for routine venting of gases or vapors from the vapor headspace underneath a cover such as during filling of the unit or to adjust the pressure in this vapor headspace in responses to normal daily diurnal ambient temperature fluctuations. A safety device is designed to remain in a closed position during normal operation and open only when the internal pressure, or another relevant parameter, exceeds the device threshold setting applicable to the air emission control equipment as determined by the owner or operator based on manufacturer recommendations, applicable

regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, combustible, explosive, reactive, or hazardous materials.

Solvent coating process means a manufacturing process in which cellophane film is coated (e.g., with Saran® or nitrocellulose) to impart moisture impermeability to the film and to make it printable. Both Saran and nitrocellulose use the same solvents—tetrahydrofuran and toluene.

Storage vessel means a tank or other vessel used to store liquids that contain one or more HAP. Storage vessels do not include the following:

(1) Vessels permanently attached to motor vehicles such as trucks, railcars, barges, or ships;

(2) Pressure vessels designed to operate in excess of 204.9 kilopascals (30 pounds per square inch) and without emissions to the atmosphere;

(3) Vessels with capacities smaller than 38 cubic meters (10,000 gallons);

(4) Vessels and equipment storing and/or handling material that contains no HAP or contains HAP as impurities only;

(5) Bottoms receiver tanks;

(6) Surge control vessels;

(7) Wastewater storage vessels; and

(8) Storage vessels assigned to another process unit regulated under another subpart of part 63.

Surge control vessel means feed drums, recycle drums, and intermediate vessels. Surge control vessels are used within a process unit when in-process storage, mixing, or management of flow rates or volumes is needed to assist in production of a product.

Total HAP means the sum of organic HAP emissions measured using EPA Method 18.

Total sulfide means the sum of emissions for carbon disulfide, hydrogen sulfide, and carbonyl sulfide reported as carbon disulfide. Total sulfide, as defined for the purposes of this subpart, does not include other sulfur compounds, such as sulfur dioxide.

Viscose process means the following:

(1) A manufacturing process that includes the following process steps:

(i) Reaction of cellulose (e.g., wood pulp) with sodium hydroxide to produce alkali cellulose;

(ii) Reaction of alkali cellulose with carbon disulfide to produce sodium cellulose xanthate;

(iii) Combination of sodium cellulose xanthate with additional sodium hydroxide to produce viscose solution;

(iv) Extrusion of the viscose into various shapes (e.g., hollow casings, thin fibers, thin sheets, molds);

(v) Regeneration of the cellulose product;

(vi) Washing of the cellulose product; and

(vii) Possibly acid or salt recovery.

(2) The cellulose products manufactured using the viscose process include cellulose food casings, rayon, cellulosic sponges, and cellophane.

Viscose process change means a change to the viscose process that occurred no earlier than January 1992 that allows either the recovery of carbon disulfide or a reduction in carbon disulfide usage in the process.

Wastewater means water that:

(1) Contains either:

(i) An annual average concentration of organic HAP (listed in Table 9 to subpart G of this part) of at least 5 parts per million by weight (ppmw) and has an annual average flow rate of 0.02 liter per minute or greater; or

(ii) An annual average concentration of organic HAP (listed in Table 9 to subpart G of this part) of at least 10,000 ppmw at any flow rate.

(2) Is discarded from a cellulose food casing, rayon, cellulosic sponge, cellophane, or cellulose ether process unit that is part of an affected source. Wastewater is process wastewater or maintenance wastewater.

Water storage system means a system of padding the carbon disulfide storage vessels with water to prevent contact with oxygen. The water, which is saturated with carbon disulfide, is later sent to wastewater treatment.

Water unloading and storage system means the combination of a water unloading system for unloading carbon disulfide and a water storage system for storing carbon disulfide.

Water unloading system means a system of unloading carbon disulfide from railcars to storage vessels using water displacement to prevent gaseous carbon disulfide emissions to the atmosphere and to preclude contact with oxygen.

Work practice standard means any design, equipment, work practice, or operational standard, or combination thereof, that is promulgated pursuant to section 112(h) of the Clean Air Act.

Tables to Subpart UUUU of Part 63

TABLE 1 TO SUBPART UUUU OF PART 63.—EMISSION LIMITS AND WORK PRACTICE STANDARDS

[As required in § 63.5505(a), you must meet the appropriate emission limits and work practice standards in the following table]

For . . .	at . . .	you must . . .
1. the sum of all viscose process vents	a. each existing cellulose food casing operation.	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 25% based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.
	b. each new cellulose food casing operation.	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 75% based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.

TABLE 1 TO SUBPART UUUU OF PART 63.—EMISSION LIMITS AND WORK PRACTICE STANDARDS—Continued

[As required in §63.5505(a), you must meet the appropriate emission limits and work practice standards in the following table]

For . . .	at . . .	you must . . .
	c. each existing rayon operation	i. (1) reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 35% within 3 years after the effective date based on a 6-month rolling average; (2) for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and (3) comply with the work practice standard for closed-vent systems; and ii. (1) reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 40% within 8 years after the effective date based on a 6-month rolling average; (2) for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and (3) comply with the work practice standard for closed-vent systems.
	d. each new rayon operation	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 75% based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.
	e. each existing or new cellulosic sponge operation.	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 75% based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.
	f. each existing or new cellophane operation.	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 75% based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.
2. the sum of all solvent coating process vents.	a. each existing or new cellophane operation.	i. reduce uncontrolled toluene emissions by at least 95% based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.
3. the sum of all cellulose ether process vents.	a. each existing or new cellulose ether operation.	i. reduce total uncontrolled organic HAP emissions by at least 99%; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.
4. closed-loop systems	each existing or new cellulose ether operation.	comply by operating the closed-loop system.

TABLE 1 TO SUBPART UUUU OF PART 63.—EMISSION LIMITS AND WORK PRACTICE STANDARDS—Continued

[As required in § 63.5505(a), you must meet the appropriate emission limits and work practice standards in the following table]

For . . .	at . . .	you must . . .
5. each carbon disulfide unloading and storage operation.	a. each existing or new viscose process affected source.	i. reduce uncontrolled carbon disulfide emissions by at least 83% from unloading and storage operations based on a 6-month rolling average if you use an alternative control technique not listed in this table source for carbon disulfide unloading and storage operations; if using a control device to reduce emissions, route emissions through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems; ii. reduce uncontrolled carbon disulfide emissions by at least 0.14% from viscose process vents based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems; iii. install a nitrogen unloading and storage system (as defined in § 63.5610); or iv. install a nitrogen unloading system (as defined in § 63.5610); reduce uncontrolled carbon disulfide emissions by at least 0.045% from viscose process vents based on a 6-month rolling average; for each vent stream that you control, route the vent stream through a closed-vent to the control device; and comply with the work practice standard for closed-vent systems.
6. each toluene storage vessel	a. each existing or new cellophane operation.	i. reduce uncontrolled toluene emissions by at least 95% based on a 6-month rolling average; ii. if using a control device to reduce emissions, route the emissions through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.
7. equipment leaks	a. each existing or new cellulose ether operation.	i. comply with the applicable equipment leak standards of §§ 63.162 through 63.179, except that references to "process unit" mean "cellulose ether process unit" for the purposes of this subpart; or ii. comply with the applicable equipment leak standards of §§ 63.1021 through 63.1037, except that references to "process unit" mean "cellulose ether process unit" for the purposes of this subpart.
8. all sources of wastewater emissions	each existing or new cellulose ether operation.	comply with the applicable wastewater provisions of §§ 63.105 and 63.132 through 63.140.
9. liquid streams in open system 2	each existing or new cellulose ether operation.	comply with the applicable provisions of § 63.149, except that references to "chemical manufacturing process unit" mean "cellulose ether process unit" for the purposes of this subpart.
10. closed-vent system used to route emissions to a control device.	each existing or new affected source	conduct annual inspections, repair leaks, and maintain records as specified in § 63.148.
11. closed-vent system containing a bypass line that could divert a vent stream away from a control device, except for equipment needed for safety purposes (described in § 63.148(f)(3)).	each existing or new affected source	i. install, calibrate, maintain, and operate a flow indicator as specified in § 63.148(f)(1); or ii. secure the bypass line valve in the closed position with a car-seal or lock-and-key type configuration and inspect the seal or closure mechanism at least once per month as specified in § 63.148(f)(2).
12. heat exchanger system that cools process equipment or materials in the process unit.	each existing or new affected source	monitor and repair the heat exchanger system according to § 63.104(a) through (e), except that references to "chemical manufacturing process unit" mean "cellulose food casing, rayon, cellulosic sponge, cellophane, or cellulose ether process unit" for the purposes of this subpart.

TABLE 2 TO SUBPART UUUU OF PART 63.—OPERATING LIMITS

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

For the following control technique . . .	you must . . .
1. condenser	maintain the daily average condenser outlet gas or condensed liquid temperature no higher than the value established during the compliance demonstration.

TABLE 2 TO SUBPART UUUU OF PART 63.—OPERATING LIMITS—Continued

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

For the following control technique . . .	you must . . .
2. thermal oxidizer	maintain the daily average thermal oxidizer firebox temperature no lower than the value established during the compliance demonstration.
3. water scrubber	maintain the daily average scrubber pressure drop and scrubber liquid flow rate within the operating values established during the compliance demonstration.
4. caustic scrubber	maintain the daily average scrubber pressure drop, scrubber liquid flow rate, and scrubber liquid pH, conductivity, or alkalinity within the operating values established during the compliance demonstration.
5. flare	maintain the presence of a pilot flame.
6. biofilter	maintain the daily average biofilter inlet gas temperature, biofilter effluent pH, and pressure drop within the operating values established during the compliance demonstration.
7. carbon absorber	maintain the regeneration frequency, total regeneration adsorber stream mass or volumetric flow during carbon bed regeneration, and temperature of the carbon bed after regeneration (and within 15 minutes of completing any cooling cycle(s)) for each regeneration cycle within the values established during the compliance demonstration.
8. oil absorber	maintain the daily average absorption liquid flow, absorption liquid temperature, and steam flow within the values established during the compliance demonstration.
9. any of the control techniques specified in this table.	if using a CEMS, maintain the daily average control efficiency of each control device no lower than the value established during the compliance demonstration.
10. any of the control techniques specified in this table.	a. if you wish to establish alternative operating parameters, submit the application for approval of the alternative operating parameters no later than the notification of the performance test or CEMS performance evaluation or no later than 60 days prior to any other initial compliance demonstration; b. the application must include: information justifying the request for alternative operating parameters (such as the infeasibility or impracticality of using the operating parameters in this final rule); a description of the proposed alternative control device operating parameters; the monitoring approach; the frequency of measuring and recording the alternative parameters; how the operating limits are to be calculated; and information documenting that the alternative operating parameters would provide equivalent or better assurance of compliance with the standard; c. install, operate, and maintain the alternative parameter monitoring systems in accordance with the application approved by the Administrator; d. establish operating limits during the initial compliance demonstration based on the alternative operating parameters included in the approved application; and e. maintain the daily average alternative operating parameter values within the values established during the compliance demonstration.
11. alternative control technique	a. submit for approval no later than the notification of the performance test or CEMS performance evaluation or no later than 60 days prior to any other initial compliance demonstration a proposed site-specific plan that includes: a description of the alternative control device; test results verifying the performance of the control device; the appropriate operating parameters that will be monitored; and the frequency of measuring and recording to establish continuous compliance with the operating limits; b. install, operate, and maintain the parameter monitoring system for the alternative control device in accordance with the plan approved by the Administrator; c. establish operating limits during the initial compliance demonstration based on the operating parameters for the alternative control device included in the approved plan; and d. maintain the daily average operating parameter values for the alternative control technique within the values established during the compliance demonstration.

TABLE 3 TO SUBPART UUUU OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITS AND WORK PRACTICE STANDARDS

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

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

TABLE 3 TO SUBPART UUUU OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITS AND WORK PRACTICE STANDARDS—Continued

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

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

TABLE 3 TO SUBPART UUUU OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITS AND WORK PRACTICE STANDARDS—Continued

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

For . . .	at . . .	for the following emission limit or work practice standard . . .	you have demonstrated initial compliance if . . .
	f. each existing or new cellophane operation.	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 75% based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled total sulfide emissions, measured during the month-long compliance demonstration, are reduced by at least 75%; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 75%; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; and (4) you comply with the initial compliance requirements for closed-vent systems.
2. the sum of all solvent coating process vents.	a. each existing or new cellophane operation.	i. reduce uncontrolled toluene emissions by at least 95% based on a 6-month folling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	1. the average uncontrolled toluene emissions, measured during the month-long compliance demonstration, are reduced by at least 95%; 2. you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled toluene emissions were reduced by at least 95%; 3. you prepare a material balance that includes the pertinent data used to determine the percent reduction of toluene emissions; and 4. you comply with the initial compliance requirements for closed-vent systems.
3. the sum of all cellulose ether process vents.	a. each existing or new cellulose ether operation.	i. reduce total uncontrolled organic HAP emissions by at least 99%; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) average uncontrolled total organic HAP emissions, measured during the 3-hour performance test are reduced by at least 99%; (2) you have a record of the average operating parameter values over the 3-hour performance test during which the average uncontrolled total organic HAP emissions were reduced by at least 99%; (3) you comply with the initial compliance requirements for closed-vent systems; and (4) if you use extended cookout to comply, you measure the HAP charged to the reactor, record the grade of product produced, and then calculate reactor emissions prior to extended cookout by taking a percentage of the total HAP charged, with the percentage determined by the grade of product being produced.

TABLE 3 TO SUBPART UUUU OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITS AND WORK PRACTICE STANDARDS—Continued

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

For . . .	at . . .	for the following emission limit or work practice standard . . .	you have demonstrated initial compliance if . . .
4. closed-loop systems	each existing or new cellulose ether operation.	operate and maintain the closed-loop system for cellulose ether operations.	you have a record certifying that a closed-loop system is in use for cellulose ether operations.
5. each carbon disulfide unloading and storage operation.	a. each existing or new viscose process affected source.	i. reduce uncontrolled carbon disulfide emissions by at least 83% from unloading and storage operations based on a 6-month rolling average if you use an alternative control technique not listed in this table for carbon disulfide unloading and storage operations; if using a control device to reduce emissions, route emissions through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems;	(1) you have a record documenting the 83% reduction in uncontrolled carbon disulfide emissions; and (2) if venting to a control device to reduce emissions, you comply with the initial compliance requirements for closed-vent systems;
		ii. reduce uncontrolled carbon disulfide by at least 0.14% from viscose process vents based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems;.	(1) you comply with the initial compliance requirements for viscose process vents at existing or new cellulose food casing, rayon, cellulosic sponge, or cellophane operations, as applicable; (2) the 0.14% reduction must be in addition to the reduction already required for viscose process vents at existing or new cellulose food casing, rayon, cellulosic sponge, or cellophane operations, as applicable; and (3) you comply with the initial compliance requirements for closed-vent systems;
		iii. install a nitrogen unloading and storage system; or	you have a record certifying that a nitrogen unloading and storage system is in use; or
		iv. install a nitrogen unloading system; reduce uncontrolled carbon disulfide by at least 0.045% from viscose process vents based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems.	(1) you have a record certifying that a nitrogen unloading system is in use; (2) you comply with the initial compliance requirements for viscose process vents at existing or new cellulose food casing, rayon, cellulosic sponge, or cellophane operations, as applicable; (3) the 0.045% reduction must be in addition to the reduction already required for viscose process vents at cellulose food casing, rayon, cellulosic sponge, or cellophane operations, as applicable; and (4) you comply with the initial compliance requirements for closed-vent systems.

TABLE 3 TO SUBPART UUUU OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITS AND WORK PRACTICE STANDARDS—Continued

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

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

TABLE 3 TO SUBPART UUUU OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITS AND WORK PRACTICE STANDARDS—Continued

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

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

TABLE 4 TO SUBPART UUUU OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS

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

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
1. the sum of all process vents	a. each existing or new affected source.	i. select sampling port's location and the number of traverse points;	EPA Method 1 or 1A of 40 CFR part 60, appendix A; § 63.7(d)(1)(i);	sampling sites must be located at the inlet and outlet to each control device;
		ii. determine velocity and volumetric flow rate;	EPA Method 2, 2A, 2C, 2D, 2F, or 2G in appendix A to part 60 of this chapter;	you may use EPA Method 2A, 2C, 2D, 2F, or 2G as an alternative to using EPA Method 2, as appropriate;
		iii. conduct gas analysis; and	(1) EPA Method 3, 3A, or 3B in appendix A to part 60 of this chapter; or (2) ASME PTC 19.10–1981—Part 10; and	you may use EPA Method 3A or 3B as an alternative to using EPA Method 3; or you may use ASME PTC 19.10–1981—Part 10 (available for purchase from Three Park Avenue, New York, NY 10016–5990) as an alternative to using EPA Method 3B.

TABLE 4 TO SUBPART UUUU OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

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

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
		iv. measure moisture content of the stack gas.	EPA Method 4 in appendix A to part 60 of this chapter.	
2. the sum of all viscose process vents.	a. each existing or new viscose process source.	i. measure total sulfide emissions.	(1) EPA Method 15 in Appendix A to part 60 of this chapter; or	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you must conduct testing of emissions from continuous viscose process vents and combinations of batch and continuous viscose process vents at normal operating conditions, as specified in §§ 63.7(e)(1) and 63.5535; (c) you must conduct testing of emissions from batch viscose process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (d) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration; or
			(2) carbon disulfide and/or hydrogen sulfide CEMS, as applicable.	(a) you must measure emissions at the inlet and outlet of each control device using CEMS; (b) you must install, operate, and maintain the CEMS according to the applicable performance specification (PS–7, PS–8, PS–9, or PS–15) of 40 CFR part 60, appendix B; and (c) you must collect CEMS emissions data at the inlet and outlet of each control device during the period of the initial compliance demonstration and determine the CEMS operating limit during the period of the initial compliance demonstration.

TABLE 4 TO SUBPART UUUU OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

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

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
			3. the sum of all solvent coating process vents.	a. each existing or new cellophane operation i. measure toluene emissions (1) EPA Method 18 in appendix A to part 60 of this chapter; or (a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use EPA Method 18 to determine the control efficiency of any control device for organic compounds; for a combustion device, you must use only HAP that are present in the inlet to the control device to characterize the percent reduction across the combustion device; (c) you must conduct testing of emissions from continuous solvent coating process vents and combinations of batch and continuous solvent coating process vents at normal operating conditions, as specified in §§ 63.7(e)(1) and 63.5535; (d) you must conduct testing of emissions from batch solvent coating process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration; or
			(2) ASTM D6420–99	(a) you must conduct testing of emissions at the inlet and outlet of each control device;

TABLE 4 TO SUBPART UUUU OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

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

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
				(b) you may use ASTM D6420–99 (available for purchase from at least one of the following addresses: 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959; or University Microfilms International, 300 North Zeeb Road, Ann Arbor, MI 48106) as an alternative to EPA Method 18 only 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 (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 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; and 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; (c) you must conduct testing of emissions from continuous solvent coating process vents and combinations of batch and continuous solvent coating process vents at normal operating conditions, as specified in §§ 63.7(e)(1) and 63.5535;

TABLE 4 TO SUBPART UUUU OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

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

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
				(d) you must conduct testing of emissions from batch solvent coating process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.
4. the sum of all cellulose ether process vents.	a. each existing or new cellulose ether operation.	i. measure total organic HAP emissions.	(1) EPA Method 18 in appendix A to part 60 of this chapter;	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use EPA Method 18 to determine the control efficiency of any control device for organic compounds; for a combustion device, you must use only HAP that are present in the inlet to the control device to characterize the percent reduction across the combustion device; (c) you must conduct testing of emissions from continuous cellulose ether process vents and combinations of batch and continuous cellulose ether process vents at normal operating conditions, as specified in §§ 63.7(e)(1) and 63.5535; (d) you must conduct testing of emissions from batch cellulose ether process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and

TABLE 4 TO SUBPART UUUU OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

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

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
				(e) you must collect CPMS data during the period of the initial performance test and determine the CPMS operating limit during the period of the initial performance test;
			(2) ASTM D6420–99	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use ASTM D6420–99 (available for purchase from at least one of the following addresses: 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959; or University Microfilms International, 300 North Zeeb Road, Ann Arbor, MI (48106) as an alternative to EPA Method 18 only where: the target compound(s) are those listed in Section 1.1 of ASTM D6420–99; and 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 pontentially detected by mass spectrometry, 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; and 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;

TABLE 4 TO SUBPART UUUU OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

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

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
				(c) you must conduct testing of emissions from continuous cellulose ether process vents and combinations of batch and continuous cellulose ether process vents at normal operating conditions, as specified in §§ 63.7(e)(1) and 63.5535; (d) you must conduct testing of emissions from batch cellulose ether process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial performance test and determine the CPMS operating limit during the period of the initial performance test;
			(3) EPA Method 25 in appendix A to part 60 of this chapter; or	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use EPA Method 25 to determine the control efficiency of combustion devices for organic compounds; you may not use EPA Method 25 to determine the control efficiency of noncombustion control devices;

TABLE 4 TO SUBPART UUUU OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

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

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
				(c) you must conduct testing of emissions from continuous cellulose ether process vents and combinations of batch and continuous cellulose ether process vents at normal operating conditions, as specified in §§ 63.7(e)(1) and 63.5535; (d) you must conduct testing of emissions from batch cellulose ether process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial performance test and determine the CPMS operating limit during the period of the initial performance test; or
			(4) EPA Method 25A in appendix A to part 60 of this chapter.	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use EPA Method 25A if: an exhaust gas volatile organic matter concentration of 50 ppmv or less is required in order to comply with the emission limit; the volatile organic matter concentration at the inlet to the control device and the required level of control are such as to result in exhaust volatile organic matter concentrations of 50 ppmv or less; or because of the high control efficiency of the control device, the anticipated volatile organic matter concentration at the control device exhaust is 50 ppmv or less, regardless of the inlet concentration;

TABLE 4 TO SUBPART UUUU OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

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

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
				(c) you must conduct testing of emissions from continuous cellulose ether process vents and combinations of batch and continuous cellulose ether process vents at normal operating conditions, as specified in §§ 63.7(e)(1) and 63.5535; (d) you must conduct testing of emissions from batch cellulose ether process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial performance test and determine the CPMS operating limit during the period of the initial performance test.
5. each toluene storage vessel	a. each existing or new cellophane operation.	i. measure toluene emissions.	(1) EPA Method 18 in appendix A to part 60 of this chapter; or	(a) if venting to a control device to reduce emissions, you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use EPA Method 18 to determine the control efficiency of any control device for organic compounds; for a combustion device, you must use only HAP that are present in the inlet to the control device to characterize the percent reduction across the combustion device; (c) you must conduct testing of emissions from continuous storage vessel vents and combinations of batch and continuous storage vessel vents at normal operating conditions, as specified in §§ 63.7(e)(1) and 63.5535 for continuous process vents;

TABLE 4 TO SUBPART UUUU OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

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

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
				(d) you must conduct testing of emissions from batch storage vessel vents as specified in § 63.490(c) for batch process vents, except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration; or
			(2) ASTM D6420–99	(a) if venting to a control device to reduce emissions, you must conduct testing of emissions at the inlet and outlet of each control device;

TABLE 4 TO SUBPART UUUU OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

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

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
				(b) you may use ASTM D6420–99 (available for purchase from at least one of the following addresses: 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959; or University Microfilms International, 300 North Zeeb Road, Ann Arbor, MI 48106) as an alternative to EPA Method 18 only where: the target compound(s) are those listed in Section 1.1 of ASTM D6420–99, and 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 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; and 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; (c) you must conduct testing of emissions from continuous storage vessel vents and combinations of batch and continuous storage vessel vents at normal operating conditions, as specified in §§ 63.7(e)(1) and 63.5535 for continuous process vents;

TABLE 4 TO SUBPART UUUU OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

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

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
				(d) you must conduct testing of emissions from batch storage vessel vents as specified in § 63.490(c) for batch process vents, except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.
6. the sum of all process vents controlled using a flare.	each existing or new affected source.	measure visible emissions.	EPA Method 22 in appendix A to part 60 of this chapter.	you must conduct the flare visible emissions test according to § 63.11(b).
7. equipment leaks	a. each existing or new cellulose ether operation.	i. measure leak rate	(1) applicable equipment leak test methods in § 63.180; or	you must follow all requirements for the applicable equipment leak test methods in § 63.180; or
			(2) applicable equipment leak test methods in 63.1023.	you must follow all requirements for the applicable equipment leak test methods in § 63.1023.
8. all sources of wastewater emissions.	a. each existing or new cellulose ether operation.	i. measure wastewater HAP emissions.	(1) applicable wastewater test methods and procedures in §§ 63.144 and 63.145; or	You must follow all requirements for the applicable wastewater test methods and procedures in §§ 63.144 and 63.145; or

TABLE 4 TO SUBPART UUUU OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

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

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
			(2) applicable wastewater test methods and procedures in §§ 63.144 and 63.145, using ASTM D5790–95 as an alternative to EPA Method 624 in appendix A to part 163 of this chapter.	you must follow all requirements for the applicable waste water test methods and procedures in §§ 63.144 and 63.145, except that you may use ASTM D5790–95 (available for purchase from at least one of the following addresses: 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959; or University Microfilms International, 300 North Zeeb Road, Ann Arbor, MI 48106) as an alternative to EPA Method 624, under the condition that this ASTM method be used with the sampling procedures of EPA Method 25D or an equivalent method.
9. any emission point	a. each existing or new affected source using a CEMS to demonstrate compliance.	i. conduct a CEMS performance evaluation.	(1) applicable requirements in § 63.8 and applicable performance specification (PS–7, PS–8, PS–9, or PS–15) in appendix B to part 60 of this chapter.	(a) you must conduct the CEMS performance evaluation during the period of the initial compliance demonstration according to the applicable requirements in § 63.8 and the applicable performance specification (PS–7, PS–8, PS–9, or PS–15) of 40 CFR part 60, appendix B; (b) you must install, operate, and maintain the CEMS according to the applicable performance specification (PS–7, PS–8, PS–9, or PS–15) of 40 CFR part 60, appendix B; and (c) you must collect CEMS emissions data at the inlet and outlet of each control device during the period of the initial compliance demonstration and determine the CEMS operating limit during the period of the initial compliance demonstration.

TABLE 5 TO SUBPART UUUU OF PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITS AND WORK PRACTICE STANDARDS

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

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

TABLE 5 TO SUBPART UUUU OF PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITS AND WORK PRACTICE STANDARDS—Continued

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

For . . .	at . . .	for the following emission limit or work practice standard . . .	you must demonstrate continuous compliance by . . .
		iii. install a nitrogen unloading and storage system; or	Keeping a record certifying that a nitrogen unloading and storage system is in use; or
		iv. (1) install a nitrogen unloading system; (2) reduce total uncontrolled sulfide emissions by at least 0.045% from viscose process vents based on a 6-month rolling average; (3) for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and (4) comply with the work practice standard for closed-vent systems.	(a) keeping a record certifying that a nitrogen unloading system is in use; (b) maintaining a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; (c) documenting the percent reduction of total sulfide emissions using the pertinent data from the material balance; and (d) complying with the continuous compliance requirements for closed-vent systems.
6. each toluene storage vessel	a. each existing or new cellophane operation.	i. reduce uncontrolled toluene emissions by at least 95% based on a 6-month rolling average; ii. if using a control device to reduce emissions, route the emissions through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) maintaining a material balance that includes the pertinent data used to determine the percent reduction of toluene emissions; (2) documenting the percent reduction of toluene emissions using the pertinent data from the material balance; and (3) if venting to a control device to reduce emissions, complying with the continuous compliance requirements for closed-vent systems.
7. equipment leaks	a. each existing or new cellulose ether operation.	i. applicable equipment leak standards of §§ 63.162 through 63.179; or ii. applicable equipment leak standards of §§ 63.1021 through 63.1037.	complying with the applicable equipment leak continuous compliance provisions of §§ 63.162 through 63.179; or complying with the applicable equipment leak continuous compliance provisions of §§ 63.1021 through 63.1037.
8. all sources of wasstewater emissions.	each existing or new cellulose ether operation.	applicable wastewater provisions of § 63.105 and §§ 63.132 through 63.140.	complying with the applicable wastewater continuous compliance provisions of §§ 63.105, 63.143, and 63.148.
9. liquid streams in open systems ..	each existing or new cellulose ether operation.	comply with the applicable provisions of § 63.149, except that references to "chemical manufacturing process unit" mean "cellulose ether process unit" for the purposes of this subpart.	conducting inspections, repairing failures, documenting delay of repair, and maintaining records of failures and corrective actions according to §§ 63.133 through 63.137.
10. closed-vent system used to route emissions to a control device.	each existing or new affected source.	conduct annual inspections, repair leaks, maintain records as specified in § 63.148.	conducting the inspections, repairing leaks, and maintaining records according to § 63.148.
11. closed-vent system containing a bypass line that could divert a vent stream away from a control device, except for equipment needed for safety purposes (described in § 63.148(f)(3).	a. each existing or new affected source.	i. install, calibrate, maintain, and operate a flow indicator as specified in § 63.148(f)(1); or	(1) taking readings from the flow indicator at least once every 15 minutes; (2) maintaining hourly records of flow indicator operation and detection of any diversion during the hour, and (3) recording all periods when the vent stream is diverted from the control stream or the flow indicator is not operating; or

TABLE 5 TO SUBPART UUUU OF PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITS AND WORK PRACTICE STANDARDS—Continued

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

For . . .	at . . .	for the following emission limit or work practice standard . . .	you must demonstrate continuous compliance by . . .
		ii. secure the bypass line valve in the closed position with a car-seal or lock-and-key type configuration and inspect the seal or mechanism at least once per month as specified in § 63.148(f)(2).	(1) maintaining a record of the monthly visual inspection of the seal or closure mechanism for the bypass line; and (2) recording all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type lock has been checked out.
12. heat exchanger system that cools process equipment or materials in the process unit.	a. each existing or new affected source.	i. monitor and repair the heat exchanger system according to § 63.104(a) through (e), except that references to "chemical manufacturing process unit" mean "cellulose food casing, rayon, cellulosic sponge, cellophane, or cellulose ether process unit" for the purposes of this subpart.	(1) monitoring for HAP compounds, other substances, or surrogate indicators at the frequency specified in § 63.104(b) or (c); (2) repairing leaks within the time period specified in § 63.104(d)(1); (3) confirming that the repair is successful as specified in § 63.104(d)(2); (4) following the procedures in § 63.104(e) if you implement delay of repair; and (5) recording the results of inspections and repair according to § 63.104(f)(1).

TABLE 6 TO SUBPART UUUU OF PART 63.—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS

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

For the following control technique . . .	for the following operating limit . . .	you must demonstrate continuous compliance by . . .
1. condenser	maintain the daily average condenser outlet gas or condensed liquid temperature no higher than the value established during the compliance demonstration.	collecting the condenser outlet gas or condensed liquid temperature data according to § 63.5545; reducing the condenser outlet gas temperature data to daily averages; and maintaining the daily average condenser outlet gas or condensed liquid temperature no higher than the value established during the compliance demonstration.
2. thermal oxidizer	maintain the daily average thermal oxidizer firebox temperature no lower than the value established during the compliance demonstration.	collecting the thermal oxidizer firebox temperature data according to § 63.5545; reducing the thermal oxidizer firebox temperature data to daily averages; and maintaining the daily average thermal oxidizer firebox temperature no lower than the value established during the compliance demonstration.
3. water scrubber	maintain the daily average scrubber pressure drop and scrubber liquid flow rate within the values established during the compliance demonstration.	collecting the scrubber pressure drop and scrubber liquid flow rate data according to § 63.5545; reducing the scrubber parameter data to daily averages; and maintaining the daily scrubber parameter values within the values established during the compliance demonstration.
4. caustic scrubber	maintain the daily average scrubber pressure drop, scrubber liquid flow rate, and scrubber liquid pH, conductivity, or alkalinity within the values established during the compliance demonstration.	collecting the scrubber pressure drop, scrubber liquid flow rate, and scrubber liquid pH, conductivity, or alkalinity data according to § 63.5545; reducing the scrubber parameter data to daily averages; and maintaining the daily scrubber parameter values within the values established during the compliance demonstration.
5. flare	maintain the presence of a pilot flame	collecting the pilot flame data according to § 63.5545; and maintaining the presence of the pilot flame.

TABLE 6 TO SUBPART UUUU OF PART 63.—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS—Continued

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

For the following control technique . . .	for the following operating limit . . .	you must demonstrate continuous compliance by . . .
6. biofilter	maintain the daily average biofilter inlet gas temperature, biofilter effluent pH, and pressure drop within the values established during the compliance demonstration.	collecting the biofilter inlet gas temperature, biofilter effluent pH, and biofilter pressure drop data according to § 63.5545; reducing the biofilter parameter data to daily averages; and maintaining the daily biofilter parameter values within the values established during the compliance demonstration.
7. carbon absorber	maintain the regeneration frequency, total regeneration stream mass or volumetric flow during carbon bed regeneration and temperature of the carbon bed after regeneration (and within 15 minutes of completing any cooling cycle(s)) for each regeneration cycle within the values established during the compliance demonstration.	collecting the data on regeneration frequency, total regeneration stream mass or volumetric flow during carbon bed regeneration and temperature of the carbon bed after regeneration (and within 15 minutes of completing any cooling cycle(s)) for each regeneration cycle according to § 63.5545; and maintaining carbon absorber parameter values for each regeneration cycle within the values established during the compliance demonstration.
8. oil absorber	maintain the daily average absorption liquid flow, absorption liquid temperature, and steam flow within the values established during the compliance demonstration.	collecting the absorption liquid flow, absorption liquid temperature, and steam flow data according to § 63.5545; reducing the oil absorber parameter data to daily averages; and maintaining the daily oil absorber parameter values within the values established during the compliance demonstration.
9. any of the control techniques specified in this table.	if using a CEMS, maintain the daily average control efficiency for each control device no lower than the value established during the compliance demonstration.	collecting CEMS emissions data at the inlet and outlet of each control device according to § 63.5545; determining the control efficiency values for each control device using the inlet and outlet CEMS emissions data; reducing the control efficiency values for each control device to daily averages; and maintaining the daily average control efficiency for each control device no lower than the value established during the compliance demonstration.

TABLE 7 TO SUBPART UUUU OF PART 63.—NOTIFICATIONS

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

If you . . .	then you must . . .
1. are required to conduct a performance test	submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin, as specified in §§ 63.7(b)(1) and 63.9(e).
2. wish to use an alternative monitoring method	submit a request to use alternative monitoring method no later than the notification of the initial performance test or CEMS performance evaluation or 60 days prior to any other initial compliance demonstration, as specified in § 63.8(f)(4).
3. start up your affected source before June 11, 2002	submit an initial notification no later than 120 days after June 11, 2002, as specified in § 63.9(b)(2).
4. start up your new or reconstructed source on or after June 11, 2002.	submit an initial notification no later than 120 days after you become subject to this subpart, as specified in § 63.9(b)(3).
5. cannot comply with the relevant standard by the applicable compliance date.	submit a request for extension of compliance no later than 120 days before the compliance date, as specified in §§ 63.9(c) and 63.6(i)(4).
6. are subject to special requirements as specified in § 63.6(b)(3) and (4).	notify the Administrator of your compliance obligations no later than the initial notification dates established in § 63.9(b) for new sources not subject to the special provisions, as specified in § 63.9(d).
7. are required to conduct visible emission observations to determine the compliance of flares as specified in § 63.11(b)(4).	notify the Administrator of the anticipated date for conducting the observations specified in § 63.6(h)(5), as specified in §§ 63.6(h)(4) and 63.9(f).
8. are required to conduct a performance test or other initial compliance demonstration as specified in Table 3 to this subpart.	a. submit a Notification of Compliance Status Report, as specified in § 63.9(h); and b. submit the Notification of Compliance Status Report, including the performance test, CEMS performance evaluation, and any other initial compliance demonstration results within 240 calendar days following the compliance date specified in § 63.5495.

TABLE 7 TO SUBPART UUUU OF PART 63.—NOTIFICATIONS—Continued

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

If you . . .	then you must . . .
9. comply with the equipment leak requirements of subpart H of this part for existing or new cellulose ether affected sources.	comply with the notification requirements specified in § 63.182(a)(1) and (2), (b), and (c)(1) through (3) for equipment leaks, with the Notification of Compliance Status Reports required in subpart H included in the Notification of Compliance Status Report required in this subpart.
10. comply with the equipment leak requirements of subpart UU of this part for existing or new cellulose ether affected sources.	comply with the notification requirements specified in § 63.1039(a) for equipment leaks, with the Notification Compliance Status Reports required in subpart UU of this part included in the Notification of Compliance Status Report required in this subpart.
11. comply with the wastewater requirements of subparts F and G of this part for existing or new cellulose ether affected sources.	comply with the notification requirements specified in §§ 63.146(a) and (b), 63.151, and 63.152(a)(1) through (3) and (b)(1) through (5) for wastewater, with the Notification of Compliance Status Reports required in subpart G of this part included in the Notification of Compliance Status Report required in this subpart.

TABLE 8 TO SUBPART UUUU OF PART 63.—REPORTING REQUIREMENTS

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

You must submit a compliance report, which must contain the following information . . .	and you must submit the report . . .
1. if there are no deviations from any emission limit, operating limit, or work practice standard during the reporting period, then the report must contain the information specified in § 63.5580(c); 2. if there were no periods during which the CMS was out-of-control, then the report must contain a statement that there were no periods during which the CMS was out-of-control during the reporting period; you must develop and include specifications for out-of-control operation in the CMS quality control plan required under § 63.8(d)(2); 3. if there is a deviation from any emission limit, operating limit, or work practice standard during the reporting period, then the report must contain the information specified in § 63.5580(c) and (d); 4. if there were periods during which the CMS was out-of-control, then the report must contain the information specified in § 63.5580(e); 5. if you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your SSM plan, then the report must contain the information specified in § 63.10(d)(5)(i); 6. if you had a startup, shutdown, or malfunction during the reporting period and you took actions that are not consistent with your SSM plan, then the report must contain the information specified in § 63.10(d)(5)(ii); 7. the report must contain any change in information already provided, as specified in § 63.9(j); 8. for cellulose ether affected sources complying with the equipment leak requirements of subpart H of this part, the report must contain the information specified in § 63.182(a)(3) and (6) and (d)(2) through (4); 9. for cellulose ether affected sources complying with the equipment leak requirements of subpart UU of this part, the report must contain the information specified in § 63.1039(b); 10. for cellulose ether affected sources complying with the wastewater requirements of subparts F and G of this part, the report must contain the information specified in §§ 63.146(c) through (e) and 63.152(a)(4) and (5) and (c) through (e); 11. for affected sources complying with the closed-vent system provisions in § 63.148, the report must contain the information specified in § 63.148(j)(1); 12. for affected sources complying with the bypass line provisions in § 63.148(f), the report must contain the information specified in § 63.148(j)(2) and (3); 13. for affected sources invoking the delay of repair provisions in § 63.104(e) for heat exchanger systems, the next compliance report must contain the information in § 63.104(f)(2)(i) through (iv); if the leak remains unrepaired, the information must also be submitted in each subsequent compliance report until the repair of the leak is reported; and 14. for storage vessels subject to the emission limits and work practice standards in Table 1 to Subpart UUUU, the report must contain the periods of planned routine maintenance during which the control device does not comply with the emission limits or work practice standards in Table 1 to this subpart	semiannually as specified in § 63.5580(b).

TABLE 9 TO SUBPART UUUU OF PART 63.—RECORDKEEPING REQUIREMENTS

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

If you operate . . .	then you must keep . . .	and the record(s) must contain . . .
1. an existing or new affected source.	a copy of each notification and report that you submitted to comply with this subpart.	all documentation supporting any Initial Notification or Notification of Compliance Status Report that you submitted, according to the requirements in § 63.10(b)(2)(xiv), and any compliance report required under this subpart.

TABLE 9 TO SUBPART UUUU OF PART 63.—RECORDKEEPING REQUIREMENTS—Continued

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

If you operate . . .	then you must keep . . .	and the record(s) must contain . . .
2. an existing or new affected source.	a. the records in § 63.6(e)(3)(iii) through (iv) related to startup, shutdown, and malfunction.	i. SSM plan; ii. when actions taken during a startup, shutdown, or malfunction are consistent with the procedures specified in the SSM plan, records demonstrating that the procedures specified in the plan were followed; iii. records of the occurrence and duration of each startup, shutdown, or malfunction; and iv. when actions taken during a startup, shutdown, or malfunction are not consistent with the procedures specified in the SSM plan, records of the actions taken for that event.
3. an existing or new affected source.	a. a site-specific monitoring plan ..	i. information regarding the installation of the CMS sampling source probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (e.g., on or downstream of the last control device); ii. performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system; iii. performance evaluation procedures and acceptance criteria (e.g., calibrations); iv. ongoing operation and maintenance procedures in accordance with the general requirements of §§ 63.8(c)(1), (3), and (4)(ii) and 63.5580(c)(6); v. ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d)(2); and vi. ongoing recordkeeping and reporting procedures in accordance with the general requirements of §§ 63.10(c), (e)(1), and (e)(2)(i) and 63.5585.
4. an existing or new affected source.	records of performance tests and CEMS performance evaluations, as required in § 63.10(b)(2)(viii) and any other initial compliance demonstrations.	all results of performance tests, CEMS performance evaluations, and any other initial compliance demonstrations, including analysis of samples, determination of emissions, and raw data.
5. an existing or new affected source.	a. records for each CEMS	i. records described in § 63.10(b)(2)(vi) through (xi); ii. previous (superseded) versions of the performance evaluation plan as required in § 63.8(d)(3); iii. request for alternatives to relative accuracy test for CEMS as required in § 63.8(f)(6)(i); iv. records of the date and time that each deviation started and stopped, and whether the deviation occurred during a period of startup, shutdown, or malfunction or during another period; and v. records required in Table 6 to Subpart UUUU to show continuous compliance with the operating limit.
6. an existing or new affected source.	a. records for each CPMS	i. records required in Table 6 to Subpart UUUU to show continuous compliance with each operating limit that applies to you; and ii. results of each CPMS calibration, validation check, and inspection required by § 63.5545(b)(4).
7. an existing or new cellulose ether affected ether source.	records of closed-loop systems	records certifying that a closed-loop system is in use for cellulose ether operations.
8. an existing or new viscose process affected source.	records of nitrogen unloading and storage systems or nitrogen unloading systems.	records certifying that a nitrogen unloading and storage system or nitrogen unloading system is in use.
9. an existing or new viscose process affected source.	records of material balances	all pertinent data from the material balances used to estimate the 6-month rolling average percent reduction in HAP emissions.
10. an existing or new viscose process affected source.	records of calculations	documenting the percent reduction in HAP emissions using pertinent data from the material balances.
11. an existing or new cellulose ether affected source.	a. extended cookout records	i. the amount of HAP charged to the reactor; ii. the grade of product produced; iii. the calculated amount of HAP remaining before extended cookout; and iv. information showing that extended cookout was employed.
12. an existing or new cellulose ether affected source.	a. equipment leak records	i. the records specified in § 63.181 for equipment leaks; or ii. the records specified in 63.1038 for equipment leaks.
13. an existing or new cellulose ether affected source.	wastewater records	the records specified in §§ 63.105, 63.147, and 63.152(f) and (g) for wastewater.
14. an existing or new affected source.	closed-vent system records	the records specified in § 63.148(i).

TABLE 9 TO SUBPART UUUU OF PART 63.—RECORDKEEPING REQUIREMENTS—Continued

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

If you operate . . .	then you must keep . . .	and the record(s) must contain . . .
15. an existing or new affected source.	a. bypass line records	i. hourly records of flow indicator operation and detection of any diversion during the hour and records of all periods when the vent stream is diverted from the control stream or the flow indicator is not operating; or ii. the records of the monthly visual inspection of the seal or closure mechanism and of all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type lock has been checked out and records of any car-seal that has broken.
16. an existing or new affected source.	heat exchanger system records	records of the results of inspections and repair according to source § 63.104(f)(1).
17. an existing or new affected source.	control device maintenance records.	records of planned routine maintenance for control devices used to comply with the percent reduction emission limit for storage vessels in Table 1 to Subpart UUUU.
18. an existing or new affected source.	safety device records	a record of each time a safety device is opened to avoid unsafe conditions according to § 63.5505(d).

TABLE 10 TO SUBPART UUUU OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART UUUU

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

Citation	Subject	Brief description	Applies to Subpart UUUU
§ 63.1	Applicability	Initial applicability determination; applicability after standard established; permit requirements; extensions, notifications.	Yes.
§ 63.2	Definitions	Definitions for part 63 standards	Yes.
§ 63.3	Units and Abbreviations	Units and abbreviations for part 63 standards.	Yes.
§ 63.4	Prohibited Activities	Prohibited activities; compliance date; circumvention, severability.	Yes.
§ 63.5	Construction and Reconstruction	Applicability; applications; approvals	Yes.
§ 63.6(a)	Applicability	General provisions apply unless compliance extension; general provisions apply to area sources that become major.	Yes.
§ 63.6(b)(1) through(4)	Compliance Dates for New and Reconstructed sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for CAA section 112(f).	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes.
§ 63.6(b)(6)	[Reserved].		
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources That Become Major.	Area sources that become major must comply with major source and standards immediately upon becoming major, regardless of whether required to comply when they were an area source.	Yes.
§ 63.6(c)(1) and (2)	Compliance Dates for Existing Sources.	Comply according to date in subpart, which must be no later than 3 years after effective date; for CAA section 112(f) standards, comply within 90 days of effective date unless compliance extension.	Yes, except that existing rayon operations are given 8 years to comply with 40% reduction emission limit, as specified in § 63.5495(b)(2)(iii).
§ 63.6(c)(3) and (4)	[Reserved].		
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources That Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (e.g., 3 years).	Yes.
§ 63.6(d)	[Reserved].		

TABLE 10 TO SUBPART UUUU OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART UUUU—Continued

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

Citation	Subject	Brief description	Applies to Subpart UUUU
§ 63.6(e)(1) and (2)	Operation and Maintenance	Operate to minimize emissions at all times; correct malfunctions as soon as practicable; operation and maintenance requirements independently enforceable; information Administrator will use to determine if operation and maintenance requirements were met.	Yes.
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction Plan.	Requirement for startup, shutdown, and malfunction and SSM plan; content of SSM plan.	Yes.
§ 63.6(f)(1)	Compliance Except During SSM	You must comply with emission standards at all times except during SSM.	Yes.
§ 63.6(f)(2) and (3)	Methods for Determining Compliance.	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes.
§ 63.6(g)(1) through (3)	Alternative Standard	Procedures for getting an alternative standard.	Yes.
§ 63.6(h)	Opacity and Visible Emission (VE) Standards.	Requirements for opacity and visible emission limits.	Yes, but only for flares for which EPA Method 22 observations are required under § 63.11(b).
§ 63.6(i)(1) through (14)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes.
§ 63.6(j)	Presidential Compliance Exemption	President may exempt source category from requirement to comply with subpart.	Yes.
§ 63.7(a)(1) and (2)	Performance Test Dates	Dates for conducting initial performance test; testing and other compliance demonstrations; must conduct 180 days after first subject to subpart.	Yes.
§ 63.7(a)(3)	Section 114 Authority	Administrator may require a performance test under CAA Section 114 at any time.	Yes.
§ 63.7(b)(1)	Notification of Performance Test	Must notify Administrator 60 days before the test.	Yes.
§ 63.7(b)(2)	Notification of Rescheduling	If rescheduling a performance test is necessary, must notify Administrator 5 days before scheduled date of rescheduled test.	Yes.
§ 63.7(c)	Quality Assurance and Test Plan	Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with; test plan approval procedures; performance audit requirements; internal and external QA procedures for testing.	No.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests.	Performance tests must be conducted under representative conditions; cannot conduct performance tests during SSM; not a violation to exceed standard during SSM.	Yes, except that performance tests for batch process vents must be conducted under other conditions, as specified in Table 4 to this subpart.
§ 63.7(e)(2)	Conditions for Conducting Performance Tests.	Must conduct according to this subpart and EPA test methods unless Administrator approves alternative.	Yes.
§ 63.7(e)(3)	Test Run Duration	Must have three test runs of at least 1 hour each; compliance is based on arithmetic mean of three runs; conditions when data from an additional test run can be used.	Yes.
§ 63.7(f)	Alternative Test Method	Procedures by which Administrator can grant approval to use an alternative test method.	Yes.

TABLE 10 TO SUBPART UUUU OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART UUUU—Continued

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

Citation	Subject	Brief description	Applies to Subpart UUUU
§ 63.7(g)	Performance Test Data Analysis	Must include raw data in performance test report; must submit performance test data 60 days after end of test with the Notification of Compliance Status Report; keep data for 5 years.	Yes.
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test.	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements.	Subject to all monitoring requirements in standard.	Yes.
§ 63.8(a)(2)	Performance Specifications	Performance specifications in Appendix B of 40 CFR part 60 apply.	Yes.
§ 63.8(a)(3)	[Reserved].		
§ 63.8(a)(4)	Monitoring with Flares	Unless your subpart says otherwise, the requirements for flares in § 63.11 apply.	Yes.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes.
§ 63.8(b)(2) and (3)	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing monitoring systems; must install on each effluent before it is combined and before it is released to the atmosphere unless Administrator approves otherwise; if more than one monitoring system on an emission point, must report all monitoring system results, unless one monitoring system is a backup.	Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance.	Maintain monitoring system in a manner consistent with good air pollution control practices.	Yes.
§ 63.8(c)(1)(i)	Routine and Predictable SSM	Follow the SSM plan for routine repairs; keep parts for routine repairs readily available; reporting requirements for SSM when action is described in SSM plan.	Yes.
§ 63.8(c)(1)(ii)	SSM Not in SSM plan	Reporting requirements for SSM when action is not described in SSM plan.	Yes.
§ 63.8(c)(1)(iii)	Compliance with Operation and Maintenance Requirements.	How Administrator determines if source complying with operation and maintenance requirements; review of source operation and maintenance procedures, records; manufacturer's instructions, recommendations; inspection.	Yes.
§ 63.8(c)(2) and (3)	Monitoring System Installation	Must install to get representative emission of parameter measurements; must verify operational status before or at performance test.	Yes.
§ 63.8(c)(4)	Continuous Monitoring System (CMS) Requirements.	CMS must be operating except during breakdown, out-of control, repair, maintenance, and high-level calibration drifts.	No. Replaced with language in § 63.5560.
§ 63.8(c)(4)(i) and (ii)	Continuous Monitoring System (CMS) Requirements.	Continuous opacity monitoring systems (COMS) must have a minimum of one cycle of sampling and analysis for each successive 10-second period and one cycle of data recording for each successive 6-minute period; CEMS must have a minimum of one cycle of operation for each successive 15-minute period.	Yes, except that § 63.8(c)(4)(i) does not apply because subpart UUUU does not require COMS.

TABLE 10 TO SUBPART UUUU OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART UUUU—Continued

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

Citation	Subject	Brief description	Applies to Subpart UUUU
§ 63.8(c)(5)	COMS Minimum Procedures	COMS minimum procedures	No. Subpart UUUU does not require COMS.
§ 63.8(c)(6)	CMS Requirements	Zero and high level calibration check requirements; out-of-control periods.	No. Replaced with language in § 63.5545.
§ 63.8(c)(7) and (8)	CMS Requirements	Out-of-control periods, including reporting.	No. Replaced with language in § 63.5580(c)(6).
§ 63.8(d)	CMS Quality Control	Requirements for CMS quality control, including calibration, etc.; must keep quality control plan on record for 5 years; keep old versions for 5 years after revisions.	No, except for requirements in § 63.8(d)(2).
§ 63.8(e)	CMS Performance Evaluation	Notification, performance evaluation test plan, reports.	Yes, except that § 63.8(e)(5)(ii) does not apply because subpart UUUU does not require COMS.
§ 63.8(f)(1) through (5)	Alternative Monitoring Method	Procedures for Administrator to approve alternative monitoring.	Yes, except that no site-specific test plan is required. The request to use an alternative monitoring method must be submitted with the notification of performance test or CEMS performance evaluation or 60 days prior to any initial compliance demonstration.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test.	Procedures for Administrator to approve alternative relative accuracy tests for CEMS.	Yes.
§ 63.8(g)(1) through (4)	Data Reduction	COMS 6-minute averages calculated over at least 36 evenly spaced data points; CEMS 1-hour averages computed over at least four equally spaced data points; data that cannot be used in average.	No. Replaced with language in § 63.5545(e).
§ 63.8(g)(5)	Data Reduction	Data that cannot be used in computing averages for CEMS and COMS.	No. Replaced with language in § 63.5560(b).
§ 63.9(a)	Notification Requirements	Applicability and State delegation	Yes.
§ 63.9(b)(1) through (5)	Initial Notifications	Submit notification subject 120 days after effective date; notification of intent to construct or reconstruct; notification of commencement of construction or reconstruction; notification of startup; contents of each.	Yes.
§ 63.9(c)	Request for Compliance Extension	Can request if cannot comply by date or if installed BACT/LAER.	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes.
§ 63.9(e)	Notification of Performance Test	Notify Administrator 60 days prior	Yes.
§ 63.9(f)	Notification of VE or Opacity Test	Notify Administrator 30 days prior	Yes, but only for flares for which EPA Method 22 observations are required as part of a flare compliance assessment.
§ 63.9(g)	Additional Notifications When Using CMS.	Notification of performance evaluation; notification using COMS data; notification that exceeded criterion for relative accuracy.	Yes, except that § 63.9(g)(2) does not apply because subpart UUUU does not require COMS.
§ 63.9(h)(1) through (6)	Notification of Compliance Status Report.	Contents; due 60 days after end of performance test or other compliance demonstration, except for opacity or VE, which are due 30 days after; when to submit to Federal vs. State authority.	Yes, except that Table 7 to this subpart specifies the submittal date for the notification. The contents of the notification will also include the results of EPA Method 22 observations required as part of a flare compliance assessment.

TABLE 10 TO SUBPART UUUU OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART UUUU—Continued

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

Citation	Subject	Brief description	Applies to Subpart UUUU
§ 63.9(i)	Adjustment of Submittal Deadlines	Procedures for Administrator to approve change in when notifications must be submitted.	Yes.
§ 63.9(j)	Change in Previous Information	Must submit within 15 days after the change.	Yes, except that the notification must be submitted as part of the next semiannual compliance report, as specified in Table 8 to this subpart.
§ 63.10(a)	Recordkeeping and Reporting	Applies to all, unless compliance extension; when to submit to Federal vs. State authority; procedures for owners of more than one source.	Yes.
§ 63.10(b)(1)	Recordkeeping and Reporting	General requirements; keep all records readily available; keep for 5 years.	Yes.
§ 63.10(b)(2)(i) through (iv)	Records Related to Startup, Shutdown, and Malfunction.	Occurrence of each of operation (process equipment); occurrence of each malfunction of air pollution equipment; maintenance on air pollution control equipment; actions during startup, shutdown, and malfunction.	Yes.
§ 63.10(b)(2)(vi), (x), and (xi)	CMS Records	Malfunctions, inoperative, out-of-control; calibration checks, adjustments, maintenance.	Yes.
§ 63.10(b)(2)(vii) and (ix)	Records	Measurements to demonstrate compliance with emission limits; performance test, performance evaluation, and VE observation results; measurements to determine conditions of performance tests and performance evaluations.	Yes, including results of EPA Method 22 observations required as part of a flare compliance assessment.
§ 63.10(b)(2)(xii)	Records	Records when under waiver	Yes.
§ 63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test.	Yes.
§ 63.10(b)(2)(xiv)	Records	All documentation supporting Initial Notification and Notification of Compliance Status Report.	Yes.
§ 63.10(b)(3)	Records	Applicability determinations	Yes.
§ 63.10(c)(1) through (6), (9) through (15).	Records	Additional records for CMS	Yes.
§ 63.10(c)(7) and (8)	Records	Records of excess emissions and parameter monitoring exceedances for CMS.	No. Replaced with language in Table 9 to this subpart.
§ 63.10(d)(1)	General Reporting Requirements	Requirement to report	Yes.
§ 63.10(d)(2)	Report of Performance Test Results	When to submit to Federal or State authority.	Yes, except that Table 7 to this subpart specifies the submittal date for the Notification of Compliance Status Report.
§ 63.10(d)(3)	Reporting Opacity or VE Observations.	What to report and when	Yes, but only for flares for which EPA Method 22 observations are required as part of a flare compliance assessment.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes.
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.	Contents and submission	Yes, except that the immediate SSM report must be submitted as part of the next semiannual compliance report, as specified in Table 8 to this subpart.
§ 63.10(e)(1) and (2)	Additional CMS Reports	Must report results for each CEMS on a unit; written copy of performance evaluation; three copies of COMS performance evaluation.	Yes, except that § 63.10(e)(2)(ii) does not apply because subpart UUUU does not require COMS.
§ 63.10(e)(3)	Reports	Excess emission reports	No. Replaced with language in § 63.5580.

TABLE 10 TO SUBPART UUUU OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART UUUU—Continued

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

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

[FR Doc. 02–12770 Filed 6–10–02; 8:45 am]

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Federal Register

Wednesday,
June 12, 2002

Part VII

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7229–4]

RIN 2060–AE44

National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendment.

SUMMARY: The EPA received adverse comment on the direct final action published on December 17, 2001 (66 FR 65072) to amend the national emission standards for hazardous air pollutants from phosphoric acid manufacturing plants and phosphate fertilizers production plants. We stated in that direct final action that, if we received adverse comment by January 16, 2002, we would publish a timely withdrawal in the **Federal Register**. We, however, did not publish the withdrawal prior to the February 15, 2002 effective date of the direct final rule as we did not receive the comment until February 12, 2002. (As explained further below, the comment was dated within the time period specified for submitting comments, and we assume that our late receipt of the comment resulted from problems with mail delivery in the Washington, DC area in the aftermath of the events of September 11, 2001.) In this action, we are removing one of the amendments (an emission limit) that was published in the December 17, 2001 direct final rule for phosphoric acid manufacturing plants and reinstating the corresponding emission limit in existence prior to the effective date of the direct final rule. We will address the adverse comment in a subsequent final action based on the parallel proposal also published on December 17, 2001. Notice of that final action should be published in the **Federal Register** in the very near future.

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(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 rule final without notice and comment procedures because under the terms of the December 17, 2001 direct final action, this amendment to the national emission standards for phosphoric acid manufacturing plants should not have occurred. Thus, notice and comment are contrary to the public interest and unnecessary. We find that the circumstances described constitute good cause under 5 U.S.C. 553(b)(3)(B) and 553(d)(3) which authorizes an agency to make a rule immediately effective where it finds that there is good cause for doing so.

EFFECTIVE DATE: June 12, 2002.

ADDRESSES: Docket No. A–94–02, containing information relevant to the direct final action being withdrawn, is available for public inspection between 8:00 a.m. and 5:30 p.m., Monday through Friday (except for legal holidays) at the following address: Air and Radiation Docket and Information Center (6102), U.S. EPA, 401 M Street, SW., Room M–1500, Waterside Mall (ground floor), Washington, DC 20460 or by phoning the Air Docket Office at (202) 260–7548. Refer to Docket No. A–94–02. The Docket Office may charge a reasonable fee for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Tanya Medley, Environmental Protection Agency, Office of Air Quality Planning and Standards, at (919) 541–5422, e-mail: medley.tanya@epa.gov, facsimile (919) 541–5600.

SUPPLEMENTARY INFORMATION: On June 10, 1999 (64 FR 31358), we published the final national emission standards for hazardous air pollutants (NESHAP) for phosphoric acid manufacturing plants (40 CFR 63, subpart AA) and the NESHAP for phosphate fertilizers production plants (40 CFR 63, subpart BB). Subsequent to that publication, The Fertilizer Institute (TFI) filed a petition with the United States Court of Appeals for the District of Columbia Circuit challenging several aspects of the NESHAP for phosphoric acid manufacturing plants and phosphate fertilizers production plants.

The EPA entered into discussions with TFI on their issues and reached a Settlement Agreement on June 26, 2001. The NESHAP for phosphoric acid manufacturing plants and phosphate fertilizers production plants were subsequently amended to clarify our intent regarding the daily averaging of monitored operating parameters of air pollution control devices and the establishment of baseline average values for the monitored parameters; and to revise the particulate matter emission limit for phosphate rock calciners subject to the NESHAP for phosphoric acid manufacturing plants.

These amendments were accomplished through a direct final action (66 FR 65072) and a parallel proposal (66 FR 65079) published in the **Federal Register** on December 17, 2001.

We stated in the direct final action that if we received adverse comment by January 16, 2002, we would publish a withdrawal in the **Federal Register** that this direct final rule will not take effect. We received one adverse comment that addressed only the revised emission limit for particulate matter emissions from phosphate rock calciners that are subject to the NESHAP for phosphoric acid manufacturing plants. This comment letter was dated January 11, 2002, but EPA's Air Docket marked the letter as being received on February 12, 2002. For purposes of today's action, we assume that the comment was received after the official close of the comment period due to continuing delays in U.S. mail delivery to all EPA offices in Washington DC, including EPA's Air Docket, due to concerns about possible contamination. As a result, we are rescinding the change to the emission limit in 40 CFR 63.602 (d) established by the direct final rule and reinstating the emission limit in existence prior to the effective date of the direct final rule. That will give us an opportunity to further evaluate the merits of the comment and respond to it in the context of final action on the parallel proposal that was published along with the direct final rule.

Because we received an adverse comment on one of the amendments to the NESHAP for phosphoric acid manufacturing plants, the direct final rule effecting that amendment, by its terms, should not have become effective. We, therefore, are hereby removing that amendment in today's action, and reinstating the corresponding provision previously in existence.

This removal action is simply a ministerial correction of one provision (i.e. the revised emission limit for particulate emissions from phosphate rock calciners) in the prior direct final rulemaking, which by its terms should not have become effective because a party commented adversely on this amendment to the NESHAP for phosphoric acid manufacturing plants. Therefore, we are invoking the good cause exception under the APA, 5 U.S.C. 553(b)(3)(B) because we believe that notice-and-comment rulemaking of this removal action is contrary to the public interest and unnecessary. This removal action merely restores the regulatory text for the cited provision that existed prior to the direct final rule. We stated in the December 17, 2001

direct final action that should adverse comment be received, the rule would not take effect. The rule took effect because we did not publish a timely withdrawal in the **Federal Register** prior to the rule's effective date due to our late receipt of the adverse comment. It would be contrary to the public interest to keep the cited provision of the direct final rule in effect when it should not have taken effect in the first instance due to our receipt of an adverse comment.

Additionally, further notice-and-comment on this action is unnecessary because we are merely restoring the regulatory text of the provision as it existed prior to the amendment. We, therefore, find that there is good cause for making this action final without opportunity for notice and comment.

For the reasons described in the preceding paragraph, we find there is good cause, in accordance with the APA, 5 U.S.C. 553(d)(3), for the removal of the amended emission limit and reinstatement of the preexisting emission limit to become effective upon publication.

We will address the single public comment in a subsequent final action on the parallel proposed rule amendment.

Administrative Requirements

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. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, does not apply to this action. Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act 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 sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also is not subject to Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks, (62 FR 19885, April 23, 1997) because EPA interprets E.O. 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 rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. This rule is not subject to Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use because it is not a significant regulatory action under Executive Order 12866. This rule does not have any federalism implications under Executive Order 13132, Federalism. The Paper Reduction Act, and the National Technology Transfer and Advancement Act do not apply here. 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. 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, and established an effective date of June 12, 2002. The EPA will submit a report containing this 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.** This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 5, 2002.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended to read 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.*

2. Section 63.602 is amended by revising paragraph (d) to read as follows:

§ 63.602 Standards for existing sources.

* * * * *

(d) *Phosphate rock calciner.* On or after the date on which the performance test required to be conducted by §§ 63.7 and 63.606 is required to be completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain particulate matter in excess of 0.1810 gram per dry standard cubic meter (g/dscm)(0.060 grains per dry standard cubic foot (gr/dscf)).

* * * * *

[FR Doc. 02–14757 Filed 6–11–02; 8:45 am]

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Part III

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7214–9]

RIN 2060–AE41

National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for primary copper smelting. Primary copper smelters can potentially emit significant amounts of certain toxic metals listed as hazardous air pollutants (HAP) in Clean Air Act (CAA) section 112(b)(1). These metals include antimony, arsenic, beryllium, cadmium, cobalt, lead, manganese, nickel and selenium. Exposure to these substances has been demonstrated to cause adverse health effects such as diseases of the lung, kidney, central nervous system, and cancer. The final rule establishes emissions limitations and work practice standards for primary copper smelters that are (or are part of) a major source of HAP emissions and that use batch copper converters. The standards reflect the application of the maximum achievable control technology (MACT). When fully implemented, we estimate the rule will reduce annual nationwide HAP emissions from the source category by approximately 23 percent or 22 megagrams per year.

EFFECTIVE DATE: June 12, 2002.

ADDRESSES: Docket No. A–96–22 contains supporting information used in developing the rule. The docket is located at the U.S. EPA, 401 M Street, SW., Washington, DC 20460 in Room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene Crumpler, Metals Group, Emission Standards Division (C439–02), U.S. EPA, Research Triangle Park, NC, 27711, telephone number (919) 541–0881, facsimile number (919) 541–5450, electronic mail address "crumpler.gene@epa.gov".

SUPPLEMENTARY INFORMATION: *Docket.* The docket is an organized and complete file of all the information considered by the EPA in the development of the rule. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated rules and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See CAA section 307(d)(7)(A).) Other material related to this rulemaking is available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of today's final rule will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the rule will be posted 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. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Judicial Review. Today's action constitutes final administrative action on the proposed NESHAP for primary copper smelting (63 FR 19582, April 20, 1998; 65 FR 39326, June 26, 2000). Under CAA section 307(b)(1), judicial review of the final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by August 12, 2002. Under CAA section 307(b)(2), the requirements that are the subject of this document may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

Regulated Entities. Entities potentially regulated by this action are primary copper smelters (North American Industry Classification System (NAICS) Code 331411 Primary Smelting and Refining of Copper). No federal government entities nor State/local/tribal government entities are regulated by this rule.

This description of the regulated entities 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 § 63.1440 of the final rule. If you have any questions regarding the applicability of this action to a particular entity, consult the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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

I. Background
  A. What Is the Statutory Authority for NESHAP?
  B. What Criteria Are Used in the Development of NESHAP?
  C. How Did We Develop the Rule?
  D. How Has the Copper Industry Changed Since Rule Proposal?
II. Summary of Final Rule and Changes Since Proposal
  A. Who Must Comply With This Rule?
  B. What Sources at Primary Copper Smelters Are Affected?
  C. When Must an Affected Source Comply With the Standards?
  D. What Are the Emission Limits and Work Practice Standards?
  E. What Are the General Compliance Requirements?
  F. How Is Initial Compliance Demonstrated?
  G. How Is Continuous Compliance Demonstrated?
  H. What Are the Notification, Recordkeeping, and Reporting Requirements?
III. Summary of Health, Environmental, Energy, and Economic Impacts
  A. What Are the Health Impacts?
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  C. What the Other Non-air Environmental and Energy Impacts?
  D. What Are the Cost and Economic Impacts?
IV. Summary of Responses to Major Comments
  A. How Did We Select the Emission Limit for Sulfuric Acid Plant Tail Gas?
  B. How Did We Select the Emission Limit for Process Fugitive Emissions?
  C. How Did We Select MACT Floor for Pierce-Smith Converters?
  D. Why Did We Modify the Test Protocol Used to Determine Compliance With the Opacity Limits for Existing Copper Converter Departments?
  E. How Did We Select the Final Opacity Limits for Existing Copper Converter Departments?
  F. Why Did We Change the Compliance Date for Existing Sources?
  G. Why Did We Change the Inspection and Monitoring Requirements?
  H. Is the Kennecott Utah Copper Smelter a Major or Area Source of HAP Emissions?
  I. To What Extent Was the Kennecott Utah Copper Smelter Considered in the MACT Floor Determinations for

New and Existing Sources?
V. Administrative Requirements
A. Executive Order 12866, Regulatory Planning and Review
B. Executive Order 13132, Federalism
C. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
D. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments
E. Unfunded Mandates Reform Act of 1995
F. Regulatory Flexibility Act (RFA), as Amended by Small Business Regulatory Enforcement Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
G. Paperwork Reduction Act
H. National Technology Transfer and Advancement Act of 1995
I. Congressional Review Act
J. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

I. Background

A. What is the Statutory Authority for NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. The category of major sources covered by today's final NESHAP, "primary copper smelting," was listed on July 16, 1992 (57 FR 31576). Major sources of HAP are those that have the potential to emit greater than 10 tons per year (tpy) of any one HAP or 25 tpy of any combination of HAP.

B. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under CAA section 112(d)(3). In essence, the MACT floor ensures that the standards are set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better controlled and lower emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best performing 12 percent of existing sources in the category or subcategory (or the best performing five sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost of achieving the emissions reductions, any health and environmental impacts, and energy requirements.

C. How Did We Develop the Rule?

We proposed the NESHAP for the primary copper smelting source category on April 20, 1998 (63 FR 19582). A 90-day comment period was provided for the proposed rule. We received a total of 11 comment letters. A copy of each of these comment letters is available in the docket for this rulemaking (Docket No. A–96–22).

After our review and evaluation of the comments and additional information we collected after proposal, we decided that several changes to our proposed rule were appropriate. On June 26, 2000, a supplemental proposal to the rule was published in the **Federal Register** (65 FR 39326). Specifically, we proposed a particulate matter emission limit for sulfuric acid plants used at primary copper smelters to control the process off-gas discharged from the smelting and converting operations. We also proposed a limit on bag leak detector alarms for those baghouses used to comply with the particulate emission limit standards under the rule. A 60-day comment period was provided for the supplemental proposal. We received a total of eight comment letters regarding our supplement to the proposed rule. A copy of each of these letters also is available in Docket No. A–96–22.

All of the comments regarding the primary copper smelter NESHAP were reviewed and carefully considered. To clarify and obtain additional information about some specific comments, we held follow-up discussions with individual commenters. The promulgated rule reflects our full consideration of all the comments we received on the initial and supplemental rule proposals.

D. How Has the Copper Industry Changed Since Rule Proposal?

Since proposal of the NESHAP for the primary copper smelting source category, several changes have occurred in the copper industry in the United States. First, corporate ownership has changed for three of the primary copper smelters potentially subject to the NESHAP. The smelter near Miami, Arizona, owned and operated by the Cyprus Miami Mining Corporation during the time we were developing the proposed rule, is now owned by the Phelps Dodge Corporation. The name of this smelter is now the Phelps Dodge Miami smelter. The smelters located in Hayden, Arizona and El Paso, Texas were owned and operated by Asarco Incorporated at the time of rule proposal. As a result of a corporate merger, Asarco is now a subsidiary of Groupo Mexico, S.A. de C.V., the third largest producer of copper in the world.

Second, since proposal of the rule, four of the smelters potentially subject to the NESHAP have suspended operations and are not producing copper: the Asarco smelter in El Paso, Texas; the BHP Copper smelter near San Manuel, Arizona; and both of the Phelps Dodge smelters in New Mexico. At this time, it is unknown when and even if these smelters will resume production.

II. Summary of Final Rule and Changes Since Proposal

After the proposal of the NESHAP for primary copper smelters, the EPA adopted a new "plain language" format for all rulemakings. Accordingly, we have revised the organization, wording style, and presentation of the final rule. While these changes to the rule make it appear substantially different from the proposed rule, most of the technical and administrative requirements remain the same as proposed. In addition, for the final rule, we are correcting the name of the source category as published in the proposed rule from primary copper smelters to primary copper smelting, which is the way the source category name appears on the source category list and promulgation schedule.

A. Who Must Comply With This Rule?

The final rule applies to any owner or operator of a primary copper smelter that is a major source of HAP emissions and uses batch copper converters. A batch converter is a cylindrical vessel in which copper matte produced by the flash smelting of copper ore concentrates is oxidized in discrete batches following a sequence of steps consisting of charging, blowing, skimming, and pouring. Examples of batch converters are Pierce-Smith converters and Hoboken converters. A smelter that uses batch converters but is not a major source of HAP emissions is not subject to the rule.

For the final rule, we changed the definition of "primary copper smelter" to be consistent with the definition that is used in two related rules applicable to primary copper smelters. These are 40 CFR part 60, subpart P, Standards of Performance for Primary Copper Smelters, and 40 CFR part 61, subpart O, National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters. A primary copper smelter is defined as any installation or intermediate process engaged in the production of copper from copper sulfide ore concentrates through the use of pyrometallurgical techniques.

B. What Sources at Primary Copper Smelters Are Affected?

The final rule establishes standards for: (1) Copper concentrate dryers; (2) smelting furnaces; (3) slag cleaning vessels; (4) batch converters; and (5) fugitive dust sources associated with the handling, transfer, and storage of copper concentrate, dross, reverts, slag, speiss, and other solid copper-bearing materials.

C. When Must an Affected Source Comply With the Standards?

For the final rule, the compliance date for existing sources is 3 years from June 12, 2002. An affected source is an existing source if its construction began before April 20, 1998. An affected source is a new source if its construction or reconstruction began on or after April 20, 1998. An affected source has been reconstructed if it meets the definition of "reconstruction" in 40 CFR 63.2. A new or reconstructed source must be in compliance on June 12, 2002, or, if it is not yet operational, upon initial startup of the source.

D. What Are the Emission Limits and Work Practice Standards?

1. Copper Concentrate Dryers

The emission limit for an existing copper concentrate dryer is no more than 50 milligrams per dry standard cubic meter (mg/dscm) of total particulate matter, as measured by Method 5—Determination of Particulate Emissions From Stationary Sources in 40 CFR part 60, appendix A. The emission limit for a new copper concentrate dryer is no more than 23 mg/dscm of total particulate matter, as measured by Method 5.

2. Smelting Furnaces

We changed the proposed emission limit (in the supplemental proposal) for the by-product sulfuric acid plant tail gas from a limit on total particulate matter to a limit on nonsulfuric acid particulate matter. Under the final rule, nonsulfuric acid particulate matter in the tail gas discharged to the atmosphere from sulfuric acid plant can be no more than 6.2 mg/dscm, as measured by Method 5B—Determination of Nonsulfuric Acid Particulate Matter From Stationary Sources in 40 CFR part 60, appendix A.

A second revision to the standards for smelting furnaces is the particulate matter emission limit for process fugitive emissions from matte and slag tapping. The limit has been changed from 16 mg/dscm to 23 mg/dscm of total particulate matter, as measured by Method 5. The value of this emission limit was changed based on our reconsideration of the test data.

3. Slag Cleaning Vessels

The standards for slag cleaning vessels have been revised to be consistent with changes discussed above that we made for the process off-gas and process fugitive emission limits for smelting furnaces. The final standard requires that the process off-gas from slag cleaning vessels be vented to a sulfuric acid plant that meets a 6.2 mg/dscm emission limit for nonsulfuric acid particulate matter (as measured by Method 5B). As an alternative to meeting this standard, an owner or operator may choose to vent the process off-gas from the slag cleaning vessel to a wet scrubber that meets a 46 mg/dscm emission limit for total particulate matter (as measured using Method 5). The particulate matter limit for process fugitive emissions generated by tapping molten material from the slag cleaning vessel is revised to be consistent with the standard for smelting furnaces (23 mg/dscm of total particulate matter, as measured by Method 5).

4. Copper Converter Departments

Where applicable, the standards for batch converters have been revised to be consistent with the final particulate matter emission limits for process off-gas and process fugitive emissions from smelting furnaces. Process off-gas captured during converter blowing must be vented to the smelter's sulfuric acid plant that meets the 6.2 mg/dscm emission limit for nonsulfuric acid particulate matter. The particulate matter limit for process fugitive emissions generated by converter operations is set at 23 mg/dscm of total particulate matter, as measured by Method 5.

We also made several revisions to the proposed opacity limit requirements for copper converter departments. First, we modified the test protocol used to determine compliance with the applicable opacity limit. We revised how the field opacity data are compiled and averaged in order to reduce the duration of the observation period needed to obtain the required number of acceptable opacity readings. The test protocol in the final rule requires that the average opacity value for the affected source be calculated using a minimum of 120 1-minute intervals during which at least one copper converter was blowing and there were no visible emission interferences as specified in the rule (i.e., during the 1-minute interval, there were no other copper production events generating visible emissions inside the converter building that potentially could interfere with the visible emissions from the converter capture systems as seen by the outside observers).

Next, considering the above revision to the test protocol, we decided it was necessary to reexamine the test data used to establish the opacity limit for existing Pierce-Smith converters to determine the effect of using the new protocol on the proposed opacity limit. Based on this analysis, we changed the opacity limit for existing Pierce-Smith converter departments to 4 percent opacity. In the final rule, the opacity limit for existing Hoboken copper converter departments is the same value as proposed, 4 percent opacity.

Finally, we have reconsidered the selection of new source MACT for copper converter departments by applying the level of process fugitive emissions control achieved by the best controlled similar source, flash converting technology. Based on this new source MACT for copper converting operations, we have selected, as the final standard for new sources, a work practice standard that prohibits altogether the operation of batch copper converters at new copper converter departments subject to the rule.

5. Fugitive Dust Sources

The final standards for fugitive dust sources are the same as proposed with one change. We added the requirement that the fugitive dust control plan, which the smelter owner or operator is required to prepare and adhere to at all times, must be approved by the State with delegated authority for enforcement. For the purpose of complying with the final rule, an existing fugitive dust control plan may be used, provided that this plan addresses the fugitive dust sources and includes the information specified in the rule. An existing fugitive dust control plan that meets these conditions and also has been incorporated into a State implementation plan is considered

to be approved for the purpose of complying with this requirement.

6. Alternative Emission Limit for Combined Gas Streams

The equation in the final rule that an owner or operator can elect to use to determine an alternative or equivalent particulate matter emission limit for gas streams combined from two or more affected sources has been corrected to include a potential control situation that was inadvertently omitted at proposal. For the final rule, the equation includes a component to address the situation where the off-gas stream exhausted from a slag cleaning vessel is not vented to the sulfuric acid plant or a dedicated wet scrubbing system, but instead is combined with other gas streams and vented to a common particulate control device.

E. What Are the General Compliance Requirements?

A new section is added to the final rule listing the general requirements for complying with the rule. The owner or operator must be in compliance with each applicable particulate matter emission limit and work practice standard at all times, except during periods of startup, shutdown, and malfunction. Each smelter owner or operator must develop and implement a written startup, shutdown, and malfunction plan for the smelter according to the general provisions of 40 CFR part 63 and the additional requirements specified in the rule.

Compliance with the opacity limits for copper converter departments is determined using the test protocol and requirements specified in the rule. The general provision requirements for compliance with opacity and visible emission standards under 40 CFR 63.6(h) do not apply to the opacity limit standards for copper converter departments.

F. How Is Initial Compliance Demonstrated?

Initial compliance with each of the particulate matter emission limits is to be determined by a performance test conducted according to 40 CFR 63.7 of the general provisions and specific EPA reference test methods. The average of three test runs is to be used to determine compliance with each of the applicable emission limits specified in the rule. During each initial performance test, the owner or operator is also required to establish limits for appropriate control device operating parameters based on the actual values recorded during the performance test.

We reconsidered our proposed requirements for when an owner or operator must conduct a performance test and decided it is appropriate to require periodic testing beyond the initial performance test to reaffirm compliance with the applicable emission limitation. Under the final rule, compliance with each applicable particulate matter emission limit must be demonstrated initially and, thereafter, at least once per year.

G. How Is Continuous Compliance Demonstrated?

To demonstrate continuous compliance with the applicable emission limitations and work practice standards under the final rule, an owner or operator must perform periodic inspections and continuous monitoring of air pollution control devices used to comply with the rule. In those situations when a deviation from the operating limits specified for a control device or capture system is indicated by the monitoring system, or when a damaged or defective component is detected during an inspection, the owner or operator must implement the appropriate corrective actions. Monthly visual inspections of all capture systems used to comply with the rule are required. Minor revisions to the procedures for these inspections were made for the final rule.

Each baghouse used to comply with a total particulate matter emission limit must be operated according to written operating and maintenance procedures that describe in detail the procedures to be used for inspection, maintenance, bag leak detection, and corrective action for the baghouse. The final rule includes the requirement as proposed in the supplemental proposal for an alarm operating limit on baghouse leak detectors. We have made minor revisions to the procedures used for inspection, maintenance, bag leak detection, and corrective action for baghouses so that the rule is consistent with the requirements for baghouses in other NESHAP.

H. What Are the Notification, Recordkeeping, and Reporting Requirements?

The final rule requires the notification, recordkeeping, and reporting requirements in the general provisions to 40 CFR part 63 with one exception. The notification, recordkeeping, and reporting requirements in the general provisions related directly to compliance with opacity and visible emission standards as specified in 40 CFR 63.6(h) do not apply to this rule. The specific recordkeeping and reporting requirements for documenting compliance with the opacity limit provisions are specified in the rule. The dates by which the notifications and reports must be submitted to us (or the applicable delegated State authority) are specified in the rule.

Each affected owner or operator must submit a semiannual compliance report containing the information specified in the rule. The final rule requires that this report be submitted whether a deviation has or has not occurred during the reporting period. However, only summary information is required if no deviation occurred. The rule does not require emergency reports if actions taken are consistent with the smelter's startup, shutdown, and malfunction plan. If actions taken are not consistent with this plan, the events and the response are to be included in the semiannual compliance report.

III. Summary of Health, Environmental, Energy, and Economic Impacts

A. What Are the Health Impacts?

The HAP emitted from primary copper smelters include compounds of antimony, arsenic, beryllium, cadmium, cobalt, lead, manganese, nickel, and selenium. The HAP metal compounds controlled by this rule are associated with a variety of adverse health effects. These adverse health effects include chronic health disorders (e.g., diseases of the lung, kidney, central nervous system), and acute health disorders (e.g., lung irritation and congestion, alimentary effects such as nausea and vomiting, and effects on the central nervous system). Arsenic and nickel compounds have been classified by the EPA as human carcinogens, and compounds formed from four other HAP metals (beryllium, cadmium, lead, and nickel) have been classified as probable carcinogens.

Emission data collected during development of the rule indicate that the HAP emitted in the largest quantities are arsenic and lead compounds. Exposure of humans to arsenic by inhalation or by ingestion has been shown to be associated with forms of lung, bladder, liver, and other cancers. Brain damage, kidney damage, and gastrointestinal distress may occur from acute exposure to high levels of lead in humans. Chronic exposure to lead by humans results in effects on the central nervous system, blood, blood pressure, and kidneys.

We do not have the detailed data on each of the primary copper smelters potentially subject to this rule or the people living around the facilities

necessary to determine the actual population exposures to the HAP emitted from these smelters and the potential for resultant health effects. Therefore, we do not know the extent to which the adverse health effects occur in the populations surrounding these facilities. However, to the extent the adverse effects do occur, the rule will reduce emissions and subsequent exposures.

B. What Are the Air Emission Reduction Impacts?

Current nationwide HAP emissions from the three currently operating primary copper smelters potentially subject to the final rule are estimated to be about 96 megagrams per year (Mg/yr). We estimate that implementation of the final rule will reduce these nationwide HAP emissions by approximately 23 percent or 22 Mg/yr.

C. What Are Other Non-air Environmental and Energy Impacts?

With only three of the potentially regulated smelter operating at this time, one of the affected smelters will need to install additional air pollution control equipment to meet the copper converter department standards. The additional controls at this smelter consists of doubling the converter secondary hood ventilation rate and venting the secondary hoods to a new baghouse (fabric filter). The non-air environmental impacts associated with operating these new controls will be a small increase in the amount of solid waste generated at each smelter from the particulate matter collected in the new baghouse. Operation of the fans used to increase the converter secondary hood ventilation rates will result in a small increase in overall smelter electricity usage. No significant adverse solid waste or energy impacts are expected as a result of operating these additional air pollution controls.

D. What Are the Cost and Economic Impacts?

Costs to smelter owners and operators for complying with the final rule were estimated. As noted above, one smelters will need to install additional air pollution control equipment to meet the copper converter department standards. The total capital costs for the purchase and installation of this additional control is estimated to be $4.1 million. Total annual costs of meeting all of the requirements of the rule, including operating and maintenance costs, are estimated to be $860,000 per year.

The economic impact of the rule is determined by comparing the annualized costs incurred by each smelter to their estimated annual copper production revenues. The share of costs to estimated revenues for the affected smelters range from a low of 0.004 percent to a high of 0.2 percent. Thus, compared to the estimated production revenues for each affected smelter, the total annualized costs are minimal. Based on the smelter-specific total annual cost to sales ratios, impacts of the final rule on the companies owning the facilities are anticipated to be negligible. The economic impact analysis we prepared to support this finding is available in Docket No. A–96–22.

IV. Summary of Responses to Major Comments

A summary of our responses to selected major comments received on the proposed rule (including the supplemental proposal) is presented below. Our responses to all of the substantive public comments on the proposal are presented in the document titled *National Emission Standards for Hazardous Air Pollutant (NESHAP) for Primary Copper Smelters: Background Information Document for Promulgated Standards* (BID). The BID is available in Docket No. A–96–22.

A. How Did We Select the Emission Limit for Sulfuric Acid Plant Tail Gas?

Comment. Seven commenters disagreed with our proposal to establish a particulate emission limit for the tail gas exhaust from the by-product sulfuric acid plants used to treat the process off-gases discharged from smelting furnaces, slag cleaning vessels, and batch converters. Reasons cited include: (1) Method 5 is an inappropriate test method for measuring HAP concentrations in acid plant tail gas because Method 5 measures as particulate matter material that is not HAP (i.e., sulfuric acid mist and waters of hydration); and (2) the proposed numerical limit is based on data for only four sources not the five best performing sources as is required by CAA section 112 for establishing MACT.

Response. For the process off-gases discharged from smelting furnaces, slag cleaning vessels, and batch converters, we originally proposed an equipment standard that would require these sulfur dioxide rich process off-gases to be vented to a by-product sulfuric acid plant with its ancillary particulate matter precleaning and conditioning systems, or other type of sulfur recovery process unit capable of achieving comparable levels of particulate matter removal. At the time of proposal, all six smelters in the source category operated by-product sulfuric acid plants.

After careful review and evaluation of comments received objecting to our use of an equipment standard rather than a numerical emission limit and new emissions data obtained since proposal, we concluded that a change in the proposed standards for process off-gas emissions was warranted. As a result, we issued a supplement to the proposed rule (65 FR 39326, June 26, 2000) in which we proposed a numerical emission standard that would limit the concentration of total particulate matter in the off-gases discharged. Specifically, we proposed to set a total particulate matter emission limit for acid plant tail gas of 23 mg/dscm based on Method 5 measurements.

In response to the commenters' concerns regarding the use of total particulate matter as the surrogate for HAP and the use of Method 5 for determining compliance, we examined more closely the suitability of Method 5 for measuring particulate matter in tail gas from sulfuric acid plants at primary copper smelters. Method 5 is the basic reference test method used for determining particulate matter emissions from stationary sources. The sampling probe and filter temperature specified for Method 5 (250°F) is below the acid dewpoint for sulfuric acid. Consequently, when sampling sulfuric acid plant tail gas by Method 5, condensed sulfuric acid mist and waters of hydration not driven off at the sampling temperature are included in the probe wash and filter catch, along with any metal HAP contained in the tail gas. Thus, we agree that establishing and determining compliance with a total particulate matter emission limit based on Method 5 may include sulfuric acid mist condensables not related to the control or emissions of metal HAP. Based on some limited test data obtained using Arizona Method A1 (a test method adopted by the State of Arizona for measuring particulate matter in sulfur containing gas streams that excludes acid condensate), the condensate may account for as much as 12 percent of the total particulate catch.

Method 5B was developed specifically to measure nonsulfuric acid particulate matter in circumstances when appreciable quantities of condensable sulfuric acid are present in the stack exhaust to be tested. The procedure is identical to Method 5 except that the front-half of the Method 5 sampling train is maintained at 320°F instead of 250°F, and the probe and filter samples are to be heated in a oven to 320°F for 6 hours prior to weighing. At the higher sampling temperature, most of the sulfuric acid mist and waters of hydration present pass

through the probe and filter without condensing. Heating the probe wash residues and sample filter in an oven before weighing volatilizes any condensed sulfuric acid that may have collected in the front-half. Because sulfuric acid mist and waters of hydration are not counted as part of the total particulate catch, the total particulate matter concentration value measured in the front-half by Method 5B will be lower than the concentration value that would have been measured on the filter using Method 5. Given the gas stream characteristics of sulfuric acid plant tail gas, it is our conclusion that Method 5B is the appropriate test method to use for setting a particulate matter concentration limit that serves as a surrogate for metal HAP emissions contained in the tail gas from sulfuric acid plants.

Lacking any available Method 5B emissions test data to set an emission limit, we convened a meeting with company representatives of each of the six smelters potentially subject to the NESHAP. Two options were considered: (1) Derive an emission limit based on the available Method 5 test data and a conversion factor inferred from the limited Arizona Method 1A test data; or (2) gather actual Method 5B test data by testing each of the operating by-product sulfuric acid plants. The consensus view was that Method 5B testing was needed to establish a credible emission limit.

A test program was planned and implemented jointly by us and the companies owning the three copper smelters currently producing copper. The source tests were conducted by an independent consultant hired by the smelter companies. Four individual test runs were conducted at each of the three smelters. To our best knowledge, all of the tests were conducted at normal smelter production levels and under normal acid plant operating conditions.

We considered two approaches in selecting the level of the standard: (1) Base the emission limit on the highest credible individual run measured at the three smelters; or (2) base the limit on the highest three-run average measured at the highest emitting smelter. If we base the emission limit on the highest individual run, the standard expressed in concentration units would be 6.2 mg/dscm. If we base the emission limit using the highest three-run average (highest single performance test), the standard would be 5.0 mg/dscm.

In selecting the appropriate level for the emission limit, consideration was given to the full range of smelter process and acid plant operating conditions which could reasonably be foreseen to recur, under which the standard is to be achieved. This is especially important where the emission limit is applied to a gas stream in which the outlet loading will typically fluctuate within a range of values during the course of normal operations. After examining the design and operating conditions of the three acid plants tested, we can find no discernible differences among the three plants which would lead us to conclude that one is superior or inferior to another. In addition, we believe that each test run was conducted under conditions representative of acceptable sulfuric acid plant performance.

Based on the above considerations, we believe that the performance of the sulfuric acid plant under a reasonable worst case circumstance is best represented by the single highest individual run, and that selecting this highest value will ensure that the standard will be met under all foreseeable acceptable operating conditions. Therefore, we are selecting 6.2 mg/dscm of nonsulfuric acid particulate matter based on measurements using Method 5B as the emission limit for the sulfuric acid plant tail gas.

B. How Did We Select the Emission Limit for Process Fugitive Emissions?

Comment. Four commenters stated that the proposed emission limit of 16 mg/dscm for the process fugitive emissions from smelting furnaces, slag cleaning vessels, and batch converters is overly stringent and is not representative of the MACT floor. The commenters claimed that the source test data we used to select the value consisted of only a few source tests, and that these tests do not account for the range of variability in emissions associated with normal operating conditions. The commenters recommended that the value of the standard be increased to 50 mg/dscm which is consistent with the particulate matter emission limit we proposed for existing copper concentrate dryers.

Response. We selected the application of baghouses as MACT for controlling process fugitive HAP emissions based on the control devices used to control fugitive emissions (i.e., secondary emissions) from batch converters (63 FR 19595 and 19597, April 20, 1998). Four of the five smelters that use secondary hoods to capture the converter fugitive emissions vent the captured gas stream to a baghouse for control. The fifth smelter employs an electrostatic precipitator (ESP). Because the common practice at the smelters is to vent the emissions captured by the hoods over the smelting and slag cleaning vessel tapping ports to the same control device used to control converter secondary emissions, we also selected use of baghouses as the MACT floor for controlling process fugitive emissions from the matte and slag tapping operations at the smelting furnaces and slag cleaning vessels. Consistent with other NESHAP based on application of baghouses as MACT for control of particulate matter emissions, we selected concentration units as the format of the standard.

The data used to select the proposed emission limit consist of results from four performance tests, one test for each of the four smelters employing baghouses for the control of converter secondary emissions. Each test is comprised of three test runs conducted at the baghouse outlets using Method 5.

For the proposed emission limit, we selected the highest average concentration (16 mg/dscm) measured among the four performance tests. Since proposal, we have reexamined the data and our approach to setting the standard. A close review of each of the performance tests shows a high degree of variability and imprecision among individual test runs within a performance test, with the highest measured values ranging from 1½ to 4½ times the lowest measured values. Given the lack of precision among the test results, we reconsidered whether relying on the highest three-run average measured at one smelter truly accounts for the full range of acceptable process and control device operating conditions which could be reasonably foreseen to recur. We believe that a more conservative and, perhaps, better approach in this case is to set the standard based on the highest single credible test run. This will provide better assurance that the standard is achievable under reasonable worst case circumstances. Of the 12 individual test runs, the value of the highest run and the value selected for the final standard is 23 mg/dscm.

C. How Did We Select MACT Floor for Pierce-Smith Converters?

Comment. Several commenters disagreed with our MACT floor determination for existing Pierce-Smith converters. The commenters claimed that CAA section 112(d)(3) requires us to determine the MACT floor for existing sources based on applicable "emissions limitations" rather than relying on actual emissions data as we did for the proposed rule. Using an emissions limitations approach based on application of existing State regulations, the commenters concluded that the opacity limit for existing Pierce-

Smith converters should be established at a value of 40 percent opacity.

Response. We disagree with the commenters' assertion that CAA section 112(d)(3) requires us to establish MACT floors for existing sources based on applicable "emissions limitations." We have and continue to use several approaches to establishing MACT floors, depending on the type and quality of the available information. Typically, we examine several approaches and rely on the one best suited for each particular circumstance. The approaches include: (1) Reliance on information such as test data on actual emissions from the pool of sources (the best five sources or best 12 percent) that comprise the best performers; (2) information on applicable emissions limitations or standards specified in State and local regulations and/or operating permits; or (3) a technology approach based on the application of a specific control technology and accompanying performance data. We believe that each of these approaches has merit, and we have relied on using each to various degrees throughout the MACT program.

The emissions limitations approach to establish the MACT floor for Pierce-Smith converters was examined at proposal and dismissed. Of the five smelters in the source category that operate Pierce-Smith converters, only three are subject to an emissions limitation. The converter building at one smelter is subject to a zero percent opacity limit specified in the facility's operating permit. The converter buildings at the two smelters located in Arizona are arguably subject to the State's general 40 percent opacity limit applicable to process fugitive emissions from any source. The converter buildings at the remaining two smelters, both located in New Mexico, are not subject to an opacity limit. Then and now, the commenters supported establishing the MACT floor based on the median or third most stringent emissions limitation. Using this approach, the MACT floor would be 40 percent opacity.

The emissions limitation approach advanced by the commenters is workable only when the outcome produces a realistic inference of actual performance of the best performing sources. This has been affirmed unequivocally by the DC Circuit Court in *Sierra Club* vs. *EPA, 167F.3d.* in which the court opined that to comply with the statute, the EPA's method of setting emissions floors must reasonably estimate the performance of the relevant best performing sources. Observations made by us and the industry at all five of the smelters operating Pierce-Smith converters indicate that actual visible emissions from the converter buildings are typically in the range of zero percent to 10 percent opacity, well below the 40 percent opacity value supported by the commenters. Consequently, we believe that the use of the emissions limitation approach in this case is not appropriate.

Comment. The same commenters making the above comment further stated that if test data on actual emissions is used for determining the MACT floor for Pierce-Smith converters, then the average emissions limitation should be represented by the emissions data for the median performing source of the five best performing sources rather than the average of the emissions data for all five sources as was done for the proposed standard. In this case, the commenters claimed that the median technology for Pierce-Smith converters is the use of primary and secondary ventilation systems for the prevention and capture of emissions coupled with air pollution control devices for sulfur dioxide and particulate matter control. The commenters identified the controls used at the Hayden and Hidalgo smelters as the median technology for Pierce-Smith converters.

Response. We assessed how using the median technology approach would affect the selection of the MACT floor for Pierce-Smith converters. To do so, we evaluated each of the five smelters operating Pierce-Smith converters to determine the median performing source based on both performance data and engineering design. Using either approach, our assessment shows that the Chino Mines smelter is the median performing source of the five smelters that operate Pierce-Smith converters, not the Hayden or Hidalgo smelters as suggested by the commenters. In addition, the opacity value prescribed to the Chino Mines smelter is 3 percent, the same as the value we proposed for the opacity limit for Pierce-Smith converters based on averaging opacity data for all five sources.

To select the median technology based on source performance data, we ranked the converter capture systems used at the five smelters in order of decreasing performance using the average overall opacity value for each smelter. This ranking assumes that the average opacity value is indicative of the overall capture efficiency of the control system (i.e., the lower the opacity, the higher the capture efficiency). For our assessment, we used the overall average opacity values rounded to the next highest whole percent for the five smelters used for the MACT floor determination at proposal. The results of this ranking show that the best performing source is the El Paso smelter (zero percent opacity) followed by, in decreasing order, the San Manuel smelter (1 percent opacity), the Chino Mines smelter (3 percent), the Hidalgo smelter (5 percent), and the Hayden smelter (8 percent opacity). The median performing smelter of the five smelters that operate Pierce-Smith converters is the third best performer, the Chino Mines smelter.

For the engineering design assessment, we first assembled pertinent information on the primary and secondary capture systems used at each of the five affected smelters. The information included hood ventilation rates (both primary and secondary), converter blowing rates (amount of air blown through the tuyeres into the molten bath), and detailed information on the design and physical configurations of each secondary hood.

Each of the five smelters uses the same basic approach to capturing emissions from their Pierce-Smith converter during slag and copper blows. Specifically, a retractable primary hood for capturing the voluminous process emissions generated during blowing and a fixed or sliding secondary hood for capturing the secondary or fugitive emissions that escape capture by the primary hood. Although the basic approach used at each smelter is fundamentally the same, there are, however, differences among the smelters in both the design and operation of their primary and secondary capture systems that affect performance.

The El Paso smelter uses a converter capture system design that is unique compared to the designs used at any of the other smelters. Instead of the fixed or sliding secondary hood designs used by other four smelters, each converter at the El Paso smelter is equipped with an air curtain secondary hood. The air curtain hood encloses the sides and back area around the converter mouth. During converter blowing operations, a horizontal jet of air flows across the open top of the enclosure to provide a continuous sheet or curtain of air that sweeps the process fugitive emissions into an exhaust hood, and subsequently a particulate control device. Capture efficiencies in excess of 90 percent are achieved using air curtain hood systems. Also at the El Paso smelter, any process fugitive emissions that escape capture by the air curtain hoods are further controlled by evacuating the entire converter building to a particulate control device. Thus, effectively 100 percent of the process fugitive emissions from converter operations at the El Paso smelter are captured. Clearly, the use of

air curtain secondary hoods in combination with a tertiary building evacuation system represents the best capture system technology used at any of the five smelters that operate Pierce-Smith converters.

We believe that the second best performer is the San Manuel smelter which relies primarily on primary hood ventilation to effect capture. The San Manuel smelter is unique in that it has surplus by-product acid plant capacity which allows each of the converter primary hoods to operate at a substantially higher ventilation rate than is usual for other smelters. The primary hoods at the San Manuel smelter are operated at a primary hood ventilation rate to converter blowing rate ratio of 3.8. In contrast, for the converter primary hoods at other smelters, the ratios range from 2.2 to 2.6. As evidenced by the building opacity data for the San Manuel smelter, operation of the primary hoods at a substantially higher ventilation rate results in enhanced capture efficiency and minimal fugitive emissions due to leakage about the primary hood.

Our assessment of the remaining three smelters supports our earlier finding using the performance data approach; the median or third best performing smelter is the Chino Mines smelter. All three smelters operate their primary hoods similarly and each converter is equipped with a secondary hood. Each of the secondary hoods are, with minor variations, similar in design. The principal difference is that the ventilation rate during converter blowing used for the secondary hoods at the Chino Mines smelter 120,000 standard cubic feet per minute (scfm) is approximately twice that used at the Hayden or Hidalgo smelters (50,000 scfm and 60,000 scfm, respectively). We believe that by operating at this substantially higher ventilation rate, the secondary hood system operated at the Chino Mines smelter is more effective at capturing the process fugitive emissions that escape from the converter primary hood during blowing compared to the secondary capture systems used at the other two smelters. It is, thus, our conclusion that the emissions capture system applied at the Chino Mines smelter is the third best among the five smelters that operate Pierce-Smith converters.

Regardless of whether we base our assessment of performance on average opacity or on engineering design, the smelter that uses the third best performing or median control technology is the Chino Mines smelter. If we had used the median technology approach at proposal to select the opacity limit for smelters that operate Pierce-Smith converters, we would have selected 3 percent, the same value we proposed.

D. Why Did We Modify the Test Protocol Used To Determine Compliance with the Opacity Limits for Existing Copper Converter Departments?

We received no comments on the duration of the observation period needed to obtain the required number of acceptable opacity readings specified by the proposed test protocol for determining compliance with the opacity limits for existing copper converter departments. However, based on our experience using the protocol in the field and further analysis of the data that we collected using the protocol, we decided to revise the test protocol for the final rule with respect to how the opacity data are compiled and averaged in order to reduce the duration of the observation period needed to obtain the required number of acceptable opacity readings for a compliance determination.

The proposed test protocol specified making opacity readings using Method 9 over an observation period sufficient to obtain a minimum of 20 continuous 6-minute average opacity values during times when at least one converter is blowing and none of the specific visible emissions interferences listed in the test protocol has occurred. Our experience indicates that to obtain the minimum 20 continuous 6-minute averages required by the proposed test protocol, an observation period lasting 4 to 5 days or longer would be needed. This occurs for two reasons. First, Method 9 requires an observer when making opacity readings to be positioned with the sun to the observer's back and at a position from the source such that the observer's line-of-sight is approximately perpendicular to the longer axis of the converter building. This generally limits the window for observation at a smelter to 4 to 5 hours on any given day. Second, many of the continuous 6-minute periods are invalidated due to unavoidable, normal production events that occur inside the converter building that are unrelated to the converter blowing operations but also generate visible emissions. These visible emissions can potentially interfere with the visible emissions from the converter capture systems as seen by the outside observers. Because such interferences may misrepresent the actual performance of the converter capture system at a given smelter, the opacity readings made during these periods are invalidated and excluded from the compliance determination.

We have decided to revise the test protocol to allow for a shorter, more reasonable observation period to obtain the required number of acceptable opacity readings (i.e., opacity readings when there is at least one converter blowing without any visible emissions interferences). We are revising the test protocol to require averaging a minimum of 120 acceptable 1-minute average opacity values in place of the proposed 20 acceptable 6-minute average opacity values. Under the final test protocol, compliance will be demonstrated against the average opacity recorded for a minimum of 120 1-minute averages of eight readings per minute (a team of two opacity observers, each making four readings at 15-second intervals). This revision provides the same minimum number of opacity values for a performance test (a minimum total of 120 minutes of acceptable opacity readings) as the proposed procedure, without the additional restriction that the acceptable readings also must be made in continuous 6-minute blocks. With this change, smelter owners and operators should be able to obtain the required number of acceptable opacity readings in a more reasonable 1- to 2-day observation period.

E. How Did We Select the Final Opacity Limits for Existing Copper Converter Departments?

1. Pierce-Smith Converters

Because of our decision to change the test protocol to facilitate compliance determinations, we concluded that a reexamination of the proposed opacity limit for existing Pierce-Smith converters using the new protocol was warranted to determine whether using the protocol affected the proposed, and ultimately, the final opacity limit. As specified by the new protocol, we considered all 1-minute average opacity values recorded during the field observations when at least one converter was blowing, and there were no visible emissions interferences from other copper production activities or malfunctions inside the copper converter building. Consistent with the MACT floor approach we used at proposal, we based our selection of the MACT floor on the average of the test data for the five best performing sources (in this case, all five smelters in the source category that operate Pierce-Smith converters).

The field data considered at proposal and reexamined include a compilation of visible emission observations and process data gathered in the spring of 1997 at each of the smelters operating

Pierce-Smith or Hoboken converters. A description of the field data collection and analysis procedures used to compile the data is available in the preamble to the proposed rule (63 FR 19596). In general, a sufficient number of opacity observations were obtained during the site visits to compile a data base that included for each smelter a total of 400 to 500 minutes of 1-minute average opacity readings. Not included in these data are any opacity readings made at a smelter during periods when the converter operations were judged not to be representative of normal operations (e.g., during a converter capture system malfunction) or when the opacity observation conditions did not meet Method 9 criteria (e.g., improper sun angle).

For each smelter, we prepared a data summary that listed the average opacity values for only those 1-minute intervals during which at least one of the converters was blowing, and there were no visible emissions interferences as defined by the test protocol. For four of the smelters, there are a sufficient number of acceptable 1-minute intervals to simulate two performance tests as specified by the test protocol (the total number of acceptable 1-minute intervals can be divided into two blocks with at least 120 1-minute average opacity values in each block). For the fifth smelter, we have a total of 167 minutes of acceptable 1-minute average opacity values which we treated as a single performance test. The individual performance test results are presented in the BID.

Next, we calculated the average percent opacity for each performance test for a given smelter. Each of the calculated averages that includes a fraction of a percent opacity was then rounded up to the next whole number. For the smelters having two performance tests, we selected the higher of the two recorded values as the indicator of performance for the smelter. Following this procedure, the average opacity values for the five individual smelters are, in order of increasing value, zero percent, 1 percent, 3 percent, 5 percent, and 10 percent. The arithmetic average of these five opacity values is 3.8 percent which rounds to 4 percent opacity. Therefore, we selected the MACT floor for Pierce-Smith converters to be 4 percent opacity.

In response to comments received since proposal, we have evaluated two possible beyond-the-floor alternatives for the control of Pierce-Smith converters: Alternative 1—retrofit of air curtain secondary hoods on each converter at each affected smelter to complement the primary and secondary capture systems; and Alternative 2—installation of a converter building evacuation system. Total annual costs to implement these options were estimated assuming that each of the five smelters with Pierce-Smith converters would be subject to the rule (i.e., each smelter is a major source of HAP emissions). Total capital costs for implementing Alternative 1 at the five smelters are estimated to be $41 million. Implementing Alternative 1 is estimated to reduce HAP emissions beyond the floor by 29 tpy at a total annual cost of $12 million per year or about $430,000 per ton of HAP reduction. Total capital costs for implementing Alternative 2 at the five smelters are estimated to be $93 million. Implementing Alternative 2 is estimated to reduce HAP emissions beyond the floor by 34 tpy at a total annual cost of $32 million per year or about $910,000 per ton of HAP reduction. Taking into consideration the costs of implementing either of the beyond-the-floor alternatives against the level of additional emission reduction estimated to be achieved, we concluded that neither of these beyond-the-floor alternatives is reasonable. Therefore, MACT for Pierce-Smith converters is 4 percent opacity, and we chose this value for the final standard.

2. Hoboken Converters

Comment. One commenter stated that the proposed opacity limit for existing Hoboken converters was based on a set of opacity readings that was too small to adequately reflect an achievable emission limit. Furthermore, the commenter stated that these data are not representative of normal operating conditions at the one existing smelter using Hoboken converters. The commenter submitted additional opacity data for the existing Hoboken converters. The commenter stated that these data were more representative of a two-converter operation which is typical at the smelter and requested that the data be used to recalculate the opacity limit.

Response. We examined the new data submitted by the commenter according to the revised test protocol. It is important to remember that the test protocol allows consideration of only those opacity readings that are taken during converter blowing and when no visible emissions interferences occur (as defined in the test protocol). Opacity readings during periods when visible emissions interferences occur are excluded from the calculation. Our analysis of the new data provided by the commenter yields an average opacity value of 3.8 percent which supports the 4 percent opacity limit proposed for Hoboken converters.

F. Why Did We Change the Compliance Date for Existing Sources?

Comment. Three commenters requested that the compliance date for existing sources be extended to the full 3 years allowed under the CAA. The commenters, all companies operating primary copper smelters potentially subject to the NESHAP, claimed that the control measures required to meet the requirements of the proposed rule cannot be readily implemented within the proposed 2-year period. The principal reason expressed by the commenters for extending the compliance period to 3 years is the rule will require smelters to plan and implement several significant changes, some of which cannot be completed within a 2-year period.

Response. Section 112(i)(3) of the CAA directs us to establish a compliance date for existing sources which provides for compliance with the applicable standards as expeditiously as practicable but no later than 3 years after the effective date of the standards. For the final rule, we reconsidered our proposed compliance date for existing sources subject to the primary copper smelter NESHAP. We expect that many of the existing sources that could be subject to the rule already have the type of controls in place that are needed to comply with the standards. However, we also recognize that the control systems for some existing sources subject to the rule will likely need to be upgraded to meet the standards. To allow smelter owners and operators a reasonable period of time to design, procure, install, and startup these control upgrades, we decided to establish the compliance date for existing sources under the final rule at no later than 3 years after promulgation.

G. Why Did We Change the Inspection and Monitoring Requirements?

1. Batch Converter Capture System Inspection Requirements

Comment: Three commenters stated that the requirement to inspect the batch converter capture systems on a monthly basis should be limited to those components of the converter capture system that are readily accessible during normal operations. The proposed requirement to visually inspect each month all of the capture system components is not practical, if not impossible to achieve. For example, the fan blade inspection that would be required under the proposed rule can only be performed when the fan housing

is opened, and operations must be shutdown to do this. Another example is the practicality of inspecting duct components that are covered with insulation.

Response. The intended purpose of the monthly inspection is to visually check the accessible components of the capture system for any defects or damage that could diminish or impair capture system performance from the level that the capture system is capable of achieving when it is properly operated and maintained. We also recognize that certain components of the capture system, such as the examples cited by the commenters, cannot be inspected by workers without shutdown of the process or disassembling components. It would be impractical to inspect these components on a monthly basis. In the final rule, we have revised the wording of the visual inspection requirement for capture systems to clarify which capture system components are to be inspected on a monthly basis. The final rule specifies that the owner or operator inspect those components of the capture system that can affect the performance of the system to collect the gases and fumes emitted from the affected source (e.g., hoods, exposed ductwork, dampers, pressure senors, damper switches). During each inspection, the inspector must visually check the physical appearance of the equipment (e.g., presence of holes, dents, or other damage in hoods or ductwork) and check the settings for each damper and other devices which can be adjusted to control flow in the capture system.

2. Operating Limit for Baghouse Leak Detector Alarms

Comment. Six commenters objected to our proposed 5 percent limit on baghouse leak detector alarms during each 6-month reporting period. Reasons cited included: (1) The use of baghouse leak detectors for baghouses operated at copper smelters is unproven technology; (2) the selection of the proposed alarm time limit is arbitrary; (3) experience of commenters has shown that the detectors are subject to false alarms; (4) any limit on baghouse leak detector time should not include alarms during periods of startup, shutdown, or malfunction; and (5) what the EPA means by "initiation of corrective action" is not clear for the purpose of counting the elapsed alarm time.

Response. The use of baghouse leak detectors is a proven technology that can provide an effective means for early detection of bag failures allowing the baghouse operator to take timely action to correct the problem and minimize excessive particulate matter emissions that would result if the problem was not promptly addressed. These detectors currently are used for baghouse applications at primary lead smelters and other metallurgical facilities with gas stream characteristics and operating conditions similar to those control situations at primary copper smelters for which an owner or operator also may choose to use a baghouse to comply with the rule requirements. We believe that there is no reason why baghouse leak detectors cannot similarly be used on baghouses at primary copper smelters.

The selection of the limit value for alarm time is not arbitrary. We selected this value based on our judgement of an upper limit to the number of alarms that can reasonably be expected to occur (excluding false alarms) over a 6-month period for a baghouse for which the owner or operator implements good inspection and maintenance practices.

We reviewed the proposed language for use of baghouse leak detectors with respect to concerns raised by the commenters about false alarms. For the final rule, we have revised the requirements for baghouse leak detectors to be consistent with the requirements we promulgated for the Primary Lead Smelting NESHAP under 40 CFR part 63, subpart TTT. These requirements include provisions which address the concerns raised by the commenters about counting false alarms and alarms during startup, shutdown, or malfunctions in the alarm time limit compliance calculation. Under the Primary Copper Smelting NESHAP, alarms are not included in the sum of alarm times for purposes of calculating the percentage of time the alarm on the bag leak detection system sounds if it is determined that an alarm sounds solely as the result of a malfunction of the bag leak detection system, or if the alarm sounds as result of a condition that is described in the smelter's startup, shutdown, and malfunction plan (SSMP) and the procedures in the plan described to respond to this condition are implemented.

Finally, when an alarm first sounds from the bag leak detector, we recognize that there are situations when the cause of the alarm cannot be corrected or fixed immediately or within a short period of a few hours. The correction of a torn bag or other problem which can trip the alarm may require that the baghouse be shutdown to allow facility personnel to enter the baghouse when it is safe to do so. We revised the language for the final rule to clarify that alarm time is counted as the time elapsed from when the alarm first sounds until the owner or operator acknowledges the alarm and determines the cause of the alarm. Alarm time is not the total time until the problem which tripped the alarm is corrected.

H. Is the Kennecott Utah Copper Smelter a Major or Area Source of HAP Emissions?

Comment. We received two comments challenging our conclusions that the Kennecott Utah Copper Corporation smelter located near Garfield, Utah, does not emit HAP at major source levels and is, therefore, an area source. The Utah Department of Environmental Quality (DEQ) commented that the information that we used to characterize the emissions potential of the smelter is incorrect or outdated. Data in the smelter's emission inventory report for the year 1997 indicate that the smelter did emit and has the potential to emit HAP at major source levels. The Kennecott Utah Copper Corporation (hereafter referred to as "Kennecott"), owner and operator of the smelter, commented and acknowledged that the HAP emissions from its smelter in 1997 exceeded the major source threshold levels, but that the company planned to install new air pollution control equipment in the anode furnace and casting departments that will reduce HAP emissions, especially emissions of lead compounds, to well below major source levels.

Response. The proposed rule was developed before any HAP emissions data were available based on the fulltime operation of the Kennecott smelter. At the time, all the available evidence indicated that the smelter would not be a "major source" of HAP emissions because of the smelter's unique design and anticipated level of emission control.

In their comments on the proposed rule, the Utah DEQ presented HAP emissions data obtained in 1997, the first full year of operation of the new smelter. Contrary to the company's, the State's, and our expectations, total annual HAP emissions from the smelter in 1997 exceeded the major source threshold level. Specifically, lead emissions, the most prominent HAP emitted, were reported to exceed 23 tpy. This level is well above the 10 tpy single HAP threshold level for major sources and exceeds substantially the smelter's title V permitted lead emission rate of 1.3 pounds per hour, which is equivalent to about 6 tpy.

Extensive in-plant testing by Kennecott determined that the primary source of the excess lead emissions was the two anode furnaces used to refine the blister copper flowing from the flash converting furnace prior to anode

casting. At the time, the combined off-gas from both furnaces was treated in two high-energy wet scrubbers installed in series and designed to achieve both sulfur dioxide and particulate matter control. Testing of the anode furnace off-gas and the scrubber system outlet gas stream showed much higher levels of fine particulate and lead emissions than originally anticipated. Results of particle size measurements performed on the anode furnace off-gas indicated that more than half of the particulate matter was less than 1 micron in diameter with significant portions less than 0.3 microns.

During 1999 and 2000, Kennecott installed additional air pollution control equipment to better control the fine particulate and lead compounds in the anode furnace process off-gas. A quench tower, a lime injection system, and a baghouse were installed upstream of the two wet scrubbers. With the installation and startup of the new controls, the levels of fine particulate matter and HAP metal compounds emitted in the anode furnace off-gas have been significantly reduced. Based on results from a month-long test program conducted in January 2001, total annual lead emissions from the smelter were determined to be approximately 1.75 tpy, and the emissions of all metals to be approximately 2.6 tpy. These annual HAP emissions levels are well below the 10 tpy major source threshold level for a single HAP and 25 tpy major source threshold level for total HAP. Consequently, the smelter is no longer a major source of HAP emissions.

On February 15, 2001, Kennecott submitted to the Utah DEQ a notification of compliance with all title V operating permit limits and conditions including its lead limit of 1.3 pounds per hour. The requirements of the smelter's title V operating permit are federally enforceable, and both the State of Utah and the EPA have authority to take enforcement action should Kennecott fail to continue to operate the smelter in compliance with its permitted emission limits.

I. To What Extent Was the Kennecott Utah Copper Smelter Considered in the MACT Floor Determinations for New and Existing Sources?

Comment. Two commenters objected to the exclusion of the Kennecott smelter from the primary copper smelter source category definition and from consideration as part of the MACT floor determination for new and existing sources. Both commenters argued for a broader definition than that contained in the April 1998 proposal. They supported a definition similar to that used in the new source performance standard (NSPS) and Inorganic Arsenic NESHAP that would include smelters using continuous flash converters like that used at the rebuilt Kennecott smelter. Both commenters also argued for the need to include the Kennecott smelter and its continuous flash converter in the MACT floor determination for the six smelters that employ the more conventional batch converters (Pierce-Smith and Hoboken). In addition, one of the commenters suggested that Kennecott's continuous flash converter should be considered the best controlled similar source and, thus, new source MACT for the primary copper smelting source category.

Response. At the time we initiated work on the NESHAP, the primary copper smelting source category was comprised of seven smelters, all of which were engaged in the production of anode copper from copper ore concentrates by first smelting the concentrates to obtain molten copper matte in a flash smelting furnace, and then converting the molten matte to blister copper using batch converters followed by fire refining and anode casting. Consequently, every smelter that potentially could be a major HAP source used either Pierce-Smith converters (five smelters) or Hoboken converters (one smelter).

In the intervening years, Kennecott shutdown its existing smelter at Garfield, Utah, that had used batch converters. The company built a new smelter at the same location that uses a flash smelting furnace similar to that used at the other smelters, and a new continuous flash converter. The Kennecott smelter is the only domestic smelter that does not use batch converters, either Pierce-Smith or Hoboken designs, to produce blister copper.

From the perspective of raw materials processed and final product shipped, a smelter using batch-converting technology and a smelter using continuous flash-converting technology would appear to be similar, both process copper sulfide ore concentrate and produce anode copper for shipment to a electrolytic refining facility. We agree that, in general, the overall function of both of these smelters is to produce anode copper from copper ore concentrates. However, there are significant dissimilarities between how the anode copper is produced at the smelter using continuous flash converters compared with the smelters using batch converters.

The use of a continuous flash converter allows blister copper to be produced in a continuous process at the Kennecott smelter instead of a batch process as is required at the other smelters. At the Kennecott smelter, molten copper matte tapped from the continuous flash smelting furnace is first granulated by quenching with water to form solid granules of copper matte. These matte granules are then ground to a fine texture and fed to the continuous flash converter. Slag and blister copper produced are tapped from ports near the bottom of the furnace. Molten slag is transferred from the furnace to a slag hauler for subsequent disposal. Molten blister copper is transferred in heated launders directly to the anode furnace for further refining into anode copper.

Due to its unique design and operation, most of the process fugitive emission sources associated with smelters using batch converting are eliminated at the Kennecott smelter. There are no transfers of molten material in open ladles between the smelting, converting, and anode refining departments at the Kennecott smelter. In addition, there are no fugitive emissions associated with the repeated rolling-out of converters for charging, skimming, and pouring. Also, only one continuous flash converter is needed at the Kennecott smelter compared with the need for three or more batch copper converters at the other smelters.

Another difference between continuous flash converters versus batch converters is that blister copper produced by the continuous flash converter at the Kennecott smelter contains higher levels of residual sulfur and metal HAP impurities than levels seen in blister copper produced by batch converters. As a result, the anode furnace and casting departments at the Kennecott smelter use emission controls for sulfur dioxide and metal HAP emissions that are not needed at smelters using batch converters.

These differences aside, we have reconsidered whether the source category definition included in the April 1998 proposal should be broadened to include smelters using continuous flash-converting technology like the Kennecott smelter. We have concluded that the definition should be broadened and made consistent with that used to define primary copper smelters pursuant to both the primary copper smelter NSPS and Inorganic Arsenic NESHAP. We are changing the definition of primary copper smelters to mean "any installation or any intermediate process engaged in the production of copper from copper sulfide ore concentrates through the use of pyrometallurgical techniques."

Relative to the inclusion of the Kennecott smelter in the MACT floor determination, we disagree with the commenters that primary copper smelters using continuous flash converting should be grouped with primary copper smelters using batch converting for the existing source MACT floor determination. Section 112 of the CAA provides the Administrator the discretion to divide categories of sources into subcategories where appropriate. In establishing such subcategories for other source categories in the NESHAP program, we have considered factors such as differences in process operations (including differences between batch and continuous operation), emission characteristics, control device applicability, and opportunities for pollution prevention.

We believe that the design and operating differences between these two classes of copper converters make these sources so dissimilar with respect to HAP emission sources, level of HAP emissions, and the subsequent control measures required to control HAP emissions from these sources as to warrant the creation of two separate subcategories of primary copper smelters: primary copper smelters using batch converters, and primary copper smelters using continuous flash converters. Thus, we conclude that consideration of the Kennecott smelter in the MACT floor determinations for existing sources within the subcategory of primary copper smelters using batch converters is inappropriate since it is not among the pool of sources that comprises the subcategory.

Regarding the comment on new source MACT, we believe that there is merit to the commenter's position that for the purpose of selecting new source MACT for copper converter operations, the best controlled similar source uses flash converting. This is especially true considering our decision to change the source category definition to include all smelters engaged in the production of copper from copper sulfide ore concentrates regardless of the pyrometallurgical (smelting) techniques used. The practical effect of a decision to base new source MACT on flash converting would be a ban on the construction of a new converter department employing batch converters, which would lead to the virtual elimination of process fugitive emissions discharged from new copper converter departments. This would be best accomplished through a work practice standard that would expressly prohibit the construction of a new copper converter department employing batch copper converters. Consequently, we have selected as the final standard a work practice standard that prohibits altogether the operation of batch copper converters at new copper converter departments. We believe that the impact of this decision on the industry is none, given both the availability of newer and cleaner converting technologies, and the rigor of the new source review permitting process to which a new source would be subject.

V. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866, and is therefore not subject to OMB review.

B. Executive Order 13132, Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires the 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."

Under Section 6 of Executive Order 13132, the EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or the EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

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. No State or local governments own or operate primary copper smelters. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. 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 Executive Order 12866, and (2) concerns an environmental health or safety risk that the 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.

The 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 rule is not subject to Executive Order 13045 because it is based on control technology performance and not on health or safety risks.

D. 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 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." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

Under section 5(b) of Executive Order 13175, the EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or the EPA consults with tribal officials early in the process of developing the proposed regulation. Under section 5(c) of Executive Order 13175, the EPA may not issue a regulation that has tribal implications and that preempts tribal law, unless the Agency consults with tribal officials early in the process of developing the proposed regulation.

This final rule does not significantly or uniquely affect the communities of Indian tribal governments. No tribal governments own or operate primary copper smelters. Accordingly, the requirements of Executive Order 13175 do not apply to this action.

E. 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, the 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 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 the 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 the 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 the EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The 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 1 year. In addition, the EPA has determined that this final 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. Therefore, today's final rule is not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The 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 that is a business having less than 1,000 employees; (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.

Based on the Small Business Administration's NAICS-based size definitions and reported employment data for the affected companies, the Agency identified no small businesses in the Primary Copper Smelting and Refining industry (NAICS code 331411). After considering the economic impacts of today's final rule on small entities, it has been determined that this action will not have a significant economic impact on a substantial number of small entities. All smelters potentially subject to the rule are owned by international corporations and employ more than 1,000 employees. This rule will not impose any requirements on small entities. No small businesses, small government jurisdictions, nor small organizations own or operate primary copper smelters potentially subject to the rule.

G. Paperwork Reduction Act

The information collection requirements in this final rule are being submitted for approval to OMB under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An information collection request (ICR) document has been prepared by EPA (ICR No. 1850.03), and a copy may be obtained from Sandy Farmer, Office of Environmental Information, Collection Strategies Division, U.S. Environmental Protection Agency (2137), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, or by calling (202) 260–2740.

The information collection requirements in the final rule include mandatory notifications, records, and reports required by the NESHAP general provisions (40 CFR part 63, subpart A). These information requirements are needed to confirm the compliance status of major sources, to identify any nonmajor sources not subject to the standard and any new or reconstructed sources subject to the standards to confirm that emission control devices are being properly operated and maintained and to ensure that the standards are being achieved. Based on the recorded and reported information, the EPA can decide which facilities, records, or processes should be inspected. These recordkeeping and reporting requirements are specifically authorized under CAA section 114 (42 U.S.C. 7414). All information submitted to EPA for which a claim of confidentiality is made will be safeguarded according to EPA policies in 40 CFR part 2, subpart B.

The annual public reporting and recordkeeping burden for this collection

of information (averaged over the first 3 years after the effective date of this rule and assuming that all six smelters with batch converters are operating and subject to the rule) is estimated to total 20,500 labor hours per year at a total annual cost of $923,800. This estimate includes initial notifications, preparation of a SSMP, preparation of a fugitive dust control plan, annual performance testing, semiannual compliance reports, and recordkeeping. Total capital costs associated with the monitoring equipment over the 3-year period of the ICR is estimated at $276,000. The total annualized cost of the monitoring equipment is estimated at $98,000. This estimate includes the capital, operating, and maintenance costs associated with the installation and operation of the monitoring equipment.

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 number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

H. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. No. 104–113; 15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in their 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, or business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency does not use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. The Agency conducted a search to identify potentially applicable voluntary consensus standards. However, we identified no such standards, and none were brought to our attention in comments. Therefore, we have decided to use EPA Reference Methods 1, 2, 3, 4, 5, 5B, and 29 of 40 CFR part 60, appendix A.

I. 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 of the United States. The EPA will submit a report containing this 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 rule is not a "major rule" as defined by 5 U.S.C. 804(2).

J. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution or Use

This final rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

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: May 15, 2002.

Christine Todd Whitman,

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, *et seq.*

2. Part 63 is amended by adding subpart QQQ to read as follows:

Subpart QQQ—National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting

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Subpart QQQ—National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting

What This Subpart Covers

§ 63.1440 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for primary copper smelters. This subpart also establishes requirements to demonstrate initial and continuous compliance with all applicable emission limitations, work practice standards, and operation and maintenance requirements in this subpart.

§ 63.1441 Am I subject to this subpart?

You are subject to this subpart if you own or operate a primary copper smelter that is (or is part of) a major source of hazardous air pollutant (HAP) emissions on the first compliance date that applies to you, and your primary copper smelter uses batch copper converters as defined in § 63.1459. Your primary copper smelter is a major source of HAP if it emits or has the potential to emit any single HAP at the rate of 10 tons or more per year or any combination of HAP at a rate of 25 tons or more per year.

§ 63.1442 What parts of my plant does this subpart cover?

(a) This subpart applies to each new and existing affected source at your primary copper smelter. The affected sources are each copper concentrate dryer, each smelting furnace, each slag cleaning vessel, each copper converter department, and the entire group of fugitive emission sources, as defined in § 63.1459.

(b) An affected source at your primary copper smelter is existing if you commenced construction or reconstruction of the affected source before April 20, 1998.

(c) An affected source at your primary copper smelter is new if you commenced construction or reconstruction of the affected source on or after April 20, 1998. An affected source is reconstructed if it meets the definition of "reconstruction" in § 63.2.

§ 63.1443 When do I have to comply with this subpart?

(a) If you have an existing affected source, you must comply with each emission limitation, work practice standard, and operation and maintenance requirement in this subpart that applies to you no later than June 13, 2005.

(b) If you have a new affected source and its initial startup date is on or before June 12, 2002, you must comply with each emission limitation, work practice standard, and operation and maintenance requirement in this subpart that applies to you by June 12, 2002.

(c) If you have a new affected source and its initial startup date is after June 12, 2002, you must comply with each emission limitation, work practice standard, and operation and maintenance requirement in this subpart that applies to you upon initial startup.

(d) If your primary copper smelter is an area source that becomes a major source of HAP, the compliance dates listed in paragraphs (d)(1) and (2) of this section apply to you.

(1) Any portion of the existing primary copper smelter that is a new affected source or a new reconstructed source must be in compliance with this subpart upon startup.

(2) All other parts of the primary copper smelter must be in compliance with this subpart no later than 3 years after it becomes a major source.

(e) You must meet the notification and schedule requirements in § 63.1454. Several of these notifications must be submitted before the compliance date for your affected source.

Emission Limitations and Work Practice Standards

§ 63.1444 What emissions limitations and work practice standards must I meet for my copper concentrate dryers, smelting furnaces, slag cleaning vessels, and copper converter departments?

(a) *Copper concentrate dryers.* For each copper concentrate dryer, you must comply with the emission limitation in paragraph (a)(1) or (2) of this section that applies to you.

(1) For each existing copper concentrate dryer, you must not cause to be discharged to the atmosphere from the dryer vent any gases that contain total particulate matter in excess of 50 milligrams per dry standard cubic meter (mg/dscm) as measured using the test methods specified in § 63.1450(a).

(2) For each new copper concentrate dryer, you must not cause to be discharged to the atmosphere from the dryer vent any gases that contain total particulate matter in excess of 23 mg/dscm as measured using the test methods specified in § 63.1450(a).

(b) *Smelting furnaces.* For each smelting furnace, you must comply with the emission limitations and work practice standards in paragraphs (b)(1) and (2) of this section.

(1) For each smelting furnace, you must not cause to be discharged to the atmosphere any process off-gas that contains nonsulfuric acid particulate matter in excess of 6.2 mg/dscm as measured using the test methods specified in § 63.1450(b). Process off-gas from a smelting furnace is generated when copper ore concentrates and fluxes are being smelted to form molten copper matte and slag layers.

(2) For each smelting furnace, you must control the process fugitive emissions released when tapping copper matte or slag from the smelting furnace according to paragraphs (b)(2)(i) and (ii) of this section.

(i) At all times when copper matte or slag is tapped from the smelting furnace, you must operate a capture system that collects the gases and fumes released from the tapping port in use. The design and placement of this capture system must be such that the tapping port opening, launder, and receiving vessel (e.g., ladle, slag pot) are positioned within the confines or influence of the capture system's ventilation draft during those times when the copper matte or slag is flowing from the tapping port opening.

(ii) You must not cause to be discharged to the atmosphere from the capture system used to comply with paragraph (b)(2)(i) of this section any gases that contain total particulate matter in excess of 23 mg/dscm as measured using the test methods specified in § 63.1450(a).

(c) *Slag cleaning vessels.* For each slag cleaning vessel, you must comply with the emission limitations and work practice standards in paragraphs (c)(1) through (3) of this section that apply to you.

(1) For each slag cleaning vessel, except as provided for in paragraph (c)(2) of this section, you must not cause to be discharged to the atmosphere any process off-gas that contains nonsulfuric acid particulate matter in excess of 6.2 mg/dscm as measured using the test methods specified in § 63.1450(b).

(2) As an alternative to complying with the emission limit for nonsulfuric acid particulate matter in paragraph (c)(1) of this section, for each existing slag cleaning vessel you may choose to comply with the emission limit for total particulate matter specified in this paragraph (c)(2). You must not cause to be discharged to the atmosphere any process off-gas that contains total particulate matter in excess of 46 mg/dscm as measured using the test methods specified in § 63.1450(a).

(3) For each slag cleaning vessel, you must control process fugitive emissions released when tapping copper matte or slag from the slag cleaning vessel according to paragraphs (c)(3)(i) and (ii) of this section.

(i) At all times when copper matte or slag is tapped from the slag cleaning vessel, you must operate a capture system that collects the gases and fumes released from the tapping port in use. The design and placement of this capture system must be such that the tapping port opening, launder, and receiving vessel (e.g., ladle, slag pot) are positioned within the confines or influence of the capture system's ventilation draft during those times when the copper matte or slag is flowing from the tapping port opening.

(ii) You must not cause to be discharged to the atmosphere from the capture system used to comply with paragraph (c)(3)(i) of this section any gases that contain total particulate matter in excess of 23 mg/dscm as measured using the test methods specified in § 63.1450(a).

(d) *Existing copper converter departments.* For each existing copper converter department, you must comply with the emission limitations and work practice standards in paragraphs (d)(1) through (6) of this section that apply to you.

(1) You must operate a capture system that collects the process off gas vented from each batch copper converter. At all times when one or more batch copper converters are blowing, you must operate the capture system according to the written operation and maintenance plan that has been prepared according to the requirements in § 63.1447(b).

(2) If your copper converter department uses Pierce-Smith converters, the capture system design must include use of a primary hood that covers the entire mouth of the converter vessel when the copper converter is positioned for blowing. Additional hoods (e.g., secondary hoods) or other capture devices must be included in the capture system design as needed to achieve the opacity limit in paragraph (d)(4) of this section. The capture system design may use multiple intake and duct segments through which the ventilation rates are controlled independently of each other, and individual duct segments may be connected to separate control devices.

(3) If your copper converter department uses Hoboken converters, the capture system must collect all process off-gas vented during blowing through the side-flue intake on each converter vessel.

(4) You must operate the capture system such that any visible emissions exiting the roof monitors or roof exhaust fans on the building housing the copper converter department meet the opacity limit as specified in paragraphs (d)(4)(i) and (ii) of this section.

(i) The opacity of any visible emissions exiting the roof monitors or roof exhaust fans on the building housing the copper converter department must not exceed 4 percent as determined by a performance test conducted according to § 63.1450(c).

(ii) The opacity limit in paragraph (d)(4)(i) of this section applies only at those times when a performance test is conducted according to § 63.1450(c). The requirements for compliance with opacity and visible emission standards specified in § 63.6(h) do not apply to this opacity limit.

(5) You must not cause to be discharged to the atmosphere from any Pierce-Smith converter primary hood capture system or Hoboken converter side-flue intake capture system any process off-gas that contains nonsulfuric acid particulate matter in excess of 6.2 mg/dscm as measured using the test methods specified in § 63.1450(b).

(6) You must not cause to be discharged to the atmosphere from any secondary capture system any gases that contain total particulate matter in excess of 23 mg/dscm as measured using the test methods specified in § 63.1450(a).

(e) *New copper converter departments.* For each new copper converter department for which construction commenced on or after April 20, 1998, the use of batch copper converters is prohibited.

(f) *Baghouses.* For each baghouse applied to meet any total particulate matter emission limit in paragraphs (a) through (d) of this section, you must operate the baghouse such that the bag leak detection system does not alarm for more than 5 percent of the total operating time in any semiannual reporting period.

(g) *Venturi wet scrubbers.* For each venturi wet scrubber applied to meet any total particulate matter emission limit in paragraphs (a) through (d) of this section, you must maintain the hourly average pressure drop and scrubber water flow rate at or above the minimum levels established during the initial or subsequent performance test.

(h) *Other control devices.* For each control device other than a baghouse or venturi wet scrubber applied to meet any total particulate matter emission limit in paragraphs (a) through (d) of this section, you must operate the control device as specified in paragraphs (h)(1) and (2) of this section.

(1) You must select one or more operating parameters, as appropriate for the control device design, that can be used as representative and reliable indicators of the control device operation.

(2) You must maintain the hourly average value for each of the selected parameters at or above the minimum level or at or below the maximum level, as appropriate for the selected parameter, established during the initial or subsequent performance test.

§ 63.1445 What work practice standards must I meet for my fugitive dust sources?

(a) You must control particulate matter emissions from fugitive dust sources at your primary copper smelter by operating according to a written fugitive dust control plan that has been approved by the designated authority. For the purpose of complying with this paragraph (a) you may use an existing fugitive dust control plan provided that the plan complies with the requirements of this section. A fugitive dust control plan is considered to be approved if the plan has been incorporated in your applicable State implementation plan, and the document addresses the fugitive dust sources specified in paragraph (b) of this section and includes the information specified in paragraph (c) of this section.

(b) Your fugitive dust control plan must address each of the fugitive dust emission sources listed in paragraphs (b)(1) through (6) of this section that are located at your primary copper smelter.

(1) On-site roadways used by trucks or other motor vehicles (e.g., front-end loaders) when transporting bulk quantities of fugitive dust materials. Paved roads and parking areas that are not used by these vehicles do not need to be included in the plan (e.g., employee and visitor parking lots).

(2) Unloading of fugitive dust materials from trucks or railcars.

(3) Outdoor piles used for storage of fugitive dust materials.

(4) Bedding areas used for blending copper concentrate and other feed constituents.

(5) Each transfer point in conveying systems used to transport fugitive dust materials. These points include, but are not limited to, transfer of material from one conveyor belt to another and transfer of material to a hopper or bin.

(6) Other site-specific sources of fugitive dust emissions that the Administrator or delegated permitting authority designate to be included in your fugitive dust control plan.

(c) Your fugitive dust control plan must describe the control measures you use to control fugitive dust emissions

from each source addressed in the plan, as applicable and appropriate for your site conditions. Examples of control measures include, but are not limited to, locating the source inside a building or other enclosure, installing and operating a local hood capture system over the source and venting the captured gas stream to a control device, placing material stockpiles below grade, installing wind screens or wind fences around the source, spraying water on the source as weather conditions require, applying appropriate dust suppression agents on the source, or combinations of these control measures.

(d) The requirement for you to operate according to a written fugitive dust control plan must be incorporated in your operating permit that is issued by the designated permitting authority under part 70 of this chapter. A copy of your fugitive dust control plan must be sent to the designated permitting authority on or before the compliance date for your primary copper smelter, as specified in § 63.1443.

§ 63.1446 What alternative emission limitation may I meet for my combined gas streams?

(a) For situations where you combine gas streams from two or more affected sources for discharge to the atmosphere through a single vent, you may choose to meet the requirements in paragraph (b) of this section as an alternative to complying with the individual total particulate matter emission limits specified in § 63.1444 that apply to you. This alternative emission limit for a combined gas stream may be used for any combination of the affected source gas steams specified in paragraphs (a)(1) through (5) of this section.

(1) Gas stream discharged from a copper concentrate dryer vent that would otherwise be subject to § 63.1444(a)(1) or (2);

(2) Gas stream discharged from a smelting furnace capture system that would otherwise be subject to § 63.1444(b)(2)(ii);

(3) Process off-gas stream discharged from a slag cleaning vessel that would otherwise be subject to § 63.1444(c)(2);

(4) Gas stream discharged from a slag cleaning vessel capture system that would otherwise be subject to § 63.1444(c)(3)(ii); and

(5) Gas stream discharged from a batch copper converter secondary capture system that would otherwise be subject to § 63.1444(d)(5).

(b) You must meet the requirements specified in paragraphs (b)(1) and (2) of this section for the combined gas stream discharged through a single vent.

(1) For each combined gas stream discharged through a single vent, you must not cause to be discharged to the atmosphere any gases that contain total particulate matter in excess of the emission limit calculated using the procedure in paragraph (b)(2) of this section and measured using the test methods specified in § 63.1450(a).

(2) You must calculate the alternative total particulate matter emission limit for your combined gas stream using Equation 1 of this section. The volumetric flow rate value for each of the individual affected source gas streams that you use for Equation 1 (i.e., the flow rate of the gas stream discharged from the affected source but before this gas stream is combined with the other gas streams) is to be the average of the volumetric flow rates measured using the test method specified in § 63.1450(a)(1)(ii):

$$E_{Alt} = \frac{E_d Q_d + E_{sv} Q_{sv} + E_{scvp} Q_{scvp} + E_{scvf} Q_{scvf} + E_{cc} Q_{cc}}{Q_d + Q_{sv} + Q_{scvp} + Q_{scvf} + Q_{cc}} \quad \text{(Eq. 1)}$$

Where

E_{Alt} = Alternative total particulate matter emission limit for the combined gas stream discharged to atmosphere through a single vent (mg/dscm);

E_d = Total particulate matter emission limit applicable to copper concentrate dryer as specified in § 63.1444(a)(1) or (2) (mg/dscm);

Q_d = Copper concentrate dryer exhaust gas stream volumetric flow rate before being combined with other gas streams (dscm);

E_{sv} = Total particulate matter emission limit for smelting furnace capture system as specified in § 63.1444(b)(2)(ii) (mg/dscm);

Q_{sv} = Smelting furnace capture system exhaust gas stream volumetric flow rate before being combined with other gas streams (dscm);

E_{scvp} = Total particulate matter emission limit for slag cleaning vessel process off-gas as specified in § 63.1444(c)(2) (mg/dscm);

Q_{scvp} = Slag cleaning vessel process off-gas volumetric flow rate before being combined with other gas streams (dscm);

E_{scvf} = Total particulate matter emission limit for slag cleaning vessel capture system as specified in § 63.1444(c)(3)(ii) (mg/dscm);

Q_{scvf} = Slag cleaning vessel capture system exhaust gas stream volumetric flow rate before being combined with other gas streams (dscm);

E_{cc} = Total particulate emission limit for the batch copper converter secondary capture system as specified in § 63.1544(d)(5) (mg/dscm); and

Q_{cc} = Batch copper converter capture system exhaust gas stream volumetric flow rate before being combined with other gas streams (dscm).

(c) For each baghouse applied to meet any total particulate matter emission limit in paragraph (b) of this section, you must operate the baghouse such that the bag leak detection system does not alarm for more than 5 percent of the total operating time in any semiannual reporting period.

(d) For each venturi wet scrubber applied to meet any total particulate matter emission limit in paragraph (b) of this section, you must maintain the hourly average pressure drop and scrubber water flow rate at or above the minimum levels established during the initial or subsequent performance test.

(e) For each control device other than a baghouse or venturi wet scrubber applied to meet any total particulate matter emission limit in paragraph (b) of this section, you must operate the control device as specified in paragraphs (e)(1) and (2) of this section.

(1) You must select one or more operating parameters, as appropriate for the control device design, that can be used as representative and reliable indicators of the control device operation.

(2) You must maintain the hourly average value for each of the selected parameters at or above the minimum level or at or below the maximum level, as appropriate for the selected parameter, established during the initial or subsequent performance test.

Operation and Maintenance Requirements

§ 63.1447 What are my operation and maintenance requirements?

(a) As required by § 63.6(e)(1)(i), you must always operate and maintain your affected source, including air pollution control and monitoring equipment, in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by this subpart.

(b) You must prepare and operate at all times according to a written operation and maintenance plan for each capture system and control device subject to standards in § 63.1444 or § 63.1446. The plan must address the requirements in paragraphs (b)(1) through (3) of this section as applicable to the capture system or control device.

(1) *Preventative maintenance.* You must perform preventative maintenance for each capture system and control device according to written procedures specified in your operation and maintenance plan. The procedures must include a preventative maintenance schedule that is consistent with the manufacturer's instructions for routine and long-term maintenance.

(2) *Capture system inspections.* You must conduct monthly inspections of the equipment components of the capture system that can affect the performance of the system to collect the gases and fumes emitted from the affected source (e.g., hoods, exposed ductwork, dampers, fans) according to written procedures specified in your operation and maintenance plan. The inspection procedure must include the requirements in paragraphs (b)(2)(i) through (iii) of this section as applicable to the capture system or control device.

(i) Observations of the physical appearance of the equipment to confirm the physical integrity of the equipment (e.g., verify by visual inspection no holes in ductwork or hoods, no flow constrictions caused by dents, or accumulated dust in ductwork).

(ii) Inspection, and if necessary testing, of equipment components to confirm that the component is operating as intended (e.g., verify by appropriate measures that flow or pressure sensors, damper plates, automated damper switches and motors are operating according to manufacture or engineering design specifications).

(iii) In the event that a defective or damaged component is detected during an inspection, you must initiate corrective action according to written procedures specified in your operation and maintenance plan to correct the defect or deficiency as soon as practicable.

(3) *Copper converter department capture system operating limits.* You must establish, according to the requirements in paragraph (b)(3)(i) through (iii) of this section, operating limits for the capture system that are representative and reliable indicators of the performance of capture system when it is used to collect the process off-gas vented from batch copper converters during blowing.

(i) Select operating limit parameters appropriate for the capture system design that are representative and reliable indicators of the performance of the capture system when it is used to collect the process off-gas vented from batch copper converters during blowing. At a minimum, you must use appropriate operating limit parameters that indicate the level of the ventilation draft and the damper position settings for the capture system when operating to collect the process off-gas from the batch copper converters during blowing. Appropriate operating limit parameters for ventilation draft include, but are not limited to, volumetric flow rate through each separately ducted hood, total volumetric flow rate at the inlet to control device to which the capture system is vented, fan motor amperage, or static pressure. Any parameter for damper position setting may be used that indicates the duct damper position relative to the fully open setting.

(ii) For each operating limit parameter selected in paragraph (b)(3)(i) of this section, designate the value or setting for the parameter at which the capture system operates during batch copper converter blowing. If your blister copper production operations allow for more than one batch copper converter to be operating simultaneously in the blowing mode, designate the value or setting for the parameter at which the capture system operates during each possible batch copper converter blowing configuration that you may operate at your smelter (i.e., the operating limits with one converter blowing, with two converters blowing, with three converters blowing, as applicable to your smelter).

(iii) Include documentation in the plan to support your selection of the operating limits established for the capture system. This documentation must include a description of the capture system design, a description of the capture system operation during blister copper production, a description of each selected operating limit parameter, a rationale for why you chose the parameter, a description of the method used to monitor the parameter according to the requirements in § 63.1452(a), and the data used to set the value or setting for the parameter for each of your batch copper converter configurations.

(4) *Baghouse leak detection corrective actions.* In the event a bag leak detection system alarm is triggered, you must initiate corrective action according to written procedures specified in your operation and maintenance plan to determine the cause of the alarm within 1 hour of the alarm, initiate corrective action to correct the cause of the problem within 24 hours of the alarm, and complete the corrective action as soon as practicable. Corrective actions may include, but are not limited to, the activities listed in paragraphs (b)(3)(i) through (vi) of this section.

(i) Inspecting the baghouse for air leaks, torn or broken bags or filter media, or any other condition that may cause an increase in emissions.

(ii) Sealing off defective bags or filter media.

(iii) Replacing defective bags or filter media or otherwise repairing the control device.

(iv) Sealing off a defective baghouse compartment.

(v) Cleaning the bag leak detection system probe, or otherwise repair the bag leak detection system.

(vi) Shutting down the process producing the particulate emissions.

General Compliance Requirements

63.1448 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations, work practice standards, and operation and maintenance requirements in this subpart at all times, except during periods of startup, shutdown, and malfunction as defined in § 63.2.

(b) During the period between the compliance date specified for your affected source in § 63.1443, and the date upon which continuous monitoring systems have been installed and certified and any applicable operating limits have been set, you must maintain a log detailing the operation and maintenance of the process and emissions control equipment.

(c) You must develop and implement a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

Initial Compliance Requirements

§ 63.1449 By what dates must I conduct performance tests or other initial compliance demonstrations?

(a) As required in § 63.7(a)(2), you must conduct a performance test within

180 calendar days of the compliance date that is specified in § 63.1443 for your affected source to demonstrate initial compliance with each emission and opacity limit in § 63.1443 and § 63.1446 that applies to you.

(b) For each work practice standard and operation and maintenance requirement that applies to you where initial compliance is not demonstrated using a performance test or opacity observation, you must demonstrate initial compliance within 30 calendar days after the compliance date that is specified for your affected source in § 63.1443.

§ 63.1450 What test methods and other procedures must I use to demonstrate initial compliance with the emission limitations?

(a) *Total particulate matter emission limits.* You must conduct each performance test to determine compliance with the total particulate matter emission limits in § 63.1444 or § 63.1446 that apply to you according to the requirements for representative test conditions specified in § 63.7(e)(1) and using the test methods and procedures in paragraphs (a)(1) through (5) of this section.

(1) Determine the concentration of total particulate matter according to the test methods in appendix A to part 60 of this chapter as specified in paragraphs (a)(1)(i) through (iii) of this section.

(i) Method 1 to select sampling port locations and the number of traverse points. Sampling ports must be located at the outlet of the control device and prior to any releases to the atmosphere.

(ii) Method 2, 2F, or 2G to determine the volumetric flow rate of the stack gas.

(iii) Method 3, 3A, or 3B to determine the dry molecular weight of the stack gas.

(iv) Method 4 to determine the moisture content of the stack gas.

(v) Method 5, 5D, or 17, as applicable, to determine the concentration of total particulate matter. You can also use ASTM D4536–96 incorporated by reference in § 63.14 as an alternative to the sampling equipment and operating procedures in Method 5 or 17 when testing a positive pressure baghouse, but you must use the sample traverse location and number of sampling points described in Method 5D.

(2) As an alternative to using the applicable method specified in paragraph (a)(1)(v) of this section, you may determine total particulate matter emissions from the control device using Method 29 in appendix A of part 60 of this chapter provided that you follow the procedures and precautions prescribed in Method 29. If the control device is a positive pressure baghouse, you must also follow the measurement procedure specified in sections 4.1 through 4.3 of Method 5D.

(3) You must conduct three separate test runs for each performance test. Each test run must have a minimum sampling time of 60 minutes and a minimum sampling volume of 0.85 dscm. For the purpose of determining compliance with the applicable total particulate matter emission limit, the arithmetic mean of the results for the three separate test runs is used.

(4) For a venturi wet scrubber applied to emissions from an affected source and subject to operating limits in § 63.1444(g) or § 63.1446(d) for pressure drop and scrubber water flow rate, you must establish site-specific operating limits according to the procedures in paragraph (a)(4)(i) and (ii) of this section.

(i) Using the continuous parameter monitoring system (CPMS) required in § 63.1452, measure and record the pressure drop and scrubber water flow rate during each run of the particulate matter performance test.

(ii) Compute and record the hourly average pressure drop and scrubber water flow rate for each individual test run. Your operating limits are the lowest average pressure drop and scrubber water flow rate value in any of the three runs that meet the applicable emission limit.

(5) For a control device other than a baghouse or venturi wet scrubber applied to emissions from an affected source and subject to site-specific operating limit(s) in § 63.1444(h) or § 63.1446(e) for appropriate, site-specific operating parameters that are representative and reliable indicators of the control device performance, you must establish a site-specific operating limit(s) according to the procedures in paragraph (a)(5)(i) through (iv) of this section.

(i) Select one or more operating parameters, as appropriate for the control device design, that can be used as representative and reliable indicators of the control device operation.

(ii) Using the CPMS required in § 63.1452, measure and record the selected operating parameters for the control device during each run of the total particulate matter performance test.

(iii) Compute and record the hourly average value for each of the selected operating parameters for each individual test run. Your operating limits are the lowest value or the highest value, as appropriate for the selected operating parameter, measured in any of the three runs that meet the applicable emission limit.

(iv) You must prepare written documentation to support your selection of the operating parameters used for the control device. This documentation must include a description of each selected parameter, a rationale for why you chose the parameter, a description of the method used to monitor the parameter, and the data recorded during the performance test and used to set the operating limit(s).

(b) *Nonsulfuric acid particulate matter emission limits.* You must conduct each performance test to determine compliance with the nonsulfuric acid particulate matter emission limits in § 63.1444 that apply to you according to the requirements for representative test conditions specified in § 63.7(e)(1) and using the test methods and procedures in paragraphs (b)(1) and (2) of this section.

(1) Determine the concentration of nonsulfuric acid particulate matter according to the test methods in appendix A to part 60 of this chapter as specified in paragraphs (b)(1)(i) through (v) of this section.

(i) Method 1 to select sampling port locations and the number of traverse points. Sampling ports must be located at the outlet of the control device and prior to any releases to the atmosphere.

(ii) Method 2, 2F, or 2G to determine the volumetric flow rate of the stack gas.

(iii) Method 3, 3A, or 3B to determine the dry molecular weight of the stack gas.

(iv) Method 4 to determine the moisture content of the stack gas.

(v) Method 5B to determine the nonsulfuric acid particulate matter emissions.

(2) You must conduct three separate test runs for each performance test. Each test run must have a minimum sampling time of 240 minutes and a minimum sampling volume of 3.4 dscm. For the purpose of determining compliance with the nonsulfuric acid particulate matter emission limit, the arithmetic mean of the results for the three separate test runs is used.

(c) *Copper converter department capture system opacity limit.* You must conduct each performance test to determine compliance with the opacity limit in § 63.1444 using the test methods and procedures in paragraphs (c)(1) through (9) of this section.

(1) You must conduct the performance test during the period when the primary copper smelter is operating under conditions representative of the smelter's normal blister copper production rate. You may

not conduct a performance test during periods of startup, shutdown, or malfunction. Before conducting the performance test, you must prepare a written test plan specifying the copper production conditions to be maintained throughout the opacity observation period and including a copy of the written documentation you have prepared according to paragraph (a)(3) of this section to support the established operating limits for the copper converter department capture system. You must submit a copy of the test plan for review and approval by the Administrator or delegated authority. During the observation period, you must collect appropriate process information and copper converter department capture system operating information to prepare documentation sufficient to verify that all opacity observations were made during the copper production and capture system operating conditions specified in the approved test plan.

(2) You must notify the Administrator or delegated authority before conducting the opacity observations to allow the Administrator or delegated authority the opportunity to have authorized representatives attend the test. Written notification of the location and scheduled date for conducting the opacity observations must be received by the Administrator on or before 30 calendar days before this scheduled date.

(3) You must gather the data needed for determining compliance with the opacity limit using qualified visible emission observers and process monitors as described in paragraphs (c)(3)(i) and (ii) of this section.

(i) Opacity observations must be performed by a sufficient number of qualified visible emission observers to obtain two complete concurrent sets of opacity readings for the required observation period. Each visible emission observer must be certified as a qualified observer by the procedure specified in section 3 of Method 9 in appendix A of part 60 of this chapter. The entire set of readings during the required observation period does not need to be made by the same two observers. More than two observers may be used to allow for substitutions and provide for observer rest breaks. The owner or operator must obtain proof of current visible emission reading certification for each observer.

(ii) A person (or persons) familiar with the copper production operations conducted at the smelter must serve as the indoor process monitor. The indoor process monitor is stationed at a location inside the building housing the batch copper converters such that he or she can visually observe and record operations that occur in the batch copper converter aisle during the times that the visible emission observers are making opacity readings. More than one indoor process monitor may be used to allow for substitutions and provide for rest breaks.

(4) You must make all opacity observations using Method 9 in appendix A to part 60 of this chapter and following the procedures described in paragraphs (c)(4)(i) and (ii) of this section.

(i) Each visible emission observer must make his or her readings at a position from the outside of the building that houses the copper converter department such that the observer's line-of-sight is approximately perpendicular to the longer axis of the converter building, and the observer has an unobstructed view of the building roof monitor sections or roof exhaust fan outlets that are positioned over each of the batch copper converters inside the building. Opacity readings can only be made during those times when the observer's position meets the sun orientation and other conditions specified in section 2.1 of Method 9.

(ii) At 15-second intervals, each visible emission observer views the building roof monitor sections or roof exhaust fan outlets that are positioned over each of the batch copper converters inside the building and reads the opacity of the visible plumes. If no plume is visible, the observer records zero as the opacity value for the 15-second interval. In situations when it is possible for an observer to distinguish two or more visible emission plumes from the building roof monitor sections or roof exhaust fan outlets, the observer must identify, to the extent feasible, the plume having the highest opacity and record his or her opacity reading for that plume as the opacity value for the 15-second interval.

(5) You must make opacity observations for a period of sufficient duration to obtain a minimum of 120 1-minute intervals during which at least one copper converter is blowing and no interferences have occurred from other copper production events, as specified in paragraph (c)(7) of this section, which generate visible emissions inside the building that potentially can interfere with the visible emissions from the converter capture systems as seen by the outside observers. To obtain the required number of 1-minute intervals, the observation period may be divided into two or more segments performed on the same day or on different days if conditions prevent the required number of opacity readings from being obtained during one continuous time period. Examples of these conditions include, but are not limited to, changes in the sun's orientation relative to visible emission observers' positions such that the Method 9 conditions are no longer met or an unexpected thunder storm. If the total observation period is divided into two or more segments, all opacity observations must be made during the same set of copper production conditions described in your approved test plan as required by paragraph (c)(1) of this section.

(6) You must gather indoor process information during all times that the visible emission observers are making opacity readings outside the building housing the copper converter department. The indoor process monitor must continually observe the operations occurring in the copper converter department and prepare a written record of his or her observations using the procedure specified in paragraphs (c)(6)(i) through (iv) of this section.

(i) At the beginning of each observation period or segment, the clock time setting on the watch or clock to be used by the indoor process monitor must be synchronized with the clock time settings for the timepieces to be used by the outdoor opacity observers.

(ii) During each period or segment when opacity readings are being made by the visible emission observers, the indoor process monitor must continuously observe the operations occurring in the copper converter department and record his or her observations in a log book, on data sheets, or other type of permanent written format.

(iii) When a batch copper converter is blowing, a record must be prepared for the converter that includes, but is not limited to, the clock times for when blowing begins and when blowing ends and the converter blowing rate. This information may be recorded by the indoor process monitor or by a separate, automated computer data system.

(iv) The process monitor must record each event other than converter blowing that occurs in or nearby the converter aisle that he or she observes to generate visible emissions inside the building. The recorded entry for each event must include, but is not limited to, a description of the event and the clock times when the event begins and when the event ends.

(7) You must prepare a summary of the data for the entire observation period using the information recorded during the observation period by the outdoor visible emission observers and the indoor process monitor and the

procedure specified in paragraphs (c)(7)(i) through (iv) of this section.

(i) Using the field data sheets, identify the 1-minute clock times for which a total of eight opacity readings were made and recorded by both observers at 15-second intervals according to the test procedures (i.e., a total of four opacity values have been recorded for the 1-minute interval by each of the two observers). Calculate the average of the eight 15-second interval readings recorded on the field data sheets by the two observers during the clock time minute interval (add the four consecutive 15-second interval opacity readings made by Observer A during the specified clock time minute, plus the four consecutive 15-second interval opacity readings made by Observer B during the same clock time minute, and divide the resulting total by eight). Record the clock time and the opacity average for the 1-minute interval on a data summary sheet. Figure 1 of this subpart shows an example of the format for the data summary sheet you may use, but are not required to use.

(ii) Using the data summary sheets prepared according to paragraph (c)(7)(i) of this section and the process information recorded according to paragraph (c)(6)(iii) of this section, identify those 1-minute intervals for which at least one of the batch copper converters was blowing.

(iii) Using the data summary sheets prepared according to paragraph (c)(7)(ii) of this section and the process information recorded according to paragraph (c)(6)(iv) of this section, identify the 1-minute intervals during which at least one copper converter was blowing but none of the interference events listed in paragraphs (c)(7)(iii)(A) through (F) of this section occurred. Other ancillary activities not listed but conducted in or adjacent to the converter aisle during the opacity observations are not considered to be interference events (e.g., converter aisle cleaning, placement of smoking ladles or skulls on the converter aisle floor).

(A) Charging of copper matte, reverts, or other materials to a batch copper converter;

(B) Skimming slag or other molten materials from a batch copper converter;

(C) Pouring of blister copper or other molten materials from a batch copper converter;

(D) Return of slag or other molten materials to the flash smelting furnace or slag cleaning vessel;

(E) Roll-out or roll-in of the batch copper converter; or

(F) Smoke and fumes generated inside the converter building by operation of the smelting furnace, the slag cleaning vessel (if used), anode refining and casting processes that drift into the copper converter department.

(iv) Using the data summary sheets prepared according to paragraph (c)(7)(iii) of this section, up to five 1-minute intervals following an interference event may be eliminated from data used for the compliance determination calculation specified in paragraph (c)(8) of this section by applying a time delay factor. The time delay factor must be a constant number of minutes not to exceed 5 minutes that is added to the clock time recorded when cessation of the interference event occurs. The same time delay factor must be used for all interference events (i.e., a constant time delay factor for the smelter of 1 minute, 2 minutes, 3 minutes, 4 minutes, or 5 minutes). The number of minutes to be used for the time delay factor is determined based on the site-specific equipment and converter building configuration. An explanation of the rationale for selecting the value used for the time delay factor must be prepared and included in the test report.

(8) You must use the data summary prepared in paragraph (c)(7) of this section to calculate the average opacity value for a minimum of 120 1-minute intervals during which at least one copper converter was blowing with no interference events as determined according to paragraphs (c)(7)(iii) and (iv) of this section. Average opacity is calculated using Equation 1 of this section:

$$VE_{ave} = \frac{1}{n}\sum_{i=1}^{n} VE_i \qquad \text{(Eq. 1)}$$

Where

VE_{ave} = Average opacity to be used for compliance determination (percent);

n = Total number of 1-minute intervals during which at least one copper converter was blowing with no interference events as determined according to paragraphs (c)(7)(iii) and (iv) of this section (at least 120 1-minute intervals);

i = 1-minute interval "i" during which at least one copper converter was blowing with no interference events as determined according to paragraphs (c)(7)(iii) and (iv) of this section; and

VE_i = Average opacity value calculated for the eight opacity readings recorded during 1-minute interval "i" (percent).

(9) You must certify that the copper converter department capture system operated during the performance test at the operating limits established in your capture system operation and maintenance plan using the procedure specified in paragraphs (c)(9)(i) through (iv) of this section.

(i) Concurrent with all opacity observations, measure and record values for each of the operating limit parameters in your capture system operation and maintenance plan according to the monitoring requirements specified in § 63.1452(a).

(ii) For any dampers that are manually set and remain in the same position at all times the capture system is operating, the damper position must be visually checked and recorded at the beginning and end of each opacity observation period segment.

(iii) Review the recorded monitoring data. Identify and explain any times during batch copper converter blowing when the capture system operated outside the applicable operating limits.

(iv) Certify in your performance test report that during all observation period segments, the copper converter department capture system was operating at the values or settings established in your capture system operation and maintenance plan.

§ 63.1451 How do I demonstrate initial compliance with the emission limitations, work practice standards, and operation and maintenance requirements that apply to me?

(a) *Total particulate matter emission limits.* For each copper concentrate dryer, smelting furnace, slag cleaning vessel, and copper converter department subject to a total particulate matter emission limits in § 63.1444 or § 63.1446 that applies to you, you have demonstrated initial compliance if you meet both of the conditions in paragraphs (a)(1) and (2) of this section.

(1) The average concentration of total particulate matter from a control device applied to emissions from the affected source, measured according to the performance test procedures in § 63.1450(a), did not exceed the applicable emission limit.

(2) You have submitted a notification of compliance status according to the requirements in § 63.1454(e).

(b) *Nonsulfuric acid particulate matter emissions limits.* For each smelting furnace, slag cleaning vessel, and copper converter departments subject to the nonsulfuric acid particulate matter emissions limit in § 63.1444 as applies to you, you have demonstrated initial compliance if you meet both of the conditions in paragraphs (b)(1) and (2) of this section.

(1) The average concentration of nonsulfuric acid particulate matter in the process off-gas discharged from the

affected source, measured according to the performance test procedures in § 63.1450(b), did not exceed 6.2 mg/dscm.

(2) You have submitted a notification of compliance status according to the requirements in § 63.1454(e).

(c) For each existing copper converter department subject to the opacity limit in § 63.1444, you have demonstrated initial compliance if you meet both of the conditions in paragraphs (c)(1) and (2) of this section.

(1) The opacity of visible emissions exiting the roof monitors or roof exhaust fans on the building housing the copper converter department measured according to the performance test procedures in § 63.1450(c), did not exceed 4 percent opacity.

(2) You have submitted a notification of compliance status according to the requirements in § 63.1454(e).

(d) *Copper converter department capture systems.* You have demonstrated initial compliance of the copper converter department capture system if you meet all of the conditions in paragraphs (d)(1) through (4) of this section.

(1) Prepared the capture system operation and maintenance plan according to the requirements of paragraph (a) of this section;

(2) Conducted an initial performance test according to the procedures of § 63.1450(c) demonstrating the opacity of any visible emissions exiting the roof monitors or roof exhaust fans on the building housing the copper converter department does not exceed 4 percent opacity;

(3) Included in your notification of compliance status a copy of your written capture system operation and maintenance plan and have certified in your notification of compliance status that you will operate the copper converter department capture system at all times during blowing at the values or settings established for the operating limits in that plan; and

(4) Submitted a notification of compliance status according to the requirements in § 63.1454(e).

(e) *Baghouses.* For each baghouse subject to operating limits in § 63.1444(f) or § 63.1446(c), you have demonstrated initial compliance if you meet all of the conditions in paragraphs (e)(1) through (3) of this section.

(1) You have included in your written operation and maintenance plan required under § 63.1447(b) detailed descriptions of the procedures you use for inspection, maintenance, bag leak detection, and corrective action for the baghouse.

(2) You have certified in your notification of compliance status that you will operate the baghouse according to your written operation and maintenance plan.

(3) You have submitted the notification of compliance status according to the requirements in § 63.1454(e).

(f) *Venturi wet scrubbers.* For each venturi wet scrubber subject to operating limits in § 63.1444(g) or § 63.1446(d), you have demonstrated initial compliance if you meet all of the conditions in paragraphs (f)(1) through (3) of this section.

(1) Established site-specific operating limits for pressure drop and scrubber water flow rate and have a record of the pressure drop and scrubber water flow rate measured during the performance test you conduct to demonstrate initial compliance with paragraph (a) of this section.

(2) Certified in your notification of compliance status that you will operate the venturi wet scrubber within the established operating limits for pressure drop and scrubber water flow rate.

(3) Submitted a notification of compliance status according to the requirements in § 63.1454(e).

(g) *Other control devices.* For each control device other than a baghouse or venturi wet scrubber subject to operating limits in § 63.1444(h) or § 63.1446(e), you have demonstrated initial compliance if you meet all of the conditions in paragraphs (g)(1) through (4) of this section.

(1) Selected one or more operating parameters, as appropriate for the control device design, that can be used as representative and reliable indicators of the control device operation.

(2) Established site-specific operating limits for each of the selected operating parameters based on values measured during the performance test you conduct to demonstrate initial compliance with paragraph (a) of this section and have prepared written documentation according to the requirements in § 63.1450(a)(5)(iv).

(3) Included in your notification of compliance status a copy of the written documentation you have prepared to demonstrate compliance with paragraph (g)(2) of this section and have certified in your notification of compliance status that you will operate the control device within the established operating limits.

(4) Submitted a notification of compliance status according to the requirements in § 63.1454(e).

(h) *Fugitive dust sources.* For all fugitive dust sources subject to work practice standards in § 63.1445, you have demonstrated initial compliance if you meet all of the conditions in paragraphs (i)(1) through (3) of this section.

(1) Prepared a written fugitive dust control plan according to the requirements in § 63.1454 and it has been approved by the designated authority.

(2) Certified in your notification of compliance status that you will control emissions from the fugitive dust sources according to the procedures in the approved plan.

(3) Submitted the notification of compliance status according to the requirements in § 63.1454(e).

(i) *Operation and maintenance requirements.* You have demonstrated initial compliance with the operation and maintenance requirements that apply to you if you meet all of the conditions in paragraphs (i)(1) through (3) of this section.

(1) Prepared an operation and maintenance plan according to the requirements in § 63.1454(b).

(2) Certified in your notification of compliance status that you will operate each capture system and control device according to the procedures in the plan.

(3) Submitted the notification of compliance status according to the requirements in § 63.1454(e).

Continuous Compliance Requirements

§ 63.1452 What are my monitoring requirements?

(a) *Copper converter department capture systems.* For each operating limit established under your capture system operation and maintenance plan, you must install, operate, and maintain an appropriate monitoring device according the requirements in paragraphs (a)(1) though (6) of this section to measure and record the operating limit value or setting at all times the copper converter department capture system is operating during batch copper converter blowing. Dampers that are manually set and remain in the same position at all times the capture system is operating are exempted from the requirements of this paragraph (a).

(1) Install the monitoring device, associated sensor(s), and recording equipment according to the manufacturers' specifications. Locate the sensor(s) used for monitoring in or as close to a position that provides a representative measurement of the parameter being monitored.

(2) If a flow measurement device is used to monitor the operating limit parameter, you must meet the requirements in paragraph (a)(2)(i) through (iv) of this section.

(i) Locate the flow sensor and other necessary equipment such as

straightening vanes in a position that provides a representative flow.

(ii) Use a flow sensor with a minimum tolerance of 2 percent of the flow rate.

(iii) Reduce swirling flow or abnormal velocity distributions due to upstream and downstream disturbances.

(iv) Conduct a flow sensor calibration check at least semiannually.

(3) If a pressure measurement device is used to monitor the operating limit parameter, you must meet the requirements in paragraph (a)(3)(i) through (v) of this section.

(i) Locate the pressure sensor(s) in or as close to a position that provides a representative measurement of the pressure.

(ii) Minimize or eliminate pulsating pressure, vibration, and internal and external corrosion.

(iii) Use a gauge with a minimum tolerance of 0.5 inch of water or a transducer with a minimum tolerance of 1 percent of the pressure range.

(iv) Check pressure tap pluggage daily.

(v) Using a manometer, check gauge calibration quarterly and transducer calibration monthly.

(4) Conduct calibration and validation checks any time the sensor exceeds the manufacturer's specifications or you install a new sensor.

(5) At least monthly, inspect all components for integrity, all electrical connections for continuity, and all mechanical connections for leakage.

(6) Record the results of each inspection, calibration, and validation check.

(b) *Baghouses.* For each baghouse subject to the operating limit in § 63.1444(f) or § 63.1446(c) for the bag leak detection system alarm, you must at all times monitor the relative change in particulate matter loadings using a bag leak detection system according to the requirements in paragraph (b)(1) of this section and conduct regular inspections according to the requirements in paragraph (b)(2) of this section.

(1) You must install, operate, and maintain each bag leak detection system according to the requirements in paragraphs (b)(1)(i) through (vii) of this section.

(i) The system must be certified by the manufacturer to be capable of detecting emissions of particulate matter at concentrations of 10 milligrams per actual cubic meter (0.0044 grains per actual cubic foot) or less.

(ii) The system must provide output of relative changes in particulate matter loadings.

(iii) The system must be equipped with an alarm that will sound when an increase in relative particulate loadings is detected over a preset level. The alarm must be located such that it can be heard by the appropriate plant personnel.

(iv) Each system that works based on the triboelectric effect must be installed, operated, and maintained in a manner consistent with the guidance document, "Fabric Filter Bag Leak Detection Guidance," EPA–454/R–98–015, September 1997. You may obtain a copy of this guidance document by contacting the National Technical Information Service (NTIS) at 800–553–6847. You may install, operate, and maintain other types of bag leak detection systems in a manner consistent with the manufacturer's written specifications and recommendations.

(v) To make the initial adjustment of the system, establish the baseline output by adjusting the sensitivity (range) and the averaging period of the device. Then, establish the alarm set points and the alarm delay time.

(vi) Following the initial adjustment, do not adjust the sensitivity or range, averaging period, alarm set points, or alarm delay time, except as detailed in your operation and maintenance plan. Do not increase the sensitivity by more than 100 percent or decrease the sensitivity by more than 50 percent over a 365-day period unless a responsible official certifies, in writing, that the baghouse has been inspected and found to be in good operating condition.

(vii) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(2) You must conduct baghouse inspections at their specified frequencies according to the requirements in paragraphs (b)(2)(i) through (viii) of this section.

(i) Monitor the pressure drop across each baghouse cell each day to ensure pressure drop is within the normal operating range identified in the manual.

(ii) Confirm that dust is being removed from hoppers through weekly visual inspections or other means of ensuring the proper functioning of removal mechanisms.

(iii) Check the compressed air supply for pulse-jet baghouses each day.

(iv) Monitor cleaning cycles to ensure proper operation using an appropriate methodology.

(v) Check bag cleaning mechanisms for proper functioning through monthly visual inspection or equivalent means.

(vi) 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 laying on their sides. You do not have to make this check for shaker-type baghouses using self-tensioning (spring-loaded) devices.

(vii) Confirm the physical integrity of the baghouse through quarterly visual inspections of the baghouse interior for air leaks.

(viii) Inspect fans for wear, material buildup, and corrosion through quarterly visual inspections, vibration detectors, or equivalent means.

(c) *Venturi wet scrubbers.* For each venturi wet scrubber subject to the operating limits for pressure drop and scrubber water flow rate in § 63.1444(g) or § 63.1446(d), you must at all times monitor the hourly average pressure drop and water flow rate using a CPMS. You must install, operate, and maintain each CPMS according to the requirements in paragraphs (c)(1) and (2) of this section.

(1) For the pressure drop CPMS, you must meet the requirements in paragraphs (c)(1)(i) through (vi) of this section.

(i) Locate the pressure sensor(s) in or as close to a position that provides a representative measurement of the pressure and that minimizes or eliminates pulsating pressure, vibration, and internal and external corrosion.

(ii) Use a gauge with a minimum measurement sensitivity of 0.5 inch of water or a transducer with a minimum measurement sensitivity of 1 percent of the pressure range.

(iii) Check the pressure tap for pluggage daily.

(iv) Using a manometer, check gauge calibration quarterly and transducer calibration monthly.

(v) Conduct calibration checks any time the sensor exceeds the manufacturer's specified maximum operating pressure range, or install a new pressure sensor.

(vi) At least monthly, inspect all components for integrity, all electrical connections for continuity, and all mechanical connections for leakage.

(2) For the scrubber water flow rate CPMS, you must meet the requirements in paragraphs (c)(2)(i) through (iv) of this section.

(i) Locate the flow sensor and other necessary equipment in a position that provides a representative flow and that reduces swirling flow or abnormal velocity distributions due to upstream and downstream disturbances.

(ii) Use a flow sensor with a minimum measurement sensitivity of 2 percent of the flow rate.

(iii) Conduct a flow sensor calibration check at least semiannually according to the manufacturer's instructions.

(iv) At least monthly, inspect all components for integrity, all electrical connections for continuity, and all mechanical connections for leakage.

(d) *Other control devices.* For each control device other than a baghouse or venturi wet scrubber subject to the operating limits for appropriate parameters in § 63.1444(h) or § 63.1446(e), you must at all times monitor the hourly average pressure drop and water flow rate using a CPMS. You must install, operate, and maintain each CPMS according to the equipment manufacturer's specifications and the requirements in paragraphs (d)(1) though (5) of this section.

(1) Locate the sensor(s) used for monitoring in or as close to a position that provides a representative measurement of the parameter being monitored.

(2) Determine the hourly average of all recorded readings.

(3) Conduct calibration and validation checks any time the sensor exceeds the manufacturer's specifications or you install a new sensor.

(4) At least monthly, inspect all components for integrity, all electrical connections for continuity, and all mechanical connections for leakage.

(5) Record the results of each inspection, calibration, and validation check.

(e) Except for monitoring malfunctions, associated repairs, and required quality assurance or control activities (including as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times an affected source is operating.

(f) You may not use data recorded during monitoring malfunctions, associated repairs, and required quality assurance or control activities in data averages and calculations used to report emission or operating levels or to fulfill a minimum data availability requirement, if applicable. You must use all the data collected during all other periods in assessing compliance.

(g) A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the monitor to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions.

§ 63.1453 How do I demonstrate continuous compliance with the emission limitations, work practice standards, and operation and maintenance requirements that apply to me?

(a) *Particulate matter emission limits.* For each affected source subject to a particulate matter emission limit § 63.1444 or § 63.1446 as applies to you, you must demonstrate continuous compliance according to the requirements in paragraphs (a)(1) and (2) of this section.

(1) For each copper concentrate dryer, smelting furnace, slag cleaning vessel, and copper converter department subject to a total particulate matter emission limit in § 63.1444 or § 63.1446 as applies to you, you must demonstrate continuous compliance by meeting the conditions in paragraphs (a)(1)(i) and (ii) of this section.

(i) Maintain the average concentration of total particulate matter in the gases discharged from the affected source at or below the applicable emission limit.

(ii) Conduct subsequent performance tests following your initial performance test no less frequently than once per year according to the performance test procedures in § 63.1450(a).

(2) For each smelting furnace, slag cleaning vessel, and copper converter department subject to the nonsulfuric acid particulate matter emission limit in § 63.1444 as applies to you, you must demonstrate continuous compliance by meeting the conditions in paragraphs (a)(2)(i) and (ii) of this section.

(i) Maintain the average concentration of nonsulfuric acid particulate matter in the process off-gas discharged from the affected source at or below 6.2 mg/dscm.

(ii) Conduct subsequent performance tests following your initial performance test no less frequently than once per year according to the performance test procedures in § 63.1450(b).

(b) *Copper converter department capture systems.* You must demonstrate continuous compliance of the copper converter department capture system by meeting the requirements in paragraphs (b)(1) through (4) of this section.

(1) Operate the copper converter department capture system at all times during blowing at or above the lowest values or settings established for the operating limits and demonstrated to achieve the opacity limit according to the applicable requirements of this subpart;

(2) Inspect and maintain the copper converter department capture system according to the applicable requirements in § 63.1447 and recording all information needed to document conformance with these requirements;

(3) Monitor the copper converter department capture system according to the requirements in § 63.1452(a) and collecting, reducing, and recording the monitoring data for each of the operating limit parameters according to the applicable requirements of this subpart; and

(4) Conduct subsequent performance tests according to the requirements of § 63.1450(c) following your initial performance test no less frequently than once per year to demonstrate that the opacity of any visible emissions exiting the roof monitors or roof exhaust fans on the building housing the copper converter department does not exceed 4 percent opacity.

(c) *Baghouses.* For each baghouse subject to the operating limit for the bag leak detection system alarm in § 63.1444(f) or § 63.1446(c), you must demonstrate continuous compliance by meeting the requirements in paragraphs (c)(1) through (3) of this section.

(1) Maintain the baghouse such that the bag leak detection system alarm does not sound for more than 5 percent of the operating time during any semiannual reporting period. To determine the percent of time the alarm sounded use the procedures in paragraphs (c)(1)(i) through (v) of this section.

(i) Alarms that occur due solely to a malfunction of the bag leak detection system are not included in the calculation.

(ii) Alarms that occur during startup, shutdown, or malfunction are not included in the calculation if the condition is described in the startup, shutdown, and malfunction plan, and all the actions you took during the startup, shutdown, or malfunction were consistent with the procedures in the startup, shutdown, and malfunction plan.

(iii) Count 1 hour of alarm time for each alarm when you initiated procedures to determine the cause of the alarm within 1 hour.

(iv) Count the actual amount of time you took to initiate procedures to determine the cause of the alarm if you did not initiate procedures to determine the cause of the alarm within 1 hour of the alarm.

(v) Calculate the percentage of time the alarm on the bag leak detection system sounds as the ratio of the sum of alarm times to the total operating time multiplied by 100.

(2) Maintain records of the times the bag leak detection system alarm sounded, and for each valid alarm, the time you initiated corrective action, the corrective action(s) taken, and the date on which corrective action was completed.

(3) Inspect and maintain each baghouse according to the requirements in § 63.1451(b)(2) and recording all information needed to document conformance with these requirements. If

you increase or decrease the sensitivity of the bag leak detection system beyond the limits specified in § 63.1451(b)(1)(vi), you must include a copy of the required written certification by a responsible official in the next semiannual compliance report.

(d) *Venturi wet scrubbers.* For each venturi wet scrubber subject to the operating limits for pressure drop and scrubber water flow rate in § 63.1444(g) or § 63.1446(d), you must demonstrate continuous compliance by meeting the requirements of paragraphs (d)(1) through (3) of this section.

(1) Maintain the hourly average pressure drop and scrubber water flow rate at levels no lower than those established during the initial or subsequent performance test;

(2) Inspect and maintain each venturi wet scrubber CPMS according to § 63.1452(c) and recording all information needed to document conformance with these requirements; and

(3) Collect and reduce monitoring data for pressure drop and scrubber water flow rate according to § 63.1452(e) and recording all information needed to document conformance with these requirements.

(e) *Other control devices.* For each control device other than a baghouse or venturi wet scrubber subject to the operating limits for site-specific operating parameters in § 63.1444(h) or § 63.1446(e), you must demonstrate continuous compliance by meeting the requirements of paragraphs (e)(1) through (3) of this section:

(1) Maintain the hourly average rate at levels no lower than those established during the initial or subsequent performance test;

(2) Inspect and maintain each venturi wet scrubber CPMS according to § 63.1452(d) and recording all information needed to document conformance with these requirements; and

(3) Collect and reduce monitoring data for selected parameters according to § 63.1452(e) and recording all information needed to document conformance with these requirements.

(f) *Fugitive dust sources.* For each fugitive dust source subject to work practice standards in § 63.1445, you must demonstrate continuous compliance by implementing all of fugitive control measures specified for the source in your written fugitive dust control plan.

Notifications, Reports and Records

§ 63.1454 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.6(h)(4) and (h)(5), 63.7(b) and (c), 63.8(f)(4), and 63.9(b) through (h) that apply to you by the specified dates.

(b) As specified in § 63.9(b)(2), if you start your affected source before June 12, 2002, you must submit your initial notification not later than October 10, 2002.

(c) As specified in § 63.9(b)(3), if you start your new affected source on or after June 12, 2002, you must submit your initial notification not later than 120 calendar days after you become subject to this subpart.

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

(e) If you are required to conduct a performance test, opacity observation, or other initial compliance demonstration, you must submit a notification of compliance status according to § 63.9(h)(2)(ii) by the date specified in paragraph (e)(1) or (2) of this section as applies to you.

(1) For each initial compliance demonstration that does not include a performance test, you must submit the notification of compliance status before the close of business on the 30th calendar day following the completion of the initial compliance demonstration.

(2) For each initial compliance demonstration that includes a performance test, you must submit the notification of compliance status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2).

§ 63.1455 What reports must I submit and when?

(a) You must submit each report in paragraphs (a)(1) and (2) of this section that applies to you.

(1) You must submit a compliance report semiannually according to the requirements in paragraph (b) of this section and containing the information in paragraph (c) of this section.

(2) You must submit an immediate startup, shutdown, and malfunction report if you had a startup, shutdown, or malfunction during the reporting period that is not consistent with your startup, shutdown, and malfunction plan. You must report the actions taken for the event by fax or telephone within 2 working days after starting actions inconsistent with the plan. You must submit the information in § 63.10(d)(5)(ii) of this part by letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority.

(b) Unless the Administrator has approved a different schedule under § 63.10(a), you must submit each compliance report required in paragraph (a) of this section according to the applicable requirements in paragraphs (b)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.1443 and ending on June 30 or December 31, whichever date comes first after the compliance date that is specified for your source in § 63.1443.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date comes first after your first compliance report is due.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date comes first after the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A) of this chapter, you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section.

(c) Each compliance report must contain the information in paragraphs (c)(1) through (3) of this section and, as applicable, paragraphs (c)(4) through (8) of this section.

(1) Company name and address.

(2) Statement by a responsible official, as defined in 40 CFR 63.2, with that official's name, title, and signature, certifying the accuracy and completeness of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If you had a startup, shutdown or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).

(5) If there are no deviations from any emission limitations (emission limit, operating limit, opacity limit) that applies to you and there are no deviations from the requirements for work practice standards in this subpart, a statement that there were no deviations from the emission limitations, work practice standards, or operation and maintenance requirements during the reporting period.

(6) If there were no periods during which an operating parameter monitoring system was out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which the monitoring system was out-of-control during the reporting period.

(7) For each deviation from an emission limitation (emission limit, operating limit, opacity limit) and for each deviation from the requirements for work practice standards that occurs at an affected source where you are not using a continuous monitoring system to comply with the emission limitations or work practice standards in this subpart, the compliance report must contain the information in paragraphs (b)(1) through (4) of this section and the information in paragraphs (b)(7)(i) and (ii) of this section. This includes periods of startup, shutdown, and malfunction.

(i) The total operating time of each affected source during the reporting period.

(ii) Information on the number, duration, and cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

(8) For each deviation from an emission limitation (emission limit, operating limit, opacity limit, and visible emission limit) occurring at an affected source where you are using a operating parameter monitoring system to comply with the emission limitation in this subpart, you must include the information in paragraphs (b)(1) through (4) of this section and the information in paragraphs (c)(8)(i) through (xi) of this section. This includes periods of startup, shutdown, and malfunction.

(i) The date and time that each malfunction started and stopped.

(ii) The date and time that each monitoring system was inoperative, except for zero (low-level) and high-level checks.

(iii) The date, time and duration that each monitoring system was out-of-control, including the information in § 63.8(c)(8).

(iv) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(v) A summary of the total duration of the deviation during the reporting period and the total duration as a percent of the total source operating time during that reporting period.

(vi) A breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(vii) A summary of the total duration of monitoring system downtime during the reporting period and the total duration of monitoring system downtime as a percent of the total source operating time during that reporting period.

(viii) A brief description of the process units.

(ix) A brief description of the monitoring system.

(x) The date of the latest monitoring system certification or audit.

(xi) A description of any changes in continuous monitoring systems, processes, or controls since the last reporting period.

(d) If you have obtained a Title V operating permit pursuant to 40 CFR part 70 or 40 CFR part 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If you submit a compliance report pursuant to paragraph (a) of this section along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the compliance report includes all required information concerning deviations from any emission limitation(including any operating limit), or work practice requirement in this subpart, submission of the compliance report is deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report does not otherwise affect any obligation you may have to report deviations from permit requirements to the permit authority.

§ 63.1456 What records must I keep and how long must I keep my records?

(a) You must keep the records listed in paragraphs (a)(1) through (7) of this section.

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any initial notification or notification of compliance status that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(3) Records of performance tests and performance evaluations as required in § 63.10(b)(2)(viii).

(4) For each monitoring system, you must keep the records specified in paragraphs (a)(4)(i) through (iv) of this section.

(i) Records described in § 63.10(b)(2)(vi) through (xi).

(ii) Monitoring data recorded by the monitoring system during a performance evaluation as required in § 63.6(h)(7)(i) and (ii).

(iii) Previous (i.e., superseded) versions of the performance evaluation plan as required in § 63.8(d)(3).

(iv) Records of the date and time that each deviation started and stopped, and whether the deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(5) For each performance test you conduct to demonstrate compliance with a opacity limit according to § 63.1450(c), you must keep the records specified in paragraphs (a)(5)(i) through (ix) of this section.

(i) Dates and time intervals of all opacity observation period segments;

(ii) Description of overall smelter operating conditions during each observation period. Identify, if any, the smelter copper production process equipment that was out-of-service during the performance test and explain why this equipment was not in operation;

(iii) Name, affiliation, and copy of current visible emission reading certification for each visible emission observer participating in the performance test;

(iv) Name, title, and affiliation for each indoor process monitor participating in the performance test;

(v) Copies of all visible emission observer opacity field data sheets;

(vi) Copies of all indoor process monitor operating log sheets;

(vii) Copies of all data summary sheets used for data reduction;

(viii) Copy of calculation sheets of the average opacity value used to demonstrate compliance with the opacity limit; and

(ix) Documentation according to the requirements in § 63.1450(c)(9)(iv) to support your selection of the site-

specific capture system operating limits used for each batch copper converter capture system when blowing.

(6) For each baghouse subject to the operating limit in § 63.1444(f) or § 63.1446(c), you must keep the records specified in paragraphs (a)(6)(i) and (ii) of this section.

(i) Records of alarms for each bag leak detection system.

(ii) Description of the corrective actions taken following each bag leak detection alarm.

(7) For each control device other than a baghouse or venturi wet scrubber subject to site-specific operating limits in § 63.1444(g) or § 63.1446(f), you must keep documentation according to the requirements in § 63.1450(a)(5)(iv) to support your selection of the site-specific operating limits for the control device.

(b) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(c) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(d) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records off site for the remaining 3 years.

Other Requirements and Information

§ 63.1457 What part of the general provisions apply to me?

Table 2 to this subpart shows which parts of the general provisions in §§ 63.1 through 63.15 apply to you.

§ 63.1458 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the United States Environmental Protection Agency (U.S. EPA), or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities listed in paragraph (c) of this section are retained by the U.S. EPA Administrator and are not transferred to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are as listed in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the emission limitations and work practice standards in §§ 63.1444 through 63.1446 under § 63.6(g).

(2) Approval of major alternatives to test methods under § 63.7(f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.1459 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in § 63.2, and in this section as follows:

Bag leak detection system means a system that is capable of continuously monitoring relative particulate matter (dust) loadings in the exhaust of a baghouse in order to detect bag leaks and other upset conditions. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, transmittance or other effect to continuously monitor relative particulate matter loadings.

Baghouse means a control device that collects particulate matter by filtering the gas stream through bags. A baghouse is also referred to as a "fabric filter."

Batch copper converter means a Pierce-Smith converter or Hoboken converter in which copper matte is oxidized to form blister copper by a process that is performed in discrete batches using a sequence of charging, blowing, skimming, and pouring.

Blowing means the operating mode for a batch copper converter during which air or oxygen-enriched air is injected into the molten converter bath.

Capture system means the collection of components used to capture gases and fumes released from one or more emission points, and to convey the captured gases and fumes to a control device. A capture system may include, but is not limited to, the following components as applicable to a given capture system design: duct intake devices, hoods, enclosures, ductwork, dampers, manifolds, plenums, and fans.

Charging means the operating mode for a batch copper converter during which molten or solid material is added into the vessel.

Control device means the air pollution control equipment used to collect particulate matter emissions. Examples of such equipment include, but are not limited to, a baghouse, an electrostatic precipitator, and a wet scrubber.

Copper concentrate dryer means a vessel in which copper concentrates are heated in the presence of air to reduce the moisture content of the material. Supplemental copper-bearing feed materials and fluxes may be added or mixed with the copper concentrates fed to a copper concentrate dryer.

Copper converter department means the area at a primary copper smelter in which the copper converters are located.

Copper matte means a material predominately composed of copper and iron sulfides produced by smelting copper ore concentrates.

Deviation means any instance in which an affected source subject to this subpart or an owner or operator of such a source fails to meet any of the following:

(1) Any requirement or obligation established by this subpart including, but not limited to, any emission limitation (including any operating limit) or work practice standard;

(2) Any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Any emission limitation (including any operating limit) or work practice standard in this subpart during startup, shutdown, or malfunction, regardless whether or not such failure is permitted by this subpart.

Emission limitation means any emission limit, opacity limit, operating limit, or visible emission limit.

Fugitive dust material means copper concentrate, dross, reverts, slag, speiss, or other solid copper-bearing materials.

Fugitive dust source means a stationary source of particulate matter emissions resulting from the handling, storage, transfer, or other management of fugitive dust materials where the source is not associated with a specific process, process vent, or stack. Examples of a fugitive dust source include, but are not limited to, on-site roadways used by trucks transporting copper concentrate, unloading of materials from trucks or railcars, outdoor material storage piles, and transfer of material to hoppers and bins.

Holding means the operating mode for a batch copper converter during which the molten bath is maintained in the vessel but no blowing is performed nor is material added into or removed from the vessel.

Opacity means the degree to which emissions reduce the transmission of light.

Particulate matter means any finely divided solid or liquid material, other than uncombined water, as measured by the specific reference method.

Pouring means the operating mode for a batch copper converter during which molten copper is removed from the vessel.

Primary copper smelter means any installation or any intermediate process engaged in the production of copper from copper sulfide ore concentrates through the use of pyrometallurgical techniques.

Responsible official means responsible official as defined in 40 CFR 70.2.

Skimming means the batch copper converter operating mode during which molten slag is removed from the vessel.

Slag cleaning vessel means a vessel that receives molten copper-bearing material and the predominant use of the vessel is to separate this material into molten copper matte and slag layers.

Smelting furnace means a furnace, reactor, or other type of vessel in which copper ore concentrate and fluxes are melted to form a molten mass of material containing copper matte and slag. Other copper-bearing materials may also be charged to the smelting furnace.

Work practice standard means any design, equipment, work practice, or operational standard, or combination thereof, that is promulgated pursuant to section 112(h) of the Clean Air Act.

As required in § 63.1457, you must comply with the requirements of the NESHAP General Provisions (40 CFR part 63, subpart A) shown in the following table:

TABLE 1 TO SUBPART QQQ OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART QQQ

Citation	Subject	Applies to subpart QQQ	Explanation
§ 63.1	Applicability	Yes.	
§ 63.2	Definitions	Yes.	
§ 63.3	Units and Abbreviations	Yes.	
§ 63.4	Prohibited Activities	Yes.	
§ 63.5	Construction and Reconstruction	Yes.	
§ 63.6(a)-(g)	Compliance with Standards and Maintenance requirements.	Yes.	
§ 63.6(h)	Determining compliance with Opacity and VE standards.	No	Subpart QQQ specifies the requirements and test protocol used to determine compliance with the opacity limits.
§ 63.6(i)-(j)	Extension of Compliance and Presidential Compliance Exemption.	Yes.	
§ 63.7(a)(1)-(2)	Applicability and Performance Test Dates.	No	Subpart QQQ specifies performance test applicability and dates.
§ 63.7(a)(3), (b)-(h)	Performance Testing Requirements	Yes.	
§ 63.8 except for (a)(4),(c)(4), and (f)(6).	Monitoring Requirements	Yes.	
§ 63.8(a)(4)	Additional Monitoring Requirements for Control devices in § 63.11.	No	Subpart QQ does not require flares.
§ 63.8(c)(4)	Continuous Monitoring System Requirements.	No	Subpart QQQ specifies requirements for operation of CMS.
§ 63.8(f)(6)	RATA Alternative	No	Subpart QQQ does not require continuous emission monitoring systems.
§ 63.9	Notification Requirements	Yes.	
§ 63.9(g)(5)	DATA reduction	No	Subpart QQQ specifies data reduction requirements
§ 63.10 except for (b)(2)(xiii) and (c)(7)-(8).	Recordkeeping and reporting Requirements.	Yes.	
§ 63.10(b)(2)(xiii)	CMS Records for RATA Alternative	No	Subpart QQQ does not require continuous emission monitoring systems.
§ 63.10(c)(7)-(8)	Records of Excess Emissions and Parameter Monitoring Accedences for CMS.	No	Subpart QQQ specifies record keeping requirements
§ 63.11	Control Device Requirements	No	Subpart QQQ does not require flares
§ 63.12	State Authority and Delegations	Yes.	
§§ 63.13–63.15	Addresses, Incorporation by Reference, Availability of Information.	Yes.	

FIGURE 1 TO SUBPART QQQ OF PART 63.—DATA SUMMARY SHEET FOR DETERMINATION OF AVERAGE OPACITY

Clock time	Number of converters blowing	Converter aisle activity	Average opacity for 1-minute interval (percent)	Visible emissions interference observed during 1-minute interval? (yes or no)	Average opacity for 1-minute interval blowing without visible emission interferences (percent)

FIGURE 1 TO SUBPART QQQ OF PART 63.—DATA SUMMARY SHEET FOR DETERMINATION OF AVERAGE OPACITY—Continued

Clock time	Number of converters blowing	Converter aisle activity	Average opacity for 1-minute interval (percent)	Visible emissions interference observed during 1-minute interval? (yes or no)	Average opacity for 1-minute interval blowing without visible emission interferences (percent)

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Part IV

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7229–5]

RIN 2060–AE44

National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: The EPA is taking final action to amend the national emission standards for hazardous air pollutants (NESHAP) for phosphoric acid manufacturing plants and the NESHAP for phosphate fertilizers production plants which were promulgated on June 10, 1999 under authority of section 112 of the Clean Air Act (CAA). The NESHAP apply to owners and operators of phosphoric acid and phosphate fertilizers production facilities that are major sources of hazardous air pollutants (HAP). The EPA is amending specific provisions in the NESHAP to resolve issues and questions raised after promulgation of the final rules. The amendments do not significantly change EPA's original projections for the environmental benefits, compliance costs, and burden on industry, and do not affect the number of affected facilities.

EFFECTIVE DATE: June 13, 2002.

ADDRESSES: Docket No. A–94–02, containing information relevant to the final rule amendments, is available for public inspection between 8 a.m. and 5:30 p.m., Monday through Friday (except for Federal holidays) at the following address: Air and Radiation Docket and Information Center (6102), U.S. EPA, 401 M Street, SW., Room 1500, Washington, DC 20460 or by phoning the Air Docket Office at (202) 260–7548. Refer to Docket No. A–94–02. The Docket Office may charge a reasonable fee for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. Keith Barnett, Minerals and Inorganic Chemicals Group, Emission Standards Division (MC–C504–05), U.S. EPA, Research Triangle Park, North Carolina 27709, telephone number (919) 541–5605, facsimile number (919) 541–5600, electronic mail (e-mail) address: *barnett.keith@epa.gov*.

SUPPLEMENTARY INFORMATION: *Docket.* The docket is an organized and complete file of all the information considered by EPA in the development of the final rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated rules and their preambles, the contents of the docket will serve as the record in the case of judicial review. The docket number for the rulemaking is A–94–02.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this action will also be available through the WWW. Following signature, a copy of this action will be posted on EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules: *http://www.epa.gov/ttn/oarpg*. The TTN at EPA's web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. Today's action applies to process components at new and existing phosphoric acid manufacturing plants and phosphate fertilizers production plants. Regulated categories and entities include:

Source category	SIC	NAICS	Examples of regulated entities
Industrial	2874	325314	Phosphoric acid manufacturing facilities (wet process phosphoric acid process line, superphosphoric acid process line, phosphate rock dryer, phosphate rock calciner, purified phosphoric acid process line).
Industrial	2874	325314	Phosphate fertilizers production (diammonium and/or monoammonium phosphate process line, granular triple superphosphate process line, granular triple superphosphate storage building).

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 of the rules. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT SECTION.**

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of the final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by August 12, 2002. Under section 307(d)(7)(B) of the CAA, only an objection to a rule or procedure 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 the final rule may not be challenged separately in any civil or criminal proceeding brought to enforce these requirements.

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

I. Background
II. Amendments Specific to Subpart AA—National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants
III. Amendments to Both Subpart AA—National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants and Subpart BB—National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants
IV. Administrative Requirements
A. Executive Order 12866, Regulatory Planning and Review
B. Executive Order 13132, Federalism
C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
E. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
F. Unfunded Mandates Reform Act of 1995
G. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
H. Paperwork Reduction Act
I. National Technology Transfer and Advancement Act of 1995
J. Congressional Review Act

I. Background

The EPA promulgated NESHAP for Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants on June 10, 1999 (64 FR 31358). The NESHAP established standards to control HAP emissions from facilities producing phosphoric acid and phosphate fertilizers.

On August 4, 1999, The Fertilizer Institute (TFI) filed a petition for judicial review of the NESHAP, as provided for in CAA section 307(b), with respect to certain provisions regarding emissions standards for phosphate rock calciners, monitoring requirements in general, and applicability of the general provisions. On November 3, 1999, TFI filed an administrative petition for reconsideration raising these and other issues, and subsequently submitted supplementary materials in support of its petition.

On December 17, 2001 (66 FR 65072), we published a direct final rule with a parallel proposal that amended several sections of the final rule including the particulate matter (PM) emissions standards for existing phosphate rock calciners (regulating PM as a surrogate for HAP metals). We received an adverse comment on the revised PM emissions standards for existing sources and subsequently withdrew the direct final rule. In the final rule amendments, we are responding to the adverse comment and finalizing the phosphate rock calciner PM emissions standards proposed on December 17, 2001 (66 FR 65079). In addition, we are correcting two errors found in the operating requirements in §§ 63.604 and 63.624 of the final rule.

II. Amendments Specific to Subpart AA—National Emissions Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants

The EPA is amending 40 CFR part 63, subpart AA, to revise the emissions limit for existing phosphate rock calciners. The EPA promulgated standards for phosphate rock calciners based on performance of the floor technology which was identical wet scrubbing technology installed on six identical calciners at one facility, plus data from a calciner with wet scrubbers at a second facility. The promulgated standard under 40 CFR 63.602 for existing calciners of 0.1380 grams per dry standard cubic meter (g/dscm) (0.060 grains per dry standard cubic foot (gr/dscf)) was based on emissions data for the floor technology which was available to EPA at that time.

Subsequent to receiving TFI's petition for reconsideration, we determined that the phosphate rock calciner at the second facility had been shutdown. Also, additional emissions and operating data from compliance tests of the six wet scrubbers installed at the same facility were submitted to EPA. Those data covered an 11-year period from 1991 to 2001.

The results of those data ranged from 0.060 to 0.22 g/dscm (0.026 to 0.097 gr/dscf). However, the petitioner indicated that the oldest 2 years of data would not be indicative of current operation. If those 2 years are excluded, the range of the data is 0.06 to 0.182 g/dscm (0.026 to 0.079 gr/dscf).

The comment we received on the proposed rule stated that EPA should not use information from all six calciners in revising the emission limit for existing sources. The commentor stated that all wet scrubbers are not identical and listed several operating parameters including pressure drop, liquid flow rate, and mist eliminator design. They stated that, therefore, the inability of one of the six calciners to meet the existing standard does not affect the ability of other better designed scrubbers to meet the standard. The commentor also mentioned that differences in the manufacturing process can affect the amount of particulate entering the control device. Finally, they stated that EPA has disregarded the finding of Cement Kiln Recycling Coalition V. EPA , 255 F.3d 855 (D.C. Cir. 2001) that "floors reflect what the best performers actually achieve".

We believe that the final rule amendments are consistent with the holding of *Cement Kiln Recycling Coalition*. In that case, the court considered a challenge to the Agency's practice of looking at sources outside the group of best performing sources to determine the variability of the best performers. The court held that, where factors other than the control technology affected the emissions level, such practice was not consistent with CAA section 112(d) because it failed to reflect a reasonable estimate of the emissions level of the best performing sources (255 F.3d at 866). The court noted that the Agency's practice may, however, comply with the statute where the record demonstrates "that MACT technology significantly controls emissions, or that factors other than the control technology have a negligible effect." (*Id.*)

That is the case here. The record demonstrates that the wet scrubbing MACT technology selected for phosphate calciners significantly controls emissions and that factors other than control technology have a negligible effect. The MACT floor for categories with less than 30 sources is the average of the top performing five. However, we could find no basis to distinguish any reason that those six sources, which are located at the same facility, are not identical, with the only difference in emissions being due to normal process variation that is beyond the control of the facility.

All six calciners were designed to be identical. The phosphate rock inputs come from a common source. All six use the same fuel and have identical fuel systems. One operator runs four calciners, and one runs the other two. All operators receive the same training. The scrubbers have the same venturi pressure drop, liquid flow rates, and gas/liquid separation sections. Because factors other than the MACT technology do not affect emissions levels, consideration of data from all six sources to determine the variability experienced by the best performers is consistent with *Cement Kiln Recycling Association* and the requirements of section 112(d).[1]

As discussed above, the data from the six facilities covered a range of 0.060 to 0.181 g/dscm (0.026 to 0.079 gr/dscf), which exceeds the promulgated standards.[2] Therefore, we are changing the emission standard under 40 CFR 63.602 for existing calciners to 0.184 g/dscm (0.080 gr/dscf).

III. Amendments to Both Subpart AA—National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants and Subpart BB—National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants

The EPA is amending the sections on operating requirements in 40 CFR part 63, subparts AA and BB.

In the final rule published on June 10, 1999 (64 FR 31358), we made a number of changes to the monitoring requirements in §§ 63.604 and 63.624 of the proposed rule. We created new §§ 63.604 and 63.624 titled operating requirements and moved the monitoring requirements to §§ 63.605 and 63.625. In the final versions of §§ 63.604 and 63.624, we stated that the owner/

[1] It should also be noted that the decision to exclude the data from the calciner that was recently shut down would not change the outcome of the floor determination.

[2] The commenter also stated that if EPA accepts data after the close of the public comment period, it must consider newer data from other plants. As noted above, EPA has all of the available data for the existing phosphate calciners.

operator must maintain the 3-hour averages of the pressure drop across each wet scrubber and the liquid flow rate to each scrubber within the allowable ranges established during the performance test.

However, in the final version of §§ 63.605 and 63.625 (monitoring requirements), we consistently refer to daily averages, not 3-hour averages. The discussion in the preamble of the final rule stated that our intent was that any exceedance of the operating range averages over 24 hours is a violation of the operating requirement. Based on that, our intent was to require that facilities maintain the averages of the pressure drop across each wet scrubber and the liquid flow rate to each scrubber within the allowable ranges established during the performance test on a daily average basis, not a 3-hour basis. Therefore, the reference to 3-hour averages in §§ 63.604 and 63.624 of the final rule was an error. In the final rule amendments, we are correcting §§ 63.604 and 63.624 to reflect our original intent by changing "3-hour average" to "daily average."

IV. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that the amendments do not constitute a "significant regulatory action" because they do not meet any of the above criteria. Consequently, the final rule amendments were not submitted to OMB for review under Executive Order 12866.

B. 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 rule amendments do 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. The final rule amendments will not impose directly enforceable requirements on States, nor would they preempt them from adopting their own more stringent programs to control emissions. Thus, Executive Order 13132 does not apply to the final rule amendments.

C. 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 rule amendments do not have tribal implications, as specified in Executive Order 13175. No tribal governments are known to own or operate phosphoric acid manufacturing facilities or phosphate fertilizers production facilities. Thus, Executive Order 13175 does not apply to the final rule amendments.

D. 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 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 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 EPA.

The 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. The final rule amendments are not subject to Executive Order 13045 because they are based on technology performance, not health or safety risks. Furthermore, the final rule amendments have been determined not to be "economically significant" as defined under Executive Order 12866.

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

The final rule amendments are not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 Fed. Reg. 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

F. 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, the 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 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.

Because today's amendments do not add new requirements or costs, the EPA has determined that the 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 1 year. Thus, the final rule amendments are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the EPA has determined that the final rule amendments contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no regulatory requirements that apply to such governments or impose obligations upon them. Therefore, today's final rule amendments are not subject to the requirements of section 203 of the UMRA.

G. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The 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 final rule amendments on small entities, the EPA found that 2 of the 21 firms that potentially could be subject to the standards are small firms. Of the two, data indicate that one is an area source which would not be covered by the standards. The second source could be major and subject to the requirements of the standards. Information available to EPA shows, however, that the second source is able to achieve the control levels associated with the promulgated rules using existing equipment. The second source would not be significantly impacted by the final rule amendments because it clarifies and makes corrections to the promulgated rules but imposes no additional regulatory requirements.

Because today's final rule amendments impose no additional regulatory requirements on owners or operators of phosphoric acid manufacturing plants or phosphate fertilizers production plants, the EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities.

H. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in the phosphoric acid manufacturing and phosphate fertilizers production NESHAP under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB Control No. 2060–0361. An Information Collection Request (ICR) document has been prepared by EPA, and a copy may be obtained from Susan Auby by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822T), 1200 Pennsylvania Avenue, NW, Washington DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 566–1672.

The amendments contained in this final rule will have no net impact on the information collection burden estimates made previously. Consequently, the ICR has not been revised.

I. National Technology Transfer and Advancement Act of 1995

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Public Law 104–113 (March 7, 1996), directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when EPA does not use available and applicable voluntary consensus standards.

The final rule amendments do not involve the use of any new technical standards. Accordingly, the NTTAA requirement to use applicable voluntary consensus standards does not apply to the final rule amendments.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the SBREFA of 1996, generally provides that before a rule may take effect, the agency adopting 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. The 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**. Today's action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 5, 2002.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended to read 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 AA—[Amended]

2. Section 63.602 is amended by revising paragraph (d) to read as follows:

§ 63.602 Standards for existing sources.

* * * * *

(d) *Phosphate rock calciner.* On or after the date on which the performance test required to be conducted by §§ 63.7 and 63.606 is required to be completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain particulate matter in excess of 0.1810 gram per dry standard cubic

meter (g/dscm) (0.080 grains per dry standard cubic foot (gr/dscf)).

* * * * *

3. Section 63.604 is revised to read as follows:

§ 63.604 Operating requirements.

On or after the date on which the performance test required to be conducted by §§ 63.7 and 63.606 is required to be completed, the owner/operator using a wet scrubbing emission control system must maintain daily averages of the pressure drop across each scrubber and of the flow rate of the scrubbing liquid to each scrubber within the allowable ranges established pursuant to the requirements of § 63.605(d)(1) or (2).

Subpart BB—[Amended]

4. Section 63.624 is revised to read as follows:

§ 63.624 Operating requirements.

On or after the date on which the performance test required to be conducted by §§ 63.7 and 63.626 is required to be completed, the owner/operator using a wet scrubbing emission control system must maintain daily averages of the pressure drop across each scrubber and of the flow rate of the scrubbing liquid to each scrubber within the allowable ranges established pursuant to the requirements of § 63.625(f)(1) or (2).

[FR Doc. 02–14758 Filed 6–12–02; 8:45 am]

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Federal Register

Friday,
June 14, 2002

Part III

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production; Final Rule and Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7225–6]

RIN 2060–AE77

National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments.

SUMMARY: On March 23, 2000, the EPA issued national emission standards for hazardous air pollutants for secondary aluminum production under section 112 of the Clean Air Act (CAA). This action amends the standards to clarify compliance dates and defer certain early compliance obligations. These changes are being made as part of settlement agreements with industry trade associations, including the Aluminum Association and the American Foundrymen's Society. We are making these amendments by a direct final rule, without prior proposal, because we view these revisions as noncontroversial and anticipate no adverse comments. In addition, because we are publishing a separate proposal which includes substantive clarifications and revisions of the standard, we believe it will prevent confusion and disruption if we defer any compliance obligations until after that separate rulemaking can be completed.

DATES: This rule is effective on August 13, 2002 without further notice, unless EPA receives adverse written comment by July 15, 2002. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket No. A–2002–05, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket No. A–2002–05, Room M–1500, U.S. EPA, 401 M Street SW., Washington, DC 20460. The EPA requests that a separate copy also be sent to the contact person listed below (*see* **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Mr. John Schaefer, U.S. EPA, Minerals and Inorganic Chemicals Group (C504–05), Emission Standards Division, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541–0296, facsimile number (919) 541–5600, electronic mail address: *schaefer.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Comments. We are publishing this direct final rule without prior proposal because we view the amendments as noncontroversial and do not anticipate adverse comments. We consider these changes to be noncontroversial because the only effect is to defer certain early compliance obligations which might otherwise come due before we complete a separate rulemaking concerning substantive clarifications and revisions in the standards. The revisions adopted by this direct final rule retain the overall March 23, 2003 compliance date for existing sources. In the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal to make the amendments to the standards for secondary aluminum production set forth in this direct final rule in the event that timely and significant adverse comments are received.

If we receive any relevant adverse comments on one or more distinct amendments, we will publish a timely withdrawal in the **Federal Register** informing the public which provisions will become effective and which provisions are being withdrawn due to adverse comment. We will address all public comments in a subsequent final rule based on the proposed rule. Any of the distinct amendments in today's rule for which we do not receive adverse comment will become effective on the date set out above. We will not institute a second comment period on this direct final rule. Any parties interested in commenting must do so at this time.

Docket. The docket is an organized and complete file of the administrative record compiled by EPA in the development of this direct final rule. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated rules and their preambles, the contents of the docket will serve as the record in the case of judicial review. The docket number for this rulemaking is A–2002–05.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this action will also be available through the WWW. Following signature, a copy of this action will be posted on EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules: *http://www.epa.gov/ttn/oarpg.* The TTN at EPA's web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. Entities potentially regulated by this action are secondary aluminum production facilities including those collocated at primary aluminum production facilities using clean charge, post-consumer scrap, aluminum scrap, ingots, foundry returns, dross, or molten metal as the raw material, and performing one or more of the following processes: aluminum scrap shredding, scrap drying/ delacquering/ decoating, thermal chip drying, furnace operations (*i.e.*, melting, holding, refining, fluxing, or alloying), in-line fluxing, or dross cooling. Affected sources at facilities that are major sources of HAP are regulated under the final rule. In addition, emissions of dioxins and furans from affected sources at facilities that are area sources of hazardous air pollutants are also regulated. Regulated categories and entities include:

Category	NAICS code	SIC code	Examples of regulated entities
Industry	331314	3341	Secondary smelting and alloying of aluminum facilities.
			Secondary aluminum production facility affected sources that are collocated at:
	331312	3334	Primary aluminum production facilities.
	331315	3353	Aluminum sheet, plate, and foil manufacturing facilities.
	331316	3354	Aluminum extruded product manufacturing facilities.
	331319	3355	Other aluminum rolling and drawing facilities.

Category	NAICS code	SIC code	Examples of regulated entities
	331521	3363	Aluminum die casting facilities.
	331524	3365	Aluminum foundry facilities.
State/local/tribal governments			Not affected.
Federal government			Not affected.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the Agency is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 63.1500 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of this direct final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by August 13, 2002. Under section 307(d)(7)(B) of the CAA, only an objection to this direct final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by this direct final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

Outline. The following outline is provided to aid in reading this preamble to this direct final rule.

I. Background
II. Amendments to the NESHAP for Secondary Aluminum Production
A. How are we clarifying the compliance dates?
B. How are we revising the requirements for submission of the OM&M plan?
C. How are we revising the performance test requirements?
D. How are we revising the requirements for the notification of compliance status?
III. Administrative Requirements
A. Executive Order 12866, Regulatory Planning and Review
B. Executive Order 13132, Federalism
C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
E. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
F. Unfunded Mandates Reform Act of 1995
G. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
H. Paperwork Reduction Act
I. National Technology Transfer and Advancement Act of 1995
J. Congressional Review Act

I. Background

On March 23, 2000, we promulgated the national emission standards for hazardous air pollutants (NESHAP) for secondary aluminum production (63 FR 15710). These standards were established under the authority of section 112(d) of the CAA to reduce emissions of hazardous air pollutants (HAP) from major and area sources.

After promulgation of the NESHAP for secondary aluminum production, two petitions for judicial review of the standard were filed in the D.C. Circuit Court of Appeals. The first of these petitions was filed by the American Foundrymen's Society, the North American Die Casting Association, and the Non-Ferrous Founders' Society (*American Foundrymen's Society et al.* v. *U.S. EPA*, Civ. No 00–1208 (D.C. Cir.)). A second petition for judicial review was filed by the Aluminum Association (*The Aluminum Association* v. *U.S. EPA*, No. 00–1211 (D.C. Cir.)). There was no significant overlap in the issues presented by the two petitions, and the cases have never been consolidated. However, we did thereafter enter into separate settlement discussions with the petitioners in each case.

The *Foundrymen's* case presented issues concerning the applicability of subpart RRR to aluminum die casters and aluminum foundries which were considered during the initial rulemaking process. Because aluminum die casters and foundries sometimes conduct the same type of operations as other secondary aluminum producers, we originally intended to apply the standards to these facilities, but only in those instances when they conduct such operations. However, representatives of the affected facilities argued that they should not be considered to be secondary aluminum producers and should be wholly exempt from the rule. During rulemaking development, we decided to permit die casters and foundries to melt contaminated internal scrap without being considered to be secondary aluminum producers, but their representatives insisted that too many facilities would still be subject to the standards. At the time of promulgation of the standards, in response to a request by the die casters and foundries, we announced we would withdraw the standards as applied to die casters and foundries and develop separate MACT (maximum available control technology) standards for these facilities.

After the *Foundrymen's* case was filed, we negotiated an initial settlement agreement in that case which established a process to effectuate our commitment to develop new MACT standards. In that first settlement, EPA agreed that it would stay the current standards for these facilities, collect comprehensive data to support alternate standards, and promulgate alternate standards. We then published a proposal to stay the standards and an advance notice of proposed rulemaking (ANPR) announcing new standards. However, during the process of preparing for information collection, the petitioners concluded that the existing rule was not as sweeping in applicability as they had feared, and the parties then agreed to explore an alternate approach to settlement based on clarifications of the current standards.

We subsequently reached agreement with the *Foundrymen's* petitioners on a new settlement. Pursuant to that settlement, we agreed to propose changes in the applicability of the present standards which would permit customer returns without solid paints or coatings to be treated like internal scrap, and would permit facilities operated by the same company at different locations to be aggregated for purposes of determining what is internal scrap. These revisions are addressed in separate proposed rule amendments published elsewhere in today's **Federal Register**.

In the *Foundrymen's* settlement, we also agreed to defer the compliance date for new sources constructed or reconstructed at existing aluminum die casters, aluminum foundries, and aluminum extruders until the compliance date for existing sources, so

that the rulemaking on general applicability issues could be completed first. This is the only element of that settlement which is implemented by this direct final rule.

As required by section 113(g) of the CAA, we provided notice and an opportunity for comment concerning the *Foundrymen's* settlement (67 FR 9972, March 5, 2002). We received three adverse comments on the settlement, although none of these comments addressed the only element in the settlement which is implemented by this direct final rule. After reviewing these comments, we decided to proceed with settlement. A copy of these comments and of our responses to them is available in Docket No. A–2002–05 for the separate proposed rule concerning the applicability changes.

In entirely separate discussions, we also agreed on a settlement of the *Aluminum Association* case. That settlement requires that we propose a number of substantive clarifications and revisions of the standards. These substantive changes are addressed by the same proposed rule as the applicability changes for aluminum die casters and foundries, which is published elsewhere in today's **Federal Register**. The *Aluminum Association* settlement also requires that we clarify and simplify the compliance dates for the standards, and defer certain early compliance obligations until after the substantive rulemaking can be completed. These compliance issues are addressed by this direct final rule.

Pursuant to CAA section 113(g), we also provided notice and an opportunity for public comment concerning the *Aluminum Association* settlement (67 FR 16374, April 5, 2002). One adverse comment was received on that settlement, although the comment did not address the only element in the settlement which is implemented by this direct final rule. After reviewing the comment, we decided to proceed with settlement. A copy of the comment and of our response to the comment is available in Docket No. A–2002–05 for the separate proposed rule.

II. Amendments to the NESHAP for Secondary Aluminum Production

A. How Are We Clarifying the Compliance Dates?

A number of provisions in the existing secondary aluminum rule require compliance on and after the date of a successful initial performance test. Our intent in adopting this general approach was to assure that compliance with the standards would begin as soon as the facility had demonstrated its ability to comply. However, this approach has created confusion concerning the date when compliance will be expected, particularly since an affected facility may be unable to finalize its required operation, maintenance, and monitoring (OM&M) plan until after evaluating the results of the initial performance test. This approach also may discourage facilities from conducting early performance tests, even though such early tests could facilitate identification and correction of problems before the compliance date.

The amendments in this direct final rule revise §§ 63.1505, 63.1506, 63.1510, and 63.1511 of 40 CFR part 63, subpart RRR, to specify that existing affected sources must meet the emission limitations and comply with applicable monitoring requirements by the compliance date in § 63.1501. If an initial performance test is required, the owner or operator of an existing affected source must conduct the test by the compliance date for existing affected sources in § 63.1501(a). If an initial performance test is required for a new affected source, the owner or operator must conduct the test within 90 days after the compliance date for new affected sources in § 63.1501(b).

The basic compliance dates for existing affected sources and new affected sources established by the current standards are not changed. Section 63.1501(a) of the rule sets the compliance date for existing affected sources at March 24, 2003 (3 years after promulgation). Under § 63.1501(b), the compliance date for a new affected source that began construction or reconstruction after February 11, 1999 is March 24, 2000 or the date of startup, whichever is later.

A new paragraph (c) is being added to the compliance dates section (§ 63.1501) that defers the compliance date for a new affected source which is constructed or reconstructed at an existing aluminum die casting facility, aluminum foundry, or aluminum extrusion facility that is subject to the rule. This type of new affected source must comply by March 24, 2003 or upon startup, whichever is later. This deferral of the compliance date until the rest of the facility must comply will eliminate uncertainty and confusion by assuring that the separate rulemaking concerning the applicability criteria for aluminum die casters, foundries, and extruders will be completed before compliance obligations are determined.

B. How Are We Revising the Requirements for Submission of the OM&M Plan?

The provisions in the existing rule pertaining to OM&M plans are ambiguous. Although the preamble to the final rule stated that submission of OM&M plans would be required 6 months before the compliance date, the rule itself did not require this. This direct final rule clarifies the timing for submission of the OM&M plan. In separate proposed rule amendments published elsewhere in today's **Federal Register**, we are clarifying the process for submission of OM&M plans to the permitting authority and for adoption of any necessary revisions of such plans.

This action amends the standards to require the owner or operator of an existing affected source to submit the OM&M plan to the responsible permitting authority no later than the compliance date established by § 63.1501(a). For a new affected source, the plant owner or operator must submit the OM&M plan within 90 days after a successful initial performance test or within 90 days after the compliance date established by § 63.1501(b) if no initial performance test is required.

C. How Are We Revising the Performance Test Requirements?

The existing rule contains provisions which have resulted in confusion regarding the timing of any required initial performance test. It was our intention to assure that the performance test would be completed before the compliance date, as indicated by the provisions in the existing rule requiring early compliance following a successful performance test. However, the existing rule also incorporates § 63.7 of the NESHAP General Provisions (40 CFR part 63, subpart A), which provides that performance tests must be completed within 180 days after the compliance date. We intended to adopt the general procedures established by § 63.7(c) for preparation and approval of a site-specific test plan and for actual conduct of the performance test, but not the timetable for the performance test established by § 63.7(a). We are, therefore, adopting amendments to clarify our original intent.

The amendments clarify § 63.1511(a) to state that prior to conducting any performance test, the owner or operator must prepare a site-specific plan that meets the requirements of § 63.7(c) and obtain approval of the plan according to the procedures in § 63.7(c). The amendments also clarify § 63.1511(b) to specify that the owner or operator must conduct any performance test required

for an existing affected source no later than the compliance date in § 63.1501(a). If a performance test is required for a new affected source, the owner or operator must conduct the test within 90 days after the compliance date in § 63.1501(b) of the rule. Because this timetable differs from the one established by the General Provisions, we are revising the table in appendix A to the rule, which shows which requirements of the General Provisions apply to affected sources.

D. How Are We Revising the Requirements for the Notification of Compliance Status?

The amendments clarify the date by which the owner or operator must submit the notification of compliance status for an existing affected source and allow more time for submission of the report for a new affected source. Under § 63.1515(b) of the existing rule, the owner or operator is required to submit the report within 60 days of the compliance date in § 63.1501. The amendments clarify that the report for a plant with an existing affected source is required within 60 days after the compliance date in § 63.1501(a). However, the report for a new affected source is required within 90 days after conducting the initial performance test or within 90 days after the compliance date in § 63.1501(b) if no performance test is required. Because the period of time allowed for new affected sources differs in some instances from period provided by § 63.9(h) of the General Provisions in 40 CFR part 63, subpart A (i.e., up to 60 days of the performance test), we are revising the table in appendix A to the rule, which shows which requirements of the General Provisions apply to affected sources.

III. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 5173, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in standards that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that these amendments do not constitute a "significant regulatory action" because they do not meet any of the above criteria. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. 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 direct 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, because State and local governments do not own or operate any sources that would be subject to these amendments. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. 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 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." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes."

These direct final rule amendments do not have tribal implications. They would 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. No tribal governments own plants subject to the existing rule or proposed amendments. Thus, Executive Order 13175 does not apply to these direct final rule amendments.

D. 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 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, we 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.

We interpret 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 direct final rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

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

This direct final rule 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 it is not a significant regulatory action under Executive Order 12866.

F. 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, the 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 the 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 the 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.

The 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 aggregate, or the private sector in any one year, nor does the rule significantly or uniquely impact small governments, because it contains no requirements that apply to such governments or impose obligations upon them. Thus, the requirements of the UMRA do not apply to this direct final rule.

G. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with today's direct final rule amendments. Because there is no cost associated with these amendments, the EPA has also determined that today's direct final rule amendments will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impacts of today's final rule amendments on small entities, small entities are defined as: (1) A small business that has fewer than 750 employees; (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 direct final rule amendments on small entities, the EPA has concluded that this action will not have a significant impact on a substantial number of small entities.

H. Paperwork Reduction Act

This action does not impose any new information collection burden. Today's action consists primarily of clarifications to the final rule that impose no new information collection requirements on industry or EPA. However, the Office of Management and Budget (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 assigned OMB control No. 2060–0433, EPA ICR No. 1894.01. Copies of the ICR document may be obtained from Susan Auby by mail at the Office of Environmental Information, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Avenue, NW, Washington DC 20460, by email at *auby.susan@epamail.epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded from the internet at *http://www.epa.gov/icr*. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provided 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 are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

I. National Technology Transfer and Advancement Act

Because today's action contains no new test methods, sampling procedures or other technical standards, there is no need to consider the availability of voluntary consensus standards.

J. 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. The EPA will submit a report containing this 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**. This direct final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: May 31, 2002.

Christine Todd Whitman,

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 *et seq.*

Subpart RRR—[AMENDED]

2. Section 63.1501 is revised to read as follows:

§ 63.1501 Dates.

(a) The owner or operator of an existing affected source must comply with the requirements of this subpart by March 24, 2003.

(b) Except as provided in paragraph (c) of this section, the owner or operator of a new affected source that commences construction or reconstruction after February 11, 1999 must comply with the requirements of this subpart by March 24, 2000 or upon startup, whichever is later.

(c) The owner or operator of any affected source which is constructed or reconstructed at any existing aluminum die casting facility, aluminum foundry, or aluminum extrusion facility which otherwise meets the applicability criteria set forth in § 63.1500 must comply with the requirements of this subpart by March 24, 2003 or upon startup, whichever is later.

* * * * *

3. Section 63.1505 is amended by:

a. Revising the introductory text of paragraphs (b), (c), (d), and (e);

b. Revising paragraph (f)(2); and

c. Revising the introductory text of paragraphs (g), (h), and (k).

The revisions read as follows:

§ 63.1505 Emission standards for affected sources and emission units.

* * * * *

(b) *Aluminum scrap shredder.* On and after the compliance date established by § 63.1501, the owner or operator of an aluminum scrap shredder at a secondary aluminum production facility that is a major source must not discharge or cause to be discharged to the atmosphere:

* * * * *

(c) *Thermal chip dryer.* On and after the compliance date established by § 63.1501, the owner or operator of a thermal chip dryer must not discharge or cause to be discharged to the atmosphere emissions in excess of:

* * * * *

(d) *Scrap dryer/delacquering kiln/decoating kiln.* On and after the compliance date established by § 63.1501:

* * * * *

(e) *Scrap dryer/delacquering kiln/decoating kiln: alternative limits.* The owner or operator of a scrap dryer/delacquering kiln/decoating kiln may choose to comply with the emission limits in this paragraph as an alternative to the limits in paragraph (d) of this section if the scrap dryer/delacquering kiln/decoating kiln is equipped with an afterburner having a design residence time of at least 1 second and the afterburner is operated at a temperature of at least 750 °C (1400 °F) at all times. On and after the compliance date established by § 63.1501:

* * * * *

(f) *Sweat furnace.* * * *

(2) On and after the compliance date established by § 63.1501, the owner or operator of a sweat furnace at a secondary aluminum production facility that is a major or area source must not discharge or cause to be discharged to the atmosphere emissions in excess of 0.80 nanogram (ng) of D/F TEQ per dscm (3.5×10^{-10} gr per dscf) at 11 percent oxygen (O_2).

(g) *Dross-only furnace.* On and after the compliance date established by § 63.1501, the owner or operator of a dross-only furnace at a secondary aluminum production facility that is a major source must not discharge or cause to be discharged to the atmosphere:

* * * * *

(h) *Rotary dross cooler.* On and after the compliance date established by § 63.1501, the owner or operator of a rotary dross cooler at a secondary aluminum production facility that is a major source must not discharge or cause to be discharged to the atmosphere:

* * * * *

(k) *Secondary aluminum processing unit.* On and after the compliance date established by § 63.1501, the owner or operator must comply with the emission limits calculated using the equations for PM and HCl in paragraphs (k)(1) and (2) of this section for each secondary aluminum processing unit at a secondary aluminum production facility that is a major source. The owner or operator must comply with the emission limit calculated using the equation for D/F in paragraph (k)(3) of this section for each secondary aluminum processing unit at a secondary aluminum production facility that is a major or area source.

* * * * *

4. Section 63.1506 is amended by revising paragraph (a)(1) to read as follows:

§ 63.1506 Operating requirements.

(a) *Summary.* (1) On and after the compliance date established by § 63.1501, the owner or operator must operate all new and existing affected sources and control equipment according to the requirements in this section.

* * * * *

5. Section 63.1510 is amended by revising paragraphs (a) and (b) introductory text to read as follows:

§ 63.1510 Monitoring requirements.

(a) *Summary.* On and after the compliance date established by § 63.1501, the owner or operator of a new or existing affected source or emission unit must monitor all control equipment and processes according to the requirements in this section. Monitoring requirements for each type of affected source and emission unit are summarized in Table 3 to this subpart.

(b) *Operation, maintenance, and monitoring (OM&M) plan.* The owner or operator must prepare and implement for each new or existing affected source and emission unit, a written operation, maintenance, and monitoring (OM&M) plan. The owner or operator of an existing affected source must submit the OM&M plan to the responsible permitting authority no later than the compliance date established by § 63.1501(a). The owner or operator of any new affected source must submit the OM&M plan to the responsible permitting authority within 90 days after a successful initial performance test under § 63.1511(b), or within 90 days after the compliance date established by § 63.1501(b) if no initial performance test is required. Each plan must contain the following information:

* * * * *

6. Section 63.1511 is amended by revising paragraphs (a) and (b) introductory text to read as follows:

§ 63.1511 Performance test/compliance demonstration general requirements.

(a) *Site-specific test plan.* Prior to conducting any performance test required by this subpart, the owner or operator must prepare a site-specific test plan which satisfies all of the requirements, and must obtain approval of the plan pursuant to the procedures, set forth in § 63.7(c) in subpart A of this part.

(b) *Initial performance test.* Following approval of the site-specific test plan, the owner or operator must demonstrate initial compliance with each applicable emission, equipment, work practice, or operational standard for each affected source and emission unit, and report the results in the notification of compliance status report as described in § 63.1515(b). The owner or operator of any existing affected source for which an initial performance test is required to demonstrate compliance must conduct this initial performance test no later than the date for compliance established by § 63.1501(a). The owner or operator of any new affected source for which an initial performance test is required must conduct this initial performance test within 90 days after the date for compliance established by § 63.1501(b). Except for the date by which the performance test must be conducted, the owner or operator must conduct each performance test in accordance with the

requirements and procedures set forth in § 63.7(c). Owners or operators of affected sources located at facilities which are area sources are subject only to those performance testing requirements pertaining to D/F. Owners or operators of sweat furnaces meeting the specifications of § 63.1505(f)(1) are not required to conduct a performance test.

* * * * *

7. Section 63.1515 is amended by removing the first sentence in the introductory text of paragraph (b) and adding, in its place, two new sentences to read as follows:

§ 63.1515 Notifications.

* * * * *

(b) *Notification of compliance status report.* Each owner or operator of an existing affected source must submit a notification of compliance status report within 60 days after the compliance date established by § 63.1501(a). Each owner or operator of a new affected source must submit a notification of compliance status report within 90 days after conducting the initial performance test required by § 63.1511(b), or within 90 days after the compliance date established by § 63.1501(b) if no initial performance test is required. * * *

* * * * *

8. Appendix A to subpart RRR is amended by revising the entries for § 63.7(a)–(h) and § 63.9(h)(1)–(3) to read as follows:

APPENDIX A TO SUBPART RRR OF PART 63.—GENERAL PROVISIONS APPLICABILITY TO SUBPART RRR

Citation	Requirement	Applies to RRR	Comment
*	*	*	*
§ 63.7(a)–(h)	Performance Test Requirements-Applicability and Dates.	Yes	Except § 63.1511 establishes dates for initial performance tests.
*	*	*	*
§ 63.9(h)(1)–(3)	Notification of Compliance Status	Yes	Except § 63.1515 establishes dates for notification of compliance status reports.
*	*	*	*

[FR Doc. 02–14625 Filed 6–13–02; 8:45 am]
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comment rulemaking requirements unless the agency certifies that the rule, if finalized, will not have a significant economic impact on a substantial number of small entities. For the reasons described in the proposal, EPA certified that this action does not have a significant impact on a substantial number of small entities. See 67 FR 19148, 19151.

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more in any one year. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements for any rule requiring a budgetary impact statement. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this rule does not include a Federal mandate that may result in estimated costs of $100 million or more in any one year to either State, local, or tribal governments in the aggregate, or to the private sector and has therefore not prepared a budgetary impact statement. This proposed rule, if finalized, will not significantly or uniquely impact any small governments.

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

In making a finding of SIP deficiency, EPA's role is to review existing information against previously established standards (in this case, what constitutes a violation of the 24-hour PM–10 standard). In this context, there is no opportunity to use VCS. Thus, the requirements of NTTAA section 12(d) (15 U.S.C. 272 note) do not apply to this rule.

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 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 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 September 3, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, particulate matter.

Dated: June 19, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 02–16271 Filed 7–1–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7240–4]

RIN 2060–AJ57

National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Partial withdrawal of direct final rule.

SUMMARY: On April 5, 2002, the EPA promulgated amendments to the national emission standards for the portland cement manufacturing industry as a direct final rule with a parallel proposal if we received any adverse comments on the direct final amendments. Because adverse comments were received on some of the provisions in the direct final rule, we are withdrawing the corresponding parts of that direct final rule. We will address the adverse comments in a subsequent final rule based on the parallel proposal published on April 5, 2002.

DATES: As of July 2, 2002, EPA withdraws amendments to §§ 63.1340(c), 63.1344(a)(3), 63.1349(e)(3), and 63.1350(a)(4), (c)(2)(i), (d)(2)(i), and (e) published at 67 FR 16614 on April 5, 2002. The remaining provisions published on April 5, 2002, will be effective July 5, 2002.

ADDRESSES: Docket number A–92–53, containing supporting information used in the development of this notice is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday (except for Federal holidays) at the following address: U.S. EPA, Air and Radiation Docket and Information Center (6102), 401 M Street, SW., Washington, DC 20460, or by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Wood, P.E., Minerals and Inorganic Chemicals Group, Emission Standards Division (C504–05), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5446, facsimile number (919) 541–5600, electronic mail address: *wood.joe@epa.gov.*

SUPPLEMENTARY INFORMATION: On April 5, 2002, we published a direct final rule (67 FR 16614) and a parallel proposal (67 FR 16625) amending the national emission standards for the portland cement manufacturing industry (40 CFR part 63, subpart LLL). The amendments made improvements for implementation of the standards, primarily in the areas of applicability, testing, and monitoring, to resolve issues and questions raised since promulgation of the rule on June 14, 1999.

We stated in the preamble to the direct final rule and parallel proposal that if we received significant material adverse comment by May 6, 2002, on one or more distinct provisions of the direct final rule, we would publish a timely withdrawal of those distinct provisions in the **Federal Register**. We subsequently received adverse comments on seven of the amendments:

- § 63.1340(c), related to applicability of the rule to crushers at portland cement plants with on-site nonmetallic mineral processing facilities;

- § 63.1344(a)(3), related to the temperature operating limit for an in-line kiln/raw mill equipped with an alkali bypass;
- § 63.1349(e)(3), related to requirements associated with preparation for, and conduct of, a new performance test if a source anticipates making an operational change that may adversely affect compliance with an applicable dioxin/furan (D/F) emission standard;
- § 63.1350(a)(4)(v) through (vii), related to visible emission monitoring of a totally enclosed conveying system transfer point; and
- § 63.1350(c)(2)(i), (d)(2)(i), and (e), related to operating conditions during daily visual opacity observations by Method 9 (40 CFR part 60, appendix A) and daily visual emissions observations by Method 22 (40 CFR part 60, appendix A).

Accordingly, these seven amendments are withdrawn as of July 2, 2002. We will take final action on the proposed rule after considering the comments received. We will not institute a second comment period on this action. The seventeen provisions for which we did not receive adverse comment will become effective on July 5, 2002, as provided in the preamble to the direct final rule.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: June 26, 2002.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 02–16642 Filed 7–1–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF86

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for *Ambrosia pumila* (San Diego Ambrosia) From Southern California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered status for *Ambrosia pumila* (San Diego ambrosia) pursuant to the Endangered Species Act of 1973, as amended (Act). This plant species is restricted to 15 known occurrences in San Diego and Riverside Counties, CA, and also occurs in Estado de Baja California, Mexico. *Ambrosia pumila* primarily occurs on upper terraces of rivers and drainages as well as in open grasslands, openings in coastal sage scrub habitat, and occasionally in areas adjacent to vernal pools. This species is threatened by the following: present or threatened destruction, fragmentation, and degradation of habitat primarily by construction and maintenance of highways, maintenance of utility easements, development of recreational facilities, and residential and commercial development; inadequate regulatory mechanisms; potential competition, encroachment, and other negative impacts from non-native plants; mowing and discing for fuel modification; and trampling, as well as soil compaction by horses, humans, and vehicles. This rule implements the Federal protection and recovery provisions of the Act for *Ambrosia pumila*.

DATES: This rule is effective August 1, 2002.

ADDRESSES: The supporting record for this rule is available for inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, CA 92008.

FOR FURTHER INFORMATION CONTACT: Jim Bartel, Field Supervisor, at the above address; telephone 760/431–9440; facsimile 760/918–0638.

SUPPLEMENTARY INFORMATION:

Background

Ambrosia is a genus comprising 35 to 50 wind-pollinated annual and perennial plant species in the Asteraceae (sunflower) family. The perennial taxa range from woody shrubs to herbaceous plants with rhizome-like roots. Rhizomes are underground stems that produce leafy shoots. Self-pollination and self-fertility contribute to strong inbreeding among species of *Ambrosia* (Payne 1976). Members of the genus occur predominantly in the Western Hemisphere, especially North America. Species are generally found in arid or semiarid areas and some are weeds of cultivated fields or strand species of Pacific and Caribbean beaches.

Ambrosia pumila (San Diego ambrosia) was originally described as Franseria pumila by Thomas Nuttall (Nuttall 1840) based on a specimen he collected near San Diego, California, in 1836. Asa Gray (Gray 1882), after seeing specimens of the plant with fruits, decided it was closely related to members of the genus *Ambrosia* and published the currently accepted combination, *Ambrosia pumila* (Nutt.) A. Gray. This classification has been recognized by current systematic and floristic treatments (Payne 1964, Munz 1935, Keck 1959, Ferris 1960, Munz 1974, Beauchamp 1986, and Payne 1993).

Ambrosia pumila is an herbaceous perennial plant species that spreads vegetatively by means of slender, branched, underground rhizome-like roots from which the aerial (above-ground) stems arise. Plants that spread in this way are referred to as clonal species. This clonal growth pattern results in groupings of aerial stems interconnected by their underground rhizome-like roots that represent genetically identical individuals. When these underground interconnections disintegrate, aerial stems that are genetically identical are physically separate. The aerial stems sprout in early spring after the winter rains. Dead aerial stems may persist or deteriorate after their growing season. Therefore, the plant may not be in evidence at some times of the year. The aerial stems sprout in early spring after the winter rains and deteriorate in late summer. Therefore, the plant may not be in evidence from late summer to early spring. The aerial stems are 5 to 30 centimeters (cm) (2 to 12 inches (in)) tall, but may grow to 50 cm (20 in), and are densely covered with short hairs. The leaves are two to four times pinnately divided into many small segments and are covered with short, soft, gray-white, appressed (lying flat on surface) hairs. This wind-pollinated species flowers from May through October with separate male and female flower clusters (heads) on the same plant. The male flowers are yellow to translucent and are borne in clusters on terminal racemes (flower stalks). The female flowers have no petals and are yellowish-white. Female flowers are in clusters in the axils of the leaves below the male flower clusters.

Although some species of *Ambrosia* have breeding systems that contribute to strong inbreeding (Payne 1976), the breeding system of *A. pumila* has not been studied. The fruiting heads are enclosed by involucres (composed of modified leaf-like structures fused together) to form cup-like structures that have no spines, although some reports note a few vestigial (remnant) spines. Few preserved museum specimens have fertile fruits, and field collections have

obtain selected tape recordings. Second, the ban on self-service copying of these tapes is lifted. These changes reflect modifications in the 1996 Nixon Tapes Settlement Agreement that became effective April 1, 2001. This final rule will apply to the public.

EFFECTIVE DATE: August 5, 2002.

FOR FURTHER INFORMATION CONTACT: Kim Richardson at telephone number 301–837–2902, or fax number 301–837–0319.

SUPPLEMENTARY INFORMATION: The proposed rule was published in the March 15, 2002, **Federal Register** (67 FR 11632) for a 60-day comment period. NARA did not receive any comments. This rule is a significant regulatory action for the purposes of Executive Order 12866 and has been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, I certify that this rule will not have a significant impact on a substantial number of small entities. This regulation does not have any federalism implications.

List of Subjects in 36 CFR Part 1275

Archives and records.

For the reasons set forth in the preamble, NARA amends part 1275 of title 36, Code of Federal Regulations, as follows:

PART 1275—PRESERVATION AND PROTECTION OF AND ACCESS TO THE PRESIDENTIAL HISTORICAL MATERIALS OF THE NIXON ADMINISTRATION

1. The authority citation for part 1275 is revised to read as follows:

Authority: 44 U.S.C. 2104, 2111 note.

1. Amend § 1275.64 by revising paragraph (d) to read as follows:

§ 1275.64 Reproduction of tape recordings of Presidential conversations.

* * * * *

(d) The reproduction for members of the public of the reference copies of the available tape recordings described in paragraph (a) of this section will be permitted as follows: Copies of tape recordings will be made available following the public release of the tape segments contemplated in § 1275.42(a). Effective as of April 20, 2001, NARA will allow members of the public to obtain copies of all tapes that have been made available to the public by that date and that subsequently become available as they are released. Such copying will be controlled by NARA or its designated contractor. The fees for the reproduction of the tape recordings under this section shall be those prescribed in the schedule set forth in part 1258 of this chapter.

* * * * *

2. Amend § 1275.66 by revising paragraph (a) to read as follows:

§ 1275.66 Reproduction and authentication of other materials.

(a) Copying of materials, including tape recordings described in § 1275.64, may be done by NARA, by a contractor designated by NARA, or by researchers using self-service copiers or copying equipment.

* * * * *

3. Amend Appendix A to Part 1275—Settlement Agreement, by revising the introductory paragraph to read as follows:

Appendix A to Part 1275—Settlement Agreement

Settlement Agreement filed April 12, 1996, in *Stanley I. Kutler and Public Citizen* v. *John W. Carlin, Archivist of the United States, and William E. Griffin and John H. Taylor, Co-executors of Richard M. Nixon's Estate, Civil Action No. 92–0662–NHJ (D.D.C.) (Johnson, J.).* By letter dated April 17, 2001, NARA and the Nixon estate agreed to waive paragraph 11 of this Settlement Agreement, such that the delay on public copying until January 1, 2003, of tapes not made publicly available before April 12, 1996, shall no longer apply. This change is reflected in 36 CFR 1275.64.

* * * * *

Dated: May 23, 2002.

John W. Carlin,

Archivist of the United States.

[FR Doc. 02–16663 Filed 7–3–02; 8:45 am]

BILLING CODE 7515–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7240–5]

RIN 2060–AE78

National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; clarifications and correction.

SUMMARY: On April 5, 2002, the EPA issued a direct final rule to amend the national emission standards for hazardous air pollutants for the portland cement industry. That action, in part, amended the monitoring requirements for the industry. This action corrects the corresponding table of monitoring requirements in the final rule and clarifies two issues arising from explanatory language in the preamble to the direct final rule amendments of April 5, 2002.

Section 553 of the Administrative Procedure Act, 5 U.S. C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public comment procedures are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making this rule final without prior notice and comment procedure because it merely corrects a summary table to reflect amended monitoring requirements and clarifies preamble language from the direct final rule amendments. Both the proposed rule and direct final rule amendments (as well as the Settlement Agreement that occasioned these amendments) were subject to exhaustive notice and comment (including comment on the matters addressed in this notice). Thus, notice and comment are contrary to the public interest and unnecessary. We find that the circumstances described constitute good cause under 5 U.S.C. 553(b)(3)(B) and 553(d)(3) which authorizes an agency to make a rule immediately effective where it finds that there is good cause for doing so.

EFFECTIVE DATE: July 5, 2002.

ADDRESSES: Docket number A–92–53, containing supporting information used in the development of this notice is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday (except for Federal holidays) at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (6102), 401 M Street SW., Washington, DC 20460, or by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

Effective August 27, 2002, the Office of Air and Radiation Docket and Information Center will have a new address: 1301 Constitution Avenue NW., Room B108, Washington, DC, 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Wood, P.E., Minerals and Inorganic Chemicals Group, Emission Standards Division (C504–05), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5446, facsimile number (919) 541–5600, electronic mail address: *wood.joe@epa.gov.*

SUPPLEMENTARY INFORMATION:

Docket. The docket is an organized and complete file of all the information considered by EPA in the development of this direct final rule. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated rules and their preambles, the contents of the docket will serve as the record in the case of judicial review. The docket number for this rulemaking is A–92–53.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this action will also be available through the WWW. Following signature, a copy of this action will be posted on EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules: *http://www.epa.gov/ttn/oarpg.* The TTN at EPA's Web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. Entities potentially regulated by this action are those that manufacture portland cement. Regulated categories and entities include:

Category	NAICS	SIC	Examples of regulated entities
Industry	32731	3241	Owners or operators of portland cement manufacturing plants.
State	32731	3241	Owners or operators of portland cement manufacturing plants.
Tribal associations	32731	3241	Owners or operators of portland cement manufacturing plants.
Federal agencies	None	None	None.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the EPA is now aware could potentially be regulated by this action. To determine whether your facility, company, business organization, etc., is regulated by this action, you should carefully examine the applicability criteria in § 63.1340 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Background. On June 14, 1999, we published in the **Federal Register** the final rule entitled, "National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry" (40 CFR part 63, subpart LLL). The American Portland Cement Alliance (APCA) petitioned the United States Court of Appeals for the District of Columbia Circuit for review of the final rule under section 307(b)(1) of the Clean Air Act (CAA). The APCA and the EPA negotiated and agreed to the terms of a Settlement Agreement and its implementation. As agreed to under the terms of the Settlement Agreement, EPA issued direct final amendments (67 FR 16614, April 5, 2002) to improve implementation of the rule primarily in areas of applicability, emissions testing, and monitoring (there were no amendments to the emission standards themselves). After publication of the direct final rule amendments, commenters requested a correction to the rule and clarification of preamble language to better reflect provisions in the Settlement Agreement and to avoid regulatory misinterpretations. In response to these comments, we are issuing the final rule amendments.

Kiln Production Rate Not an Operating Limit. In the preamble to the April 5, 2002, direct final amendments, we explained why we amended § 63.1349(b) to require that performance testing be conducted under representative conditions rather than under "the highest load or capacity reasonably expected to occur" (67 FR 16616). We stated, "If the kiln is operated under a condition not representative of the condition during the performance test, e.g., the kiln is operated at a production rate higher than the production rate at which it was tested, the performance test will need to be re-conducted and temperature limit(s) reestablished." Although we did not receive any comments on the amended regulatory text, "* * * when the affected source is operating at the representative performance conditions in accordance with § 63.7(e)" (67 FR 16619), we did receive comments addressing specifically the example we gave of a supposedly unrepresentative condition, which they felt conflicted with the intent of the regulatory amendment. Our intent was to make the rule more consistent with the General Provisions language that performance tests be conducted under representative conditions and to provide guidance on the representativeness of a particular operating condition. Today, we are clarifying that if a source operates at a higher production level than that at which it tested, the previous performance test *may* not have been representative of operating conditions and emissions at that higher production level. Whether the test was representative depends on how much higher actual production levels are than those that existed during the performance test and on other factors affecting the effectiveness of the pollution control equipment; the ultimate measure being whether any of these changes may adversely affect compliance with the emission standards. The production rate of a kiln is only one of many indicators (i.e., potentially relevant indicia) of representative operating conditions. In addition, the production rate may be temporarily and slightly higher than the rate at which the kiln was operating during a performance test and still be representative. A source is not automatically required to conduct a performance test if the source's operating conditions vary from those in place during the most recent prior performance test. However, the burden is on the source to demonstrate that it is able to comply with the emission limits when operating under the alternative operating conditions. That is, it is the source's ultimate burden of persuasion to demonstrate that its performance testing conditions remain representative. This is in accordance with the general principle that the party claiming an exception to an established protective rule has the burden of justifying that exception. See *Beth Israel Hospital* v. *NLRB,* 437 U.S. 482, 493, 502 (1978); see also *Hazardous Waste Treatment Council* v. *EPA,* 886 F. 2d 355, 366–67 (D.C. Cir. 1989) (permissible for agency to assign ultimate burden of persuasion).

Both commenters stated that the example we gave suggests that production limits are established by the performance test, and that this conflicts with the Settlement Agreement and our letter to the APCA (April 17, 2002), where we explicitly stated that the production rate is not an operating limit. The example in the preamble does

not, however, impose a production limit or establish the production rate as an operating limit. We are clarifying and reiterating language from the Settlement Agreement and from our letter to APCA that the production rate is not a parameter for which operating limits are established, and the production rate measured during dioxin/furan (D/F) or particulate matter (PM) performance test is not an operating limit for the source. Section 63.1344 of the rule lists all of the operating limits that kilns are subject to as part of the requirements of the NESHAP. Those operating limits relate to the D/F emission standards and include only temperature limits and limits pertaining to the use of activated carbon injection. Section 63.1344 makes no mention of a kiln's production rate as an operating limit, and indeed this was our intent in drafting the final rule. This means that if the kiln production rate exceeds the production rate during the previous performance test, it is not in violation of any operating parameter requirement. This does not mean, however, that a change in production rate (or change in any other operating practice which is not a parametric monitoring requirement established in the rule) is irrelevant in determining whether the kiln is operating in compliance with the emission limit.

One of the commenters stated that the aforementioned example in the April 5, 2002, preamble conflicts with § 63.1349(e)(1) and (2) of the newly amended rule which state that if a source plans to undertake a change in operations that may adversely affect compliance with an applicable D/F or PM standard, the source must conduct a new performance test. As such, the facility would only be required to re-conduct the performance test if it determines that an increase in the production rate may adversely affect compliance (and, of course, that this determination is correct).

We are clarifying today that a source would need to re-conduct a performance test if the current operation is not representative of the operation during the previous performance test such that the change in operation may adversely affect compliance. As discussed above, production rate levels that are only slightly higher than the production rate levels achieved during the previous performance test may not adversely affect compliance, and therefore, may still be representative. Although increased production rates would tend to increase exhaust gas stream flow rates and, therefore, potentially diminish control device effectiveness, there are other factors which may be more important in controlling emissions and determining whether compliance is adversely affected. For example, temperature of the exhaust gas plays an important role in D/F formation and for this reason, the rule requires the source to establish temperature operating limits. Regarding the PM emission limit, although the mass emission rate of PM may increase with an increase in production rate, compliance may not necessarily be adversely affected since the format of the standard is in pounds of PM per ton of dry feed, and an increase in production rate would allow for some increase in the mass emission rate of PM. However, as stated above, the burden is on the source to demonstrate that they are able to comply with the emission limits when operating under conditions which vary from those in place during the most recent prior performance test.

In summary, there is no operating limit associated with the production rate. Further, the example we gave in the April 5, 2002, preamble wasn't meant to create the presumption that an increase in production rate beyond the production rate during the previous performance test automatically means that the kiln must be retested. Production rate could be relevant in determining representativeness of the original test, but in some cases, an increase may not adversely affect emissions, and the effect of other operating factors (such as exhaust gas stream temperature) should not be discounted since they may often affect emissions more. Although the source has to show that it was tested under representative conditions, we expect that there are situations where a source can show that an increase in the production rate does not adversely affect compliance.

Only Transfer Points Used to Convey Coal from the Mill to the Kiln are Potential Affected Sources. This issue concerns the interface between the new source performance standards (NSPS) for coal preparation plants (40 CFR part 60, subpart Y) and the portland cement NESHAP (40 CFR part 63, subpart LLL). The direct final amendments correctly revise § 63.1356 of the final rule to clarify that the systems used to convey and transfer coal from the coal mill to the kiln at portland cement plants that are major sources of hazardous air pollutants are not subject to the NSPS for coal preparation plants. However, the industry trade association believes the April 5, 2002, preamble language confuses the issue. In response, we clearly state that the *only* subpart Y sources potentially subject to subpart LLL requirements at major sources are the transfer points used to convey coal from the mill to the kiln. Other subpart Y transfer points (such as those transferring coal from a barge to a coal pile) would continue to be subject to subpart Y requirements, as appropriate.

Monitoring Requirements for Raw Mills and Finish Mills (Table 1 to § 63.1350). Consistent with the Settlement Agreement, we revised the monitoring requirements for raw mills and finish mills to allow for the use of continuous monitoring systems in lieu of daily visible emission monitoring. Our direct final rule amendments correctly reflect these new options in § 63.1350(m). However, we inadvertently omitted the new options from Table 1 to § 63.1350 (Monitoring Requirements). Today's rule amendments correct Table 1 to include the continuous monitoring system options for raw mills and finish mills.

Administrative Requirements

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. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, does not apply to this action. Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act 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 sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also is not subject to Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks, (62 FR 19885, April 23, 1997) because 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 rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. This rule is not subject to Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use because it is not a significant regulatory action under Executive Order 12866. This rule does not have any federalism implications under Executive Order 13132, Federalism. The Paper Reduction Act and the National Technology Transfer and Advancement Act do not apply here. 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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the Congressional Review Act 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, and established an effective date of July 5, 2002. The EPA will submit a report containing this 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**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: June 26, 2002.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

For the reasons stated in the preamble, title 40, chapter 1, 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 LLL—[AMENDED]

2. Table 1 to § 63.1350, entitled "Monitoring Requirements," is amended by revising the entry for raw mills and finish mills at major sources/opacity to read as follows:

§ 63.1350 Monitoring requirements.

* * * * *

TABLE 1 TO § 63.1350.—MONITORING REQUIREMENTS

Affected source/pollutant or opacity	Monitor type/operation/process	Monitoring requirements
* *	* * *	* *
Raw mills and finish mills at major sources/opacity.	Method 22 visible emissions test. (This requirement does not apply to a raw mill or finish mill equipped with a continuous opacity monitor or bag leak detection system.).	Conduct daily 6-minute Method 22 visible emissions test while mill is operating at representative performance conditions; if visible emissions are observed, initiate corrective action within 1 hour and conduct follow up Method 22 test. If visible emissions are observed, conduct 30-minute Method 9 test.
.....	Continuous opacity monitor, if applicable	Install, operate, and maintain in accordance with general provisions and with PS–1. A six-minute average greater than 10% opacity is a violation.
.....	Bag leak detection system, if applicable	Install, operate, and maintain in accordance with § 63.1350(m). Operate and maintain such that alarm is not activated and alarm condition does not exist for more than 5% of the total operating time in a 6-month period. If alarm sounds, initiate corrective action.

[FR Doc. 02–16644 Filed 7–3–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[Docket # AK–02–003; FRL–7240–8]

Determination of Attainment for the Carbon Monoxide National Ambient Air Quality Standard for Fairbanks Carbon Monoxide Nonattainment Area, Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is determining that the Fairbanks Carbon Monoxide (CO) nonattainment area in Alaska has attained the National Ambient Air Quality Standards (NAAQS) for CO by the deadline required by the Clean Air Act Amendments of 1990 (CAAA), December 31, 2001.

EFFECTIVE DATE: August 5, 2002.

FOR FURTHER INFORMATION CONTACT: Connie Robinson, EPA, Region 10, Office of Air Quality, Mail Code: OAQ–107, 1200 Sixth Avenue, Seattle Washington, 98101, (206) 553–1086.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" is used we mean EPA.

I. Background

EPA has the responsibility for determining whether a nonattainment area has attained the CO NAAQS by the applicable attainment date. In this case the EPA was required to make a determination concerning whether the Fairbanks serious CO nonattainment area attained the NAAQS by its December 31, 2001, attainment date. Pursuant to the CAAA, the EPA is required to make an attainment determination for this area by June 30, 2002, no later than six months following the attainment date for the area. This final rule was based on all available, quality-assured data collected from the CO monitoring sites, which has been entered into the Aerometric Information



Federal Register

Tuesday,
July 9, 2002

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7214–7]

RIN 2060–AG29

National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes national emission standards for hazardous air pollutants (NESHAP) for new and existing sources at rubber tire manufacturing facilities. The EPA has identified rubber tire manufacturing facilities as major sources of hazardous air pollutants (HAP) emissions. These standards will implement section 112(d) of the Clean Air Act (CAA) by requiring all such major sources to meet HAP emission standards that reflect the application of maximum achievable control technology (MACT). The primary HAP that will be controlled with this action include toluene and hexane. These HAP are associated with a variety of adverse health effects including chronic health disorders (e.g., polyneuropathy, degenerative lesions of the nasal cavity) and acute health disorders (*e.g.*, respiratory irritation, headaches).

EFFECTIVE DATE: July 9, 2002.

ADDRESSES: *Docket.* All information considered by the EPA in developing this rulemaking, including public comments on the proposed rule and other information developed by the EPA in addressing those comments since proposal, is located in Public Docket No. A–97–14 at the following address: Air and Radiation Docket and Information Center (6102), U.S. EPA, 401 M Street, SW., Washington, DC 20460. The docket is located at the above address in Room M–1500, Waterside Mall (ground floor), and may be inspected from 8 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. Materials related to this rulemaking are available upon request from the Air and Radiation Docket and Information Center by calling (202) 260–7548 or 7549. The FAX number for the Center is (202) 260–4400. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For information concerning applicability and rule determinations, contact your State or local regulatory agency representative or the appropriate EPA Regional Office representative. For information concerning analyses performed in developing this rule, contact Mr. Anthony Wayne, Policy, Planning and Standards Group, Emission Standards Division (C439–04), U.S. EPA, Research Triangle Park, North Carolina, 27711; telephone number (919) 541–5439; fax number (919) 541–0942; electronic mail address: *wayne.tony@epa.gov.*

SUPPLEMENTARY INFORMATION:

Judicial Review. Under CAA section 307(b), judicial review of the final NESHAP is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit on or before September 9, 2002. Only those objections to the NESHAP which were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2)of the CAA, the requirements established by today's final action may not be challenged separately in any civil or criminal proceeding we bring to enforce these requirements.

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

Category	SIC[a]	NAICS[b]	Regulated entities
Industry	3011 7534 2296	326211 326212 314992	Rubber tire manufacturing facilities.

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

This list 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 § 63.5981 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult your State or local agency (or EPA Regional Office) described in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this final rule will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules *http://www.epa.gov/ttn/oarpg.*

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

I. Background
A. What Is the Source of Authority for Development of NESHAP?
B. What Criteria Are Used In the Development of NESHAP?
C. How Did the Public Participate in Developing the Rule?
II. Summary of the Final Rule
III. Significant Comments and Changes Since Proposal
A. What Sources Are Subject to the Rule?
B. How Did We Determine MACT?
C. Can EPA Provide a Universal Certification Compliance Alternative?
D. What Role Should EPA Method 311 Play in Compliance Determinations?
E. How Should the Tire Cord Compliance Requirements Address Potential Mixing Reactions?
F. What Data Requirements Should Sources Using Continuous Parameter Monitoring Systems Meet?
G. Is Compliance Based on Daily Recordkeeping Needed?
H. Has EPA Properly Considered the Cost Impacts of the Rule?
I. What Other Changes Has EPA Made for the Final Rule?
J. What Are the Environmental, Cost, and Economic Impacts of the Final Rule?
IV. Administrative Requirements
A. Executive Order 12866—Regulatory Planning and Review
B. Executive Order 13045 -Protection of Children from Environmental Health Risks and Safety Risks
C. Executive Order 13175—Consultation and Coordination with Indian Tribal Governments
D. Executive Order 13132—Federalism
E. Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
F. Unfunded Mandates Reform Act of 1995
G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
H. Paperwork Reduction Act
I. National Technology Transfer and Advancement Act of 1995
J. Congressional Review Act

I. Background

A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. The category of major sources covered by today's final rule was listed on July 16, 1992 (57 FR 31576). Major source means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, 10 tons per year (tons/yr) or more of any one HAP or 25 tons/yr or more of any combination of HAP.

B. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the maximum achievable control technology (MACT).

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent that the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing 5 sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on consideration of the cost of achieving the emission reductions, any health and environmental impacts, and energy requirements.

C. How Did the Public Participate in Developing the Rule?

Prior to proposal, we met with industry representatives and State regulatory authorities several times to discuss the data and information used to develop the proposed standards. In addition, these and other potential stakeholders, including equipment vendors and environmental groups, had opportunity to comment on the proposed standards.

The proposed rule was published in the **Federal Register** on October 18, 2000 (65 FR 62414). The preamble to the proposed rule discussed the availability of technical support documents, which described in detail the information gathered during the standards development process. Public comments were solicited at proposal.

We received 19 public comment letters on the proposed rule. The commenters represent the following affiliations: Rubber tire manufacturers (4 companies), industrial trade associations (5), and one State and local agency association. In the post-proposal period, we talked with commenters and other stakeholders to clarify comments and to assist in our analysis of the comments. Records of these contacts are found in docket A–97–14. All of the comments have been carefully considered, and, where appropriate, changes have been made for the final rule.

II. Summary of Final Rule

The rule will apply to existing, new and reconstructed rubber tire manufacturing facilities that are major sources of HAP emissions standing alone or are major sources due to collocation with other facilities that emit HAP. We have subcategorized the rubber tire manufacturing source category into the following four subcategories of affected sources:

- Rubber processing
- Tire production
- Tire cord production
- Puncture sealant application.

Table 1 summarizes the emission limit options for the tire production, tire cord production, and puncture sealant application affected sources. There are no emission limits or other requirements associated with rubber processing affected sources.

TABLE 1.—EMISSION LIMIT OPTIONS FOR AFFECTED SOURCES

Affected source	Pollutant	Limit[a]
Existing, new or reconstructed tire production facility—Option 1.	Selected organic HAP (See Table 16 of final rule).	Emissions must not exceed 1,000 grams per megagram (2 pounds per ton) of the total cements and solvents used.
	All other organic HAP	Emissions must not exceed 10,000 grams per megagram (20 pounds per ton) of the total cements and solvents used.
Existing, new or reconstructed tire production facility—Option 2.	All organic HAP	Emissions must not exceed 0.024 grams per megagram (0.00005 pounds per ton) of rubber used.
Existing tire cord production facility—Option 1	All organic HAP	Emissions must not exceed 280 grams per megagram (0.56 pounds per ton) of fabric processed.
New or reconstructed tire cord production facility—Option 1.	All organic HAP	Emissions must not exceed 220 grams per megagram (0.43 pounds per ton) of fabric processed.
Existing, new or reconstructed tire cord production facility—Option 2.	Selected organic HAP (See Table 16 of final rule).	Emissions must not exceed 1,000 grams HAP per megagram (2 pounds per ton) of total coatings used.
	All other organic HAP	Emissions must not exceed 10,000 grams HAP per megagram (20 pounds per ton) of total coatings used.

TABLE 1.—EMISSION LIMIT OPTIONS FOR AFFECTED SOURCES—Continued

Affected source	Pollutant	Limit[a]
New or reconstructed puncture sealant application booth—Option 1.	All organic HAP (measured as volatile organic compounds (VOC)).	Reduce spray booth emissions by at least 95 percent.
Existing puncture sealant application booth—Option 1	All organic HAP (measured as VOC).	Reduce spray booth emissions by at least 86 percent.
Existing, new or reconstructed puncture sealant application booth—Option 2.	Selected organic HAP (See Table 16 of final rule).	Emissions must not exceed 1,000 grams HAP per megagram (2 pounds per ton) of total puncture sealants used.
	All other organic HAP	Emissions must not exceed 10,000 grams HAP per megagram (20 pounds per ton) of total puncture sealants used.

[a] Emission limits are expressed as monthly average emission limits except for: (1) Tire production affected sources that comply by demonstrating that the cements and solvents that they use comply with the emission limit for every purchase; and (2) puncture sealant application affected sources that comply by meeting the overall control efficiency option which requires such sources to meet the emission reduction limit on a 3-hour average.

The final rule also establishes operating limits for puncture sealant application affected sources that are complying with the overall control efficiency standards (*i.e.*, 86 percent emission reduction or 95 percent emission reduction). The operating limits are established on a source-specific basis. Once established, sources must maintain specified control device and capture system operating parameter(s) within the range(s) established during the performance test and according to the source's monitoring plan.

The final rule requires demonstrations of initial and ongoing compliance with the emission limitations. The specific requirements vary according to the affected source and the compliance alternative selected by that source. The final rule also establishes compliance dates, as well as provisions for performance testing, monitoring, recordkeeping, and reporting.

III. Significant Comments and Changes Since Proposal

This section includes discussion of significant comments on the proposed rule, particularly where we have made changes for the final rule to address those comments. For a complete summary of all the comments received on the proposed rule and our responses to them, refer to the "Technical Document for Promulgation of Standards, National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing, Comment and Response Summary" (hereafter called the "response to comments document") in docket A–97–14. The docket also contains the actual comment letters and supporting documentation developed for the final rule.

A. What Sources Are Subject to the Rule?

We received several comments raising questions on the applicability of the rule to specific sources at rubber tire manufacturing facilities. We have clarified the applicability provisions in the final rule. This section describes in more detail how the rule applies to various operations at rubber tire manufacturing facilities.

1. Tire Bladders

The final rule applies to manufacturers of rubber tires and components integral to rubber tires, as well as tire cord producers and puncture sealant operations. One commenter suggested that EPA clarify that tire bladders used in the manufacturing process are not "components integral to rubber tires." We agree that tire bladders are not integral components in a tire because they are used in an intermediate production process and are not found in the final product. Their manufacture does not involve the use of cements or solvents. Therefore, the final rule reflects this exclusion in § 63.5981.

2. Tire Retread Operations

Based on public comments, we reconsidered whether to include tire retread manufacturing operations in the source category definition. At the time of proposal, no major tire retread manufacturing sources were identified that would be subject to the rubber tire manufacturing rule. However, to the extent that these facilities use cements and solvents in producing retread tires, and they are a major source (standing alone or due to collocation), they would have been subject to the proposed version of the rule because of similarities in the solvents, cements, and adhesives used and the process used to build tires. In evaluating comments on this topic, we reconsidered information regarding the potential for HAP emissions from retreading operations, the applicability of the proposed rule, and the appropriateness of the tire production MACT floor for retreading operations.

In both "new" tire production and retread tire production, tire building stations are used to create the pre-cured or pre-vulcanized tire. Several tire components can be combined for a virgin tire versus only two to three components for a retread tire. In the latter case, the carcass has been constructed eliminating those component steps in tire building for the retreader. The vulcanizing and curing of both the retread and the "green" tire are identical in their use of tire molds, the time for curing, the temperatures, and the pressures. These parameters are set in order to meet the tire safety and longevity specifications of the industry.

The HAP emissions associated with sidewall cementing, tread end cementing, tire building and retread tire building all use similar cement and solvent formulations. Specifically, the main component of the cements and solvents used by both new and retread manufacturers are hexane and toluene. The primary purpose of these cements and solvents is as a temporary aid to ensure that the rubber compound surface remains "tacky" during tire building. However, several tire manufacturers and retreaders have reformulated or eliminated the use of these toxic compounds in their operations, while presumably still achieving the desired performance characteristics.

Our review and evaluation of the tire building methods, tire building machinery, solvent and cement usage and application, and vulcanizing and curing processes for both new and retread tire operations has not indicated

significant differences in production techniques or in the types of tires being made. Our original conclusion to include retreading in the tire production subcategory, therefore, has not changed under this subsequent analysis.

Evaluation of the tire production MACT floor database identified retreading operations at sources that also manufactured new tires. The HAP emissions associated with these facilities were minor in comparison to the overall facility emissions, and compliance with the MACT standards is anticipated using the facility-wide standards that have been established for the industry. Therefore, emissions associated with the retreading operations at facilities included in the Rubber Manufacturers Association's (RMA's) database are included in the overall emissions reported from the RMA and the individual companies.

In addition, EPA examined the 1996 National Toxics Inventory (NTI) data, which revealed only three potential stand-alone major source facilities for retreading in the U.S. The primary pollutants reported were hexane and toluene. The 1996 NTI reported that HAP emissions from these sources ranged from 8 to 16 tons per year. Subsequent contacts with the permitting agencies for these sources revealed that the facilities have significantly reduced or eliminated HAP emissions. This analysis demonstrates the ability of retread facilities to substantially reduce or eliminate their HAP emissions.

In conclusion, we believe that tread is an integral component of tires, and retread manufacturers should be subject to the emission standards for tire producers to the extent that they use cements and solvents.

3. Fabric Coating Operations

The final rule clarifies the potential overlapping applicability of MACT standards for tire manufacturers who own and operate cord-treating facilities that produce tire cord as well as other fabric products, such as belts and hoses. For example, currently we are developing the fabric printing, coating, and dyeing NESHAP, which will potentially address the same cord coating operations as today's rubber tire manufacturing rule. In order to minimize potentially redundant requirements at these types of facilities, we have included in the final rule an exemption for coating activities where the primary product is a Web substrate other than tire cord, and the activities are regulated by another NESHAP. In other words, where tire cord is the primary product, the rubber tire manufacturing NESHAP would apply. Where it is not, the other NESHAP would apply. Any facility with potential overlapping applicability would have to determine which NESHAP apply to the facility by the compliance date of the first applicable NESHAP.

4. Research and Development Operations

We have also determined that research and development (R&D) operations should not be subject to the rubber tire manufacturing rule. At proposal, we included them in the definition of HAP emission sources. However, we now believe that excluding them is more consistent with our statements in an advanced notice of proposed rulemaking in which we suggested that R&D operations should be listed as a separate source category (62 FR 25877) because including R&D operations in a rule governing manufacturing operations would be problematic. We are not aware of any stand-alone major R&D facilities. In fact, R&D is focused on development of rubber compounds, which should involve minimal solvent use. For these reasons and because R&D operations were not necessarily addressed in the MACT floor determination, the final rule exempts R&D facilities as defined in section 112(c)(7) of the CAA. An R&D facility is one "whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for commercial sale in commerce, except in a de minimis manner." *See* CAA section 112(c)(7).

B. How Did We Determine MACT?

1. Rubber Processing MACT

Commenters said we did not provide data to support our conclusion that add-on control devices for rubber processing emissions are feasible but unreasonably expensive. According to the commenters, we should have considered the use of high-volume low-concentration (HVLC) technologies, which are available, proven, and cost-effective.

At proposal, we considered beyond-the-floor control options in establishing MACT for the rubber processing source category based on regenerative incineration. We concluded that the costs of these controls, more than $200,000 per ton of HAP controlled, were too high to require them as the basis of the standard. However, in considering public comments on the proposed rule, we reviewed information provided by a commenter to further evaluate the applicability of a specific HVLC technology to rubber processing operations. The technology is a hybrid system that incorporates a rotary concentrator with conventional oxidation (emission reduction) technology. The concentrator provides a mechanism to concentrate low organic concentration gas streams in order to make destruction or removal, for example, with a following oxidizer, a more cost-effective control technique.

As described in the response to comments document, our analysis showed that using the HVLC technology at a model facility would cost approximately $40,000 dollars per ton of emission reduction. While this is an improvement relative to the original cost impact, it is still too high to be considered a beyond-the-floor technology for existing and new facilities. Therefore, we have not revised the original MACT determination for this subcategory.

2. Tire Production MACT

Several commenters said the two emission limit options proposed for the tire production subcategory are not equivalent, because Option 2 (production-based option) is more stringent than Option 1 (HAP-constituent option). They said these options should be equivalent because, otherwise, Option 2 represents a beyond-the-floor requirement. At a minimum, they thought that Option 2 should be based on the average emissions of the five best-performing sources.

We disagree with these comments. As described in the proposal preamble, Option 1 represents the MACT floor and MACT. We developed Option 2 to represent a second form of the emission limit expressed in mass of HAP emitted per mass of rubber processed. Option 2 must be at least as stringent as Option 1, but is not required to be equivalent. Because the use of Option 2 is not required, it is not a beyond-the-floor requirement. Instead, it provides sources flexibility in how they meet the emission limit.

Commenters also said the proposal failed to set an emission limit with a meaningful control technology option, because the allowable emission levels in Options 1 and 2 effectively rule out control devices as a significant compliance option due to achievable capture efficiency rates in the tire production industry. This is important, commenters said, because reformulation is not an option in all cases due to the need for extensive equipment modification, modernization, and

facility reconfiguration as well as the high costs associated with such changes (likely exceeding $50 to $100 million per plant according to commenters).

A central fact in our response to these issues is that Option 1 is based on the MACT floor determination for tire production affected sources. Based on data provided by the RMA, we determined that emissions from these sources are controlled primarily through pollution prevention measures such as reformulation or other changes in process operations, which reduce or eliminate HAP. In fact, of the 41 reported existing tire production facilities, 11 reported no potential for HAP emissions from cement or solvent use above the Superfund Amendments and Reauthorization Act (SARA) de minimis reporting threshold limitations for HAP-containing compounds. No additional information in support of subcategorizing the source category was provided by the industry. Because we did not identify any basis for further subcategorizing tire production sources, this level of performance represents MACT for all tire production affected sources.

Despite a MACT floor determination based on pollution prevention, the proposed emission limits were crafted to allow the use of add-on control technologies as a compliance option because we recognized that some existing facilities currently use them to control a portion of their emissions. We also wanted to allow all sources the flexibility to use add-on controls, as long as the MACT floor requirements were met, if they found them more attractive than pollution prevention measures in reducing emissions from certain operations. We believe the result is a meaningful control technology option. While most facilities would have to achieve some increased level of pollution prevention to comply with the final rule, they would have the option to use add-on controls on any of the emission sources at the facility to provide additional needed reductions. Assuming sources used add-on controls on all of the available emission sources, the additional pollution prevention reductions to meet the emission limits would range from 0 to 54 percent, with 27 percent as the average reduction. Given the tremendous strides in pollution prevention already achieved by the industry, we believe the NESHAP limits are achievable and that the control technology option is viable.

3. Puncture Sealant MACT

Commenters said we overreached in establishing a standard for new sources that is more stringent than the standard for existing sources. The new source standard is on a single facility, which is operating a carbon absorber with a removal efficiency of 86 percent. According to commenters, we failed to conduct a beyond-the-floor analysis that includes the cost and technical feasibility to support our determination.

We determined the new source MACT floor by looking at similar sources in other industries and found that their carbon absorbers are achieving better performance than that at the one existing puncture sealant source. Industries that emit VOC have extensive experience in using pollution control technologies to control the gaseous pollutants. Carbon adsorption can typically achieve greater than 90 percent efficiencies with inlet gaseous pollutant concentrations greater than a few hundred parts per million by volume (ppmv). At concentrations greater than 1000 ppmv, efficiencies can exceed 95 percent. The existing puncture sealant facility shows an inlet stream concentration of at least 1,400 ppmv. Use of combustion technologies, even at low pollutant concentrations (less than 100 ppmv), can generally achieve 90 to 95 percent destruction efficiency. At higher concentrations, destruction efficiencies of 95 to 98 percent are achieved. Therefore, we believe that control devices at new facilities should be able to should be able to achieve at least 95 percent efficiency.

Because commenters raised cost concerns, we compared the cost of installing an 86-percent efficient control device to the cost of a 95-percent efficient control device at a new facility. Because the driving factor in the cost analysis is the airflow rate of the inlet stream, it actually costs less to install a 95-percent efficient carbon adsorber than an 86-percent efficient one. This is because both units would have the same total annual cost in the absence of recovery credits, but the more efficient device would achieve greater product recovery, which reduces the annual operating cost. Therefore, even if the standard for new sources were considered a beyond-the-floor standard, the MACT determination would be the same.

C. Can EPA Provide a Universal Certification Compliance Alternative?

Commenters asked us to develop an alternative standard (and associated compliance procedures) for tire cord production and/or puncture sealant operations that would be analogous to the "HAP constituent option" (Option 1) for tire production sources. They said we should allow tire cord and puncture sealant facilities to certify annually that formulations used in such operations contain less than 0.1 percent of those HAP specified in Table 16 of the proposed rule and less than 1 percent of all other HAP, and that this change would encourage pollution prevention.

We agree that providing a similar HAP-constituent option for tire cord producers and puncture sealant operations would encourage pollution prevention. Demonstrating compliance with a HAP-constituent option would require additional emission reductions beyond those required by the MACT, but since its use would be optional, it would not constitute a beyond-the-floor requirement. However, we believe that its use should be limited to a monthly compliance alternative, reserving the annual alternative to the purchase of cements and solvents. Most, if not all, tire cord manufacturers and puncture sealant application facilities mix their coatings and puncture sealants on-site, which would require the use of the monthly compliance demonstration. We have written the final rule to add these compliance options.

D. What Role Should EPA Method 311 Play in Compliance Determinations?

Commenters requested several clarifications regarding the role that EPA Method 311 (found in Appendix A of 40 CFR part 63) (Analysis of Hazardous Air Pollutant Compounds in Paints and Coatings by Direct Injection Into a Gas Chromatograph) should play in ongoing compliance determinations. For example, is an individual Method 311 test required to verify the HAP content for every batch of solvent or cement? Must the compliance demonstration determine the precise HAP content of the tested material, or can the de minimis reporting threshold discussed in the proposed rule (0.1 percent for certain listed HAP and 1.0 percent for other HAP) suffice? Can the tire manufacturing facility owner or operator rely on information provided by suppliers regarding the HAP content of materials? Can formulation data (material safety data sheets (MSDS) and certificates of compliance) be used in lieu of Method 311 testing? Commenters stated that use of the MSDS and other data to screen products for HAP content will eliminate testing of hundreds of non-HAP containing materials.

We reviewed the use of Method 311 in other recent coating standards we have proposed or promulgated. In order to be consistent with these standards and minimize the need for individual facilities to apply for approval of alternative methods, we have added flexibility to the process of certifying HAP contents of materials used in the

tire manufacturing industry. However, the reference test method for measuring the HAP content of tire manufacturing cements, solvents, coatings, and puncture sealants will be EPA Method 311. This is an established method that is appropriate for measuring the types of HAP used in these materials.

The final rule, therefore, does not require a Method 311 test for HAP content, nor does it require you to test every shipment of materials you receive. You will be responsible for verifying, by any reasonable means such as periodic testing or manufacturer's certification, the HAP content (at least above the de minimis thresholds) of materials used at the facility. We may require you to conduct a test at any time using EPA Method 311 (or any approved alternative method) to confirm the HAP content reported in the compliance reports. If there is any inconsistency between the results of the EPA Method 311 test and any other means of determining HAP content, the Method 311 results will govern.

E. How Should the Tire Cord Compliance Requirements Address Potential Mixing Reactions?

Commenters raised the issue of how to treat emissions from tire cord mixing operations in compliance determinations when reactions during mixing may affect emissions. For example, at what point in the mixing process should Method 311 samples (or other analytical means) be taken? If the analysis is based on the coating after it is mixed, reacted, and aged, the results will not account for the HAP emitted from or converted by the mixing process. However, if the analysis is based on coating collected from the mix tank after the addition of all the chemicals, but prior to subsequent processing, the analysis could overestimate the overall HAP emissions from the affected source. This is because tire cord coatings ("dip formulations") commonly react during the mixing and storage operations. During these reactions, a HAP such as formaldehyde cross-links the polymers contained in the dip formulation. After this cross-linking reaction occurs, the chemical is unavailable to be released as an air emission during subsequent processing steps. For formaldehyde, the chemical conversion rate typically equals or exceeds 99 percent.

At proposal, we assumed that the amount of HAP used in the tire cord production process would equal the amount of HAP emitted. We assumed you would document your material balances using records of the HAP contents of raw materials delivered to the mixing process. Alternatively, you could sample the coating mixture to verify HAP content. However, based on comments, it appears that the issue of reactive coatings is significant for tire cord production. We are concerned, however, that the commenters' solution to only address post-mixing HAP would ignore potential fugitive emission losses from mixers.

In the final rule, we have assumed that you will base your material balance on the assumption that 100 percent of the HAP added to a coating mixture is emitted. However, you will be allowed to account for HAP "losses" resulting from chemical reactions, *e.g.*, curing or post-application reactions. You can calculate these losses based on the conversion rates of the individual coating formulations, chemistry demonstrations, or other demonstrations that are verifiable to the approving agency. You may than use the revised value in your compliance demonstration. We have written the final rule to add these provisions.

F. What Data Requirements Should Sources Using Continuous Parameter Monitoring Systems Meet?

1. Deviations

Commenters noted that proposed § 63.5990, which requires facilities to be in compliance with the MACT standards at all times regardless of whether a source is using control equipment to comply, fails to recognize that several factors make it almost inevitable that the source's emissions will exceed the standards at times. Instead, sources should be given a chance to quickly correct a deviation from their operating parameter limits before a violation is registered. This encourages quick action and is appropriate because emissions may be underneath the regulatory limit even though the parameter limit is exceeded.

The monitoring provisions in the final rule are structured to require a source to establish an individual operating limit (or operating parameter value) based on a site-specific performance test. Once established, the source should have the ability to operate as far as desired and/or necessary on the compliance side of the operating parameter.

The length of the averaging time for the associated emission limit is another variable that affects the likelihood of deviations. For example, cases in which the monitoring data are used to demonstrate instantaneous compliance are more likely to create the exceedances suggested by the commenters. This is not the case in the final rule. Puncture sealant affected sources meeting the overall control efficiency compliance option are subject to operating limits based on a 3-hour averaging period. Tire producers, tire cord producers, and puncture sealant applicators choosing to comply with one of the monthly average compliance options have a month in which to ensure that deviations from control device monitoring parameters do not affect their overall compliance status. In summary, we believe the final rule is based on parameters and averaging times that allow a conscientious operator to remain in compliance with the standards. Therefore, we have not made the changes suggested by commenters.

2. Startups, Shutdowns, and Malfunctions

Commenters were concerned that Table 17 to proposed subpart XXXX indicates that the 40 CFR part 63, subpart A, General Provisions requirements regarding startups, shutdowns, and malfunctions (§§ 63.6(e)(3) and (f)(1)) do not apply to sources that choose to use control devices to comply with the standards. One commenter cited precedents regarding the need for "achievable" standards and argued that the final rule should be written to indicate that these sections do apply to facilities complying through the use of control devices.

We agree that puncture sealant affected sources that are subject to operating limits should be allowed to use the startup, shutdown, and malfunction provisions, and have corrected this oversight for the final rule. We separately considered whether to extend these provisions to tire production, tire cord production, and puncture sealant affected sources complying with the monthly average compliance options because compliance with the monitored parameter is only a trigger that determines whether the source can use the established emission reductions of the capture and control system in the compliance demonstration. Because the overall compliance demonstration is based on a month's worth of data, we considered whether the startup, shutdown, and malfunction provisions were needed to ensure an achievable standard. We determined that for sources relying heavily on the use of control equipment to meet the overall emission limit, the inability to exclude periods of startups, shutdowns, and malfunctions from the compliance demonstration could increase their risk of failing to comply with the emission limit. Therefore, we have written the final rule to add the startup, shutdown, and malfunction

provisions for sources complying with the standards through control devices.

3. Minimum Data Collection Requirements

Commenters said the proposal fails to allow for the loss of even minimal amounts of test or monitoring data when sources are complying by using add-on control devices. They suggested adding provisions similar to those found in the municipal waste combuster MACT standards issued under section 129 of the CAA.

We have therefore written the final rule to provide information on these minimum data requirements. We agree that the proposed rule, by being silent on minimum data requirements, could have caused confusion for compliance demonstrations. The tradeoff to consider in adding these requirements is that the monitoring system should be optimized to limit occurrences when data collection is jeopardized because of system faults and failures. Therefore, we have clarified in the final rule the establishment of reasonable minimum data collection requirements, implemented through the use of a site-specific monitoring plan designed to optimize system performance.

The final rule requires you, for each operating parameter you monitor, to install, operate, and maintain each continuous parameter monitoring system (CPMS) according to the following requirements:

- Operate CPMS at all times the process is operating;
- Collect data from at least four equally spaced periods each hour;
- For at least 75 percent of the hours in an operating day, have valid data (as defined in the site-specific monitoring plan) for at least four equally spaced periods each hour;
- For each hour of valid data from at least four equally spaced periods, calculate the hourly average value using all valid data;
- Calculate the daily average using all of the hourly averages; and
- Record the results for each inspection, calibration, and validation check as specified in the site-specific monitoring plan.

For each monitoring system required, you must develop and submit for approval a site-specific monitoring plan that addresses the following requirements:

- Installation of the continuous monitoring system (CMS) sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (*e.g.*, on or downstream of the last control device);
- Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system; and
- Performance evaluation procedures and acceptance criteria (*e.g.*, calibrations).

The plan must also address the following ongoing procedures:

- Ongoing operation and maintenance procedures in accordance with the general requirements of 40 CFR 63.8(c)(1), (3), (4)(ii), (7), and (8), and 63.5990;
- Ongoing data quality assurance procedures in accordance with the general requirements of 40 CFR 63.8(d); and
- Ongoing recordkeeping and reporting procedures in accordance the general requirements of 40 CFR 63.10(c) and (e)(1) and (2)(i).

G. Is Compliance Based on Daily Recordkeeping Needed?

Commenters recommended specifying that monthly average compliance demonstrations should be based on monthly inventory and usage records, instead of daily ones, for several reasons:

- The proposal to require daily records of many parameters (control devices are the exception) is inconsistent with the requirement for a monthly average, is very burdensome, and would not serve any environmental purpose.
- Use of monthly data would eliminate the need for proposed equation 3 of § 63.5997(b)(3) of proposed subpart XXXX.
- Monthly records are consistent with other MACT standards, and it would be arbitrary and capricious to single out the tire manufacturing standards for daily recordkeeping when it is unnecessary to show compliance with a monthly averaging period, and other similar standards require only monthly recordkeeping.
- Monitoring the flow of cements and solvents through the plant's central dispensing area on a monthly basis is less burdensome than on a daily basis.
- The accuracy of a monthly system is significantly better than individual measurements of hundreds of containers on a daily basis.

We believe the commenters have overstated the need for complex recordkeeping systems to implement the rule as proposed. For example, we believe sources could monitor daily flow of cements and solvents through one or two central locations instead of at the point of use. However, upon consideration, we agree that a monthly system of cement, solvent, and coating use is sufficient to demonstrate compliance with the emission limitations. Therefore, we have written the final rule to implement a monthly system. This change simplifies the compliance equations and should reduce recordkeeping burden without compromising compliance assurance.

H. Has EPA Properly Considered the Cost Impacts of the Rule?

Commenters felt we underestimated the cost impacts of the proposed rule by failing to incorporate significant costs associated with creating systems to track daily material usage. They suggested that monthly recordkeeping would be more economical, could be more easily maintained, and would still demonstrate compliance with the standards.

We believe that the commenters misinterpreted the proposed recordkeeping requirements to require tracking cement, solvent, and coating use at every single step in the process. Instead, we believe facilities should be able to monitor a limited number of central locations (*e.g.*, amount of coating leaving mix area, amount of solvent distributed from storage), and thereby avoid significant costs. However, as described above, we have determined that monthly recordkeeping will be sufficient to demonstrate compliance with the emission limitations and have written the final rule to allow it.

Commenters also were concerned that we presented the proposed rule as a nonsignificant regulatory action, when it may force technology developments that are not incorporated into the analysis presented. Commenters said reformulation is not an option in every case, and the lack of a meaningful control technology option will force significant technology upgrades to comply with the standards. According to one commenter, this type of modernization costs $50 to $100 million per plant, and these types of costs are not reflected in the impacts analysis of the proposed rule.

As earlier described, we believe the rule contains a viable emission control technology option. In addition to the cost estimate prepared for the final rule, we also conducted a theoretical cost analysis using more conservative (*i.e.*, high-end) assumptions regarding the level of reformulation and the probable capture efficiencies. That analysis maximized the number of sources installing add-on control devices, reduced add-on control capture efficiencies, and determined solvent

reformulation costs on a facility-specific basis. (See the response to comments document for more details.) Based on these assumptions, total annual control costs to all tire producers combined could be as high as $35 million. Even considering impacts based on these more conservative (higher end of range) assumptions, the final rule will not trigger the $100 million criterion used by the Office of Management and Budget (OMB), let alone approach the estimate provided by one commenter of $50 to $100 million per plant to meet the emission limits.

I. What Other Changes Has EPA Made for the Final Rule?

We have made several other changes for the final rule. These changes include the following:

- Changes to the compliance equations to clarify them, address the addition of new compliance options, make them consistent with monthly recordkeeping, and fix errors.
- Revisions or additions to clarify applicability in definitions (cements and solvents, fabric processed, tire cord, *etc.*).
- Other minor changes to correct editorial and minor technical errors in the proposal package.

J. What Are the Environmental, Cost, and Economic Impacts of the Final Rule?

The final rule will eliminate approximately 983 megagrams per year (Mg/yr) (1,084 tons/yr) (52 percent) of the baseline annual HAP emissions from this industry. For the tire production source subcategory, we estimate that the final rule will reduce HAP emissions by approximately 949 Mg/yr (1,047 tons/yr). For the tire cord production source subcategory, we estimate that the final rule will reduce HAP emissions by approximately 34 Mg/yr (37 tons/yr). We also estimate that the final rule will reduce emissions of VOC by the same amount.

For the one existing puncture sealant application affected source, we are not requiring different emissions control than what is currently done. Therefore, the final rule will not reduce HAP or other emissions from baseline emissions levels at this facility.

The final rule encourages the adoption of pollution prevention measures. As a result, we believe that most manufacturers will adopt these measures and expect minimal, if any, increases in energy consumption, and minimal reductions in water pollution and solid waste.

Actual compliance costs will depend on each source's existing cement, solvent, and coating formulations and control equipment, and the modifications made to comply with the final rule. Table 2 shows the total annual costs for affected sources to comply with the final rule. These costs include the estimated costs of reformulating cements, solvents, and coatings or installation of add-on control devices, as well as monitoring, reporting, and recordkeeping costs.

TABLE 2.—TOTAL ANNUAL COSTS OF THE RUBBER TIRE MANUFACTURING RULE FOR TIRE PRODUCTION, TIRE CORD PRODUCTION, AND PUNCTURE SEALANT APPLICATION

Annual costs	Tire production/puncture sealant application[a]	Tire cord	
Control	$21,359,000	$2,477,000	
Monitoring	1,161,000	193,000	
Recordkeeping and reporting average	597,000	105,000	
Total nationwide costs	23,117,000	2,775,000	=$25,892,000

[a] Puncture sealant monitoring and reporting recordkeeping costs are included in the tire production costs.

The economic impact analysis (EIA) provides an estimate of the anticipated regulatory impacts of the rule for rubber tire manufacturing. The information collected for this rule from rubber tire manufacturers indicates that there are 14 companies potentially affected by the rule. States with the largest concentration of facilities are Alabama, Illinois, North Carolina, South Carolina, and Ohio. None of the facilities manufacturing rubber tires are owned by companies that are classified as small businesses.

In general, the economic impacts of the rule are expected to be minimal. A market price increase of less than 1 percent, or $0.03 per tire, is projected. Domestic producer pre-tax earnings are projected to decrease by $14 million, or 1.2 percent. The EIA estimates that domestic tire output will decline by 154,000 tires (0.05 percent), while imports will increase by 24,000 tires (0.05 percent), resulting in a net decline of 130,000 tires, or 0.04 percent.

The value of a regulatory action is traditionally measured by the change in economic welfare that it generates. The final rule's welfare impacts, or the social costs required to achieve environmental improvements, will extend to tire consumers and producers alike. The social costs for existing sources are projected to be approximately $24 million.

IV. Administrative Requirements

A. Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Executive Order 13045—Protection of Children From Environmental Health Risks 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, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned rule is preferable to other potentially effective and reasonably feasible alternatives that we considered.

This final rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866. In addition, EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health and 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.

C. 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 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." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This final rule does not have tribal implications. 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, as specified in Executive Order 13175. This is because no tribal governments own or operate a rubber tire manufacturing facility. Thus, Executive Order 13175 does not apply to this rule.

D. 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" 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."

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. The standards apply only to rubber tire manufacturers and do not pre-exempt States from adopting more stringent standards or otherwise regulate State or local governments. Thus, Executive Order 13132 does not apply to this final rule.

Although section 6 of Executive Order 13132 does not apply to this final rule, EPA did consult with State and local officials in developing this final rule. No concerns were raised by these officials during this consultation.

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

This rule 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 it is not a significant regulatory action under Executive Order 12866.

F. 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, we generally must prepare a written statement, including 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 with other than the least costly, most cost-effective, or least burdensome alternative if we publish 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 our regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that this final rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annual cost of this rule for any year has been estimated to be less than $26 million. Thus, today's final rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, we have determined that this final rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no regulatory requirements that apply to such governments or impose obligations upon them. Therefore, this final rule is not subject to the requirements of section 203 of the UMRA.

G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The 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 on small entities, small entity is defined as: (1) A small business according to the Small Business Administration (SBA) size standards by NAICS code (which ranges from 500 to 1,000 employees for the rubber tire manufacturing industry); (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. This final rule will not impose any requirements on small entities. We have determined that none of the 43 facilities expected to be subject to the final rule are small entities.

H. Paperwork Reduction Act

The information collection requirements in this final rule have been submitted for approval to OMB under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1982.01), and a copy may be obtained from Ms. Sandy Farmer by mail at the U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001, by e-mail at *farmer.sandy@epa.gov,* or by calling (202) 260–2740. A copy may also be downloaded off the Internet at *http://www.epa.gov/icr.* The information requirements are not effective until OMB approves them.

The final information requirements are based on notifications, records, and reports required by the General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized under section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made will be safeguarded according to Agency policies in 40 CFR part 2, subpart, Confidentiality of Business Information.

The annual public reporting and recordkeeping burden for this collection of information (averaged over the first 3 years after the effective date of the promulgated rule) is estimated to total 12,807 labor hours per year at a total annual cost of $701,337. This estimate includes notifications, a performance test and report for sources using control devices to comply with the regulation, semiannual compliance reports, annual compliance certifications, records of cements and solvents composition, records of cements and solvents use, records of HAP use, and records of any required parameter monitoring.

The total estimated annual and capital monitoring, inspection, reporting and recordkeeping (MIRR) costs for existing and new major sources to comply with the final standards when an affected source opts to comply via the use of add-on control equipment are determined based on the estimated capital costs of equipment required for MIRR activities. For the rubber tire manufacturing industry, the total estimated installed capital costs of this equipment is $2.9 million for existing major sources and $569,558 for new major sources. Annualized capital MIRR costs for existing and new major sources to comply with the final standards through the use of add-on controls were estimated to be $1.6 million and $220,386, respectively.

The total annual estimated operating and maintenance costs (O&M) were calculated based on: (1) The estimated storage, filing, photocopying, and postage costs for the estimated total annual responses associated with the provisions of the rubber tire rule; and (2) the O&M costs for the equipment required for compliance with these standards. The total storage, filing, photocopying, and postage cost per response was $20.67, for an annual estimated average of $1,778.

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 purpose of collecting, validating, and verifying information; process and maintain information and disclose and provide information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing 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 are listed in 40 CFR part 9 and 48 CFR chapter 15. The OMB control number(s) for the information collection requirements in this rule will be listed in an amendment to 40 CFR part 9 or 48 CFR chapter 15 in a subsequent **Federal Register** document after OMB approves the ICR.

I. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Public Law 104–113, section 12(d) 15 U.S.C. 272 note) directs us to use voluntary consensus standards (VCS) in our 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, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs us to provide Congress, through annual reports to OMB, with explanations when we do not use available and applicable VCS.

This rulemaking involves technical standards. We are citing the following methods in this rule: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 25, and 25A of 40 CFR part 60, appendix A; EPA Methods 204 and 204A–F of 40 CFR part 51, appendix M; and EPA Method 311 of 40 CFR part 63, appendix A. Consistent with the NTTAA, we conducted searches to identify VCS in addition to these EPA methods. No applicable VCS were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 204, 204A–F, and 311. The search and review results have been documented and are placed in the docket (A–97–14) for this rule.

Five voluntary consensus standards: ASTM D1979–97, ASTM D3432–89, ASTM D4747–87, ASTM D4827–93, and ASTM PS 9–94 are already incorporated by reference in EPA Method 311.

The search for emissions measurement procedures identified 14 other VCS. We determined that 11 of these 14 VCS identified for measuring emissions of HAP or surrogates subject to emission standards in this rule were impractical alternatives to EPA test methods for the purposes of this rule. Therefore, we do not intend to adopt these VCS. The reasons for the determinations of these 11 VCS are discussed below.

The VCS ASTM D3154–91 "Standard Method for Average Velocity in a Duct (Pitot Tube Method)," is an impractical

alternative to EPA Methods 1, 2, 2C, 3, 3B, and 4 for the purposes of this rulemaking because it lacks in quality control and quality assurance requirements. Specifically, ASTM D3154–91 (1995) does not include the following: (1) Proof that openings of standard pitot tubes have not plugged during the test; (2) if differential pressure gauges other than inclined manometers (*e.g.*, magnehelic gauges) are used, their calibration must be checked after each test series; and (3) the frequency and validity range for calibration of the temperature sensors.

The VCS ISO 10780:1994, "Stationary Source Emissions—Measurement of Velocity and Volume Flowrate of Gas Streams in Ducts," is impractical as an alternative to EPA Method 2 in this rulemaking. This standard, ISO 10780:1994, recommends the use of L-shaped pitots, which historically have not been recommended because the S-type design has large openings which are less likely to plug up with dust.

The VCS ASTM D3464–96 (2001), "Standard Test Method Average Velocity in a Duct Using a Thermal Anemometer," is impractical as an alternative to EPA Method 2 for the purposes of this rulemaking primarily because applicability specifications are not clearly defined, *e.g.*, range of gas composition, temperature limits. Also, the lack of supporting quality assurance data for the calibration procedures and specifications, and certain variability issues that are not adequately addressed by the standard limit our ability to make a definitive comparison of the method in these areas.

Two very similar standards, ASTM D5835–95, "Standard Practice for Sampling Stationary Source Emissions for Automated Determination of Gas Concentration," and ISO 10396:1993, "Stationary Source Emissions: Sampling for the Automated Determination of Gas Concentrations," are impractical alternatives to EPA Method 3A for the purposes of this rulemaking because they lack in detail and quality assurance/quality control requirements. Specifically, these two standards do not include the following: (1) Sensitivity of the method; (2) acceptable levels of analyzer calibration error; (3) acceptable levels of sampling system bias; (4) zero drift and calibration drift limits, time span, and required testing frequency; (5) a method to test the interference response of the analyzer; (6) procedures to determine the minimum sampling time per run and minimum measurement time; and (7) specifications for data recorders, in terms of resolution (all types) and recording intervals (digital and analog recorders, only).

Two VCS, EN 12619:1999 "Stationary Source Emissions-Determination of the Mass Concentration of Total Gaseous Organic Carbon at Low Concentrations in Flue Gases—Continuous Flame Ionization Detector Method" and ISO 14965:2000(E) "Air Quality-Determination of Total Nonmethane Organic Compounds-Cryogenic Preconcentration and Direct Flame Ionization Method," are impractical alternatives to EPA Method 25A for the purposes of this rulemaking because the standards do not apply to solvent process vapors in concentrations greater than 40 ppm carbon for EN 12619 and 10 ppm carbon for ISO 14965. Methods whose upper limits are this low are too limited to be useful in measuring source emissions, which are expected to be much higher.

Four VCS are impractical alternatives to EPA test methods for the purposes of this rulemaking because they are too general, too broad, or not sufficiently detailed to assure compliance with EPA regulatory requirements: ASTM D3796–90 (Reapproved 1996), "Standard Practice for Calibration of Type S Pitot Tubes," for EPA Method 2; ASME C00031 or PTC 19–10–1981—Part 10, "Flue and Exhaust Gas Analyses," for EPA Method 3; CAN/CSA Z223.2–M86(1986), "Method for the Continuous Measurement of Oxygen, Carbon Dioxide, Carbon Monoxide, Sulphur Dioxide, and Oxides of Nitrogen in Enclosed Combustion Flue Gas Streams," for EPA Method 3A; and ASTM E337–84 (Reapproved 1996), "Standard Test Method for Measuring Humidity with a Psychrometer (the Measurement of Wet- and Dry-Bulb Temperatures)," for EPA Method 4.

Three of the 14 VCS identified in this search were not available at the time the review was conducted for the purposes of this rulemaking because they are under development by a voluntary consensus body: ASME/BSR MFC 13M, "Flow Measurement by Velocity Traverse," for EPA Method 2 (and possibly 1); ASME/BSR MFC 12M, "Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters," for EPA Method 2; and ISO/DIS 12039, "Stationary Source Emissions—Determination of Carbon Monoxide, Carbon Dioxide, and Oxygen—Automated Methods," for EPA Method 3A.

Sections 63.5993, 63.5994, 63.5997, and 63.6000 to subpart XXXX list the EPA testing methods in the final rule. Under 40 CFR 63.8 of subpart A of the General Provisions, a source may apply to obtain permission to use alternative monitoring in place of any of the EPA testing methods.

J. 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. The EPA will submit a report containing this 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**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective on July 9, 2002.

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, Rubber tire manufacturing.

Dated: May 15, 2002.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of the 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.*

2. Part 63 is amended by adding subpart XXXX to read as follows:

Subpart XXXX—National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing

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Subpart XXXX—National Emissions Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing

What This Subpart Covers

§ 63.5980 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for rubber tire manufacturing. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations.

§ 63.5981 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a rubber tire manufacturing facility that is located at, or is a part of, a major source of hazardous air pollutant (HAP) emissions.

(1) Rubber tire manufacturing includes the production of rubber tires and/or the production of components integral to rubber tires, the production of tire cord, and the application of puncture sealant. Components of rubber tires include, but are not limited to, rubber compounds, sidewalls, tread, tire beads, tire cord and liners. Other components often associated with rubber tires but not integral to the tire, such as wheels, inner tubes, tire bladders, and valve stems, are not components of rubber tires or tire cord and are not subject to this subpart.

(2) A major source of HAP emissions is any stationary source or group of stationary sources within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, any single HAP at a rate of 9.07 megagrams (10 tons) or more per year or

any combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year.

(b) You are not subject to this subpart if the affected source at your rubber tire manufacturing facility meets either of the conditions described in paragraph (b)(1) or (2) of this section.

(1) You own or operate a tire cord production affected source, but the primary product produced at the affected source is determined to be subject to another subpart under this part 63 as of the effective date of that subpart (publication date of the final rule) or startup of the source, whichever is later. In this case, you must determine which subpart applies to your source and you must be in compliance with the applicable subpart by the compliance date of that subpart. The primary product is the product that is produced for the greatest operating time over a 5-year period, based on expected utilization for the 5 years following the compliance date or following initial startup of the source, whichever is later.

(2) Your rubber tire manufacturing affected source is a research and development facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for commercial sale in commerce, except in a de minimis manner.

§ 63.5982 What parts of my facility does this subpart cover?

(a) This subpart applies to each existing, new, or reconstructed affected source at facilities engaged in the manufacture of rubber tires or their components.

(b) The affected sources are defined in paragraph (b)(1) of this section (tire production), paragraph (b)(2) of this section (tire cord production), paragraph (b)(3) of this section (puncture sealant application), and paragraph (b)(4) of this section (rubber processing).

(1) The tire production affected source is the collection of all processes that use or process cements and solvents as defined in § 63.6015, located at any rubber tire manufacturing facility. It includes, but is not limited to: Storage and mixing vessels and the transfer equipment containing cements and/or solvents; wastewater handling and treatment operations; tread and cement operations; tire painting operations; ink and finish operations; undertread cement operations; process equipment cleaning materials; bead cementing operations; tire building operations; green tire spray operations; extruding, to the extent cements and solvents are used; cement house operations; marking operations; calendar operations, to the extent solvents are used; tire striping operations; tire repair operations; slab dip operations; other tire building operations, to the extent that cements and solvents are used; and balance pad operations.

(2) The tire cord production affected source is the collection of all processes engaged in the production of tire cord. It includes, but is not limited to: dipping operations, drying ovens, heat-set ovens, bulk storage tanks, mixing facilities, general facility vents, air pollution control devices, and warehouse storage vents.

(3) The puncture sealant application affected source is the puncture sealant application booth operation used to apply puncture sealant to finished tires.

(4) The rubber processing affected source is the collection of all rubber mixing processes (e.g., banburys and associated drop mills) that either mix compounds or warm rubber compound before the compound is processed into components of rubber tires. The mixed rubber compound itself is also included in the rubber processing affected source. There are no emission limitations or other requirements for the rubber processing affected source.

(c) An affected source is a new affected source if construction of the affected source commenced after October 18, 2000, and it met the applicability criteria of § 63.5981 at the time construction commenced.

(d) An affected source is reconstructed if it meets the criteria as defined in § 63.2.

(e) An affected source is existing if it is not new or reconstructed.

§ 63.5983 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, except as provided in §§ 63.5982(b)(4) and 63.5981(b)(1), you must comply with the emission limitations for new and reconstructed sources in this subpart upon startup.

(b) If you have an existing affected source, you must comply with the emission limitations for existing sources no later than July 11, 2005.

(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, the affected source(s) must be in compliance with existing source emission limitations no later than 3 years after the date on which the area source became a major source.

(d) You must meet the notification requirements in § 63.6009 according to the schedule in § 63.6009 and in subpart A of this part. Some of the notifications must be submitted before the date you are required to comply with the emission limitations in this subpart.

Emission Limits for Tire Production Affected Sources

§ 63.5984 What emission limits must I meet for tire production affected sources?

You must meet each emission limit in either option 1 or option 2 of Table 1 to this subpart that applies to you.

§ 63.5985 What are my alternatives for meeting the emission limits for tire production affected sources?

You must use one of the compliance alternatives in paragraphs (a) through (c) of this section to meet either of the emission limits in § 63.5984.

(a) *Purchase alternative.* Use only cements and solvents that, as purchased, contain no more HAP than allowed by the emission limits in Table 1 to this subpart, option 1 (HAP constituent option).

(b) *Monthly average alternative, without using an add-on control device.* Use cements and solvents in such a way that the monthly average HAP emissions do not exceed the emission limits in Table 1 to this subpart, option 1 or option 2.

(c) *Monthly average alternative, using an add-on control device.* Use a control device to reduce HAP emissions so that the monthly average HAP emissions do not exceed the emission limits in Table 1 to this subpart, option 1 or option 2.

Emission Limits for Tire Cord Production Affected Sources

§ 63.5986 What emission limits must I meet for tire cord production affected sources?

You must meet each emission limit in either option 1 or option 2 of Table 2 to this subpart that applies to you.

§ 63.5987 What are my alternatives for meeting the emission limits for tire cord production affected sources?

You must use one of the compliance alternatives in paragraph (a) or (b) of this section to meet the emission limits in § 63.5986.

(a) *Monthly average alternative, without using an add-on control device.* Use coatings in such a way that the monthly average HAP emissions do not exceed the emission limits in Table 2 to this subpart.

(b) *Monthly average alternative, using an add-on control device.* Use a control device to reduce HAP emissions so that the monthly average HAP emissions do not exceed the emission limits in Table 2 to this subpart.

Emission Limitations for Puncture Sealant Application Affected Sources

§ 63.5988 What emission limitations must I meet for puncture sealant application affected sources?

(a) You must meet each emission limit in either option 1 or option 2 of Table 3 to this subpart that applies to you.

(b) If you use an add-on control device to meet the emission limits in Table 3 to this subpart, you must also meet each operating limit in Table 4 to this subpart that applies to you.

§ 63.5989 What are my alternatives for meeting the emission limitations for puncture sealant application affected sources?

You must use one of the compliance alternatives in paragraphs (a) through (d) of this section to meet the emission limitations in § 63.5988.

(a) *Overall control efficiency alternative.* Use an emissions capture system and control device and demonstrate that the application booth emissions meet the emission limits in Table 3 to this subpart, option 1a or 1b, and the control device and capture system meet the operating limits in Table 4 to this subpart.

(b) *Permanent total enclosure and control device efficiency alternative.* Use a permanent total enclosure that satisfies the Method 204 criteria in 40 CFR part 51, appendix M. Demonstrate that the control device meets the emission limits in Table 3 to this subpart, option 1a or 1b. You must also show that the control device and capture system meet the operating limits in Table 4 to this subpart.

(c) *Monthly average alternative, without using an add-on control device.* Use puncture sealants in such a way that the monthly average HAP emissions do not exceed the emission limits in Table 3 to this subpart, option 2.

(d) *Monthly average alternative, using an add-on control device.* Use a control device to reduce HAP emissions so that monthly average HAP emissions do not exceed the emission limits in Table 3 to this subpart, option 2.

General Compliance Requirements

§ 63.5990 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the applicable emission limitations specified in Tables 1 through 4 to this subpart at all times, except during periods of startup, shutdown, and malfunction if you are using a control device to comply with an emission limit.

(b) Except as provided in § 63.5982(b)(4), you must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) During the period between the compliance date specified for your source in § 63.5983 and the date upon which continuous compliance monitoring systems (CMS) have been installed and validated and any applicable operating limits have been set, you must maintain a log detailing the operation and maintenance of the process and emission control equipment.

(d) For each affected source that complies with the emission limits in Tables 1 through 3 to this subpart using a control device, you must develop and implement a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

(e) For each monitoring system required in this section, you must develop and submit for approval a site-specific monitoring plan that addresses the requirements in paragraphs (e)(1) through (3) of this section as follows:

(1) Installation of the CMS sampling probe or other interface at a measurement location relative to each affected process unit so that the measurement is representative of control of the exhaust emissions (*e.g.*, on or downstream of the last control device);

(2) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system; and

(3) Performance evaluation procedures and acceptance criteria (*e.g.*, calibrations).

(f) In your site-specific monitoring plan, you must also address the ongoing procedures specified in paragraphs (f)(1) through (3) of this section as follows:

(1) Ongoing operation and maintenance procedures in accordance with the general requirements of § 63.8(c)(1), (3), (4)(ii), (7), and (8), and this section;

(2) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d); and

(3) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c), (e)(1), and (e)(2)(i).

General Testing and Initial Compliance Requirements

§ 63.5991 By what date must I conduct an initial compliance demonstration or performance test?

(a) If you have a new or reconstructed affected source, you must conduct each required initial compliance demonstration or performance test within 180 calendar days after the compliance date that is specified for your new or reconstructed affected source in § 63.5983(a). If you are required to conduct a performance test, you must do so according to the provisions of § 63.7(a)(2).

(b) If you have an existing affected source, you must conduct each required initial compliance demonstration or performance test no later than the compliance date that is specified for your existing affected source in § 63.5983(b). If you are required to conduct a performance test, you must do so according to the provisions of § 63.7(a)(2).

(c) If you commenced construction or reconstruction between October 18, 2000 and July 9, 2002, you must demonstrate initial compliance with either the proposed emission limitations or the promulgated emission limitations no later than January 6, 2003, or within 180 calendar days after startup of the source, whichever is later, according to § 63.7(a)(2)(ix).

(d) If you commenced construction or reconstruction between October 18, 2000 and July 9, 2002, and you chose to comply with the proposed emission limitation when demonstrating initial compliance, you must conduct a second compliance demonstration for the promulgated emission limitation no later than January 5, 2006, or after startup of the source, whichever is later, according to § 63.7(a)(2)(ix).

§ 63.5992 When must I conduct subsequent performance tests?

If you use a control system (add-on control device and capture system) to meet the emission limitations, you must also conduct a performance test at least once every 5 years following your initial compliance demonstration to verify control system performance and reestablish operating parameters or operating limits for control systems used to comply with the emissions limits.

§ 63.5993 What performance tests and other procedures must I use?

(a) If you use a control system to meet the emission limitations, you must conduct each performance test in Table 5 to this subpart that applies to you.

(b) Each performance test must be conducted according to the requirements in § 63.7(e)(1) and under the specific conditions specified in Table 5 to this subpart.

(c) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(d) You must conduct three separate test runs for each performance test required in this section, as specified in § 63.7(e)(1), unless otherwise specified in the test method. Each test run must last at least 1 hour.

(e) If you are complying with the emission limitations using a control system, you must also conduct performance tests according to the requirements in paragraphs (e)(1) through (3) of this section as they apply to you.

(1) *Determining capture efficiency of permanent or temporary total enclosure.* Determine the capture efficiency of a capture system by using one of the procedures in Table 5 to this subpart.

(2) *Determining capture efficiency of an alternative method.* As an alternative to constructing a permanent or temporary total enclosure, you may determine the capture efficiency using any capture efficiency protocol and test methods if the data satisfy the criteria of either the Data Quality Objective or the Lower Confidence Limit approach in appendix A to subpart KK of this part.

(3) *Determining efficiency of an add-on control device.* Use Table 5 to this subpart to select the test methods for determining the efficiency of an add-on control device.

Testing and Initial Compliance Requirements for Tire Production Affected Sources

§ 63.5994 How do I conduct tests and procedures for tire production affected sources?

(a) *Methods to determine the mass percent of HAP in cements and solvents.* To determine the HAP content in the cements and solvents used at your tire production affected source, use EPA Method 311 of appendix A of this part, an approved alternative method, or any other reasonable means for determining the HAP content of your cements and solvents. Other reasonable means include, but are not limited to: a material safety data sheet (MSDS), provided it contains appropriate information; a certified product data sheet (CPDS); or a manufacturer's hazardous air pollutant data sheet. You are not required to test the materials that you use, but the Administrator may require a test using EPA Method 311 (or an approved alternative method) to confirm the reported HAP content. If the results of an analysis by EPA Method 311 are different from the HAP content determined by another means, the EPA Method 311 results will govern compliance determinations.

(b) *Methods to demonstrate compliance with the HAP constituent emission limits in Table 1 to this subpart (option 1).* Use the method in paragraph (b)(1) of this section to demonstrate initial and continuous compliance with the applicable emission limits for tire production affected sources using the compliance alternative described in § 63.5985(a), purchase alternative. Use the equations in paragraphs (b)(2) and (3) of this section to demonstrate initial and continuous compliance with the emission limits for tire production affected sources using the monthly average compliance alternatives described in § 63.5985(b) and (c).

(1) Determine the mass percent of each HAP in each cement and solvent according to the procedures in paragraph (a) of this section.

(2) Use Equation 1 of this section to calculate the HAP emission rate for each monthly operating period when complying by using cements and solvents without using an add-on control device so that the monthly average HAP emissions do not exceed the HAP constituent emission limits in Table 1 to this subpart, option 1. Equation 1 follows:

$$E_{month} = \frac{\left(\sum_{i=1}^{n}(HAP_i)(TMASS_i)\right)(10^6)}{\sum_{i=1}^{n} TMASS_i} \quad \text{(Eq. 1)}$$

Where:

E_{month}=mass of the specific HAP emitted per total mass cements and solvents from all cements and solvents used in tire production per month, grams per megagram.

HAP_i=mass percent, expressed as a decimal, of the specific HAP in cement and solvent i, as purchased, determined in accordance with paragraph (a) of this section.

$TMASS_i$=total mass of cement and solvent i used in the month, grams.

n=number of cements and solvents used in the month.

(3) Use Equation 2 of this section to calculate the HAP emission rate for each monthly period when complying by using a control device to reduce HAP emissions so that the monthly average HAP emissions do not exceed the HAP constituent emission limits in Table 1 to this subpart (option 1). Equation 2 follows:

$$E_{month} = \frac{\left\{\sum_{i=1}^{n}(HAP_i)(TMASS_i) + \sum_{j=1}^{m}(HAP_j)(TMASS_j)\left(1-\frac{EFF}{100}\right) + \sum_{k=1}^{p}(HAP_k)(TMASS_k)\right\}(10^6)}{\sum_{i=1}^{n} TMASS_i + \sum_{j=1}^{m} TMASS_j + \sum_{k=1}^{p} TMASS_k} \quad \text{(Eq. 2)}$$

Where:

E_{month}=mass of the specific HAP emitted per total mass cements and solvents from all cements and solvents used in tire production per month, grams per megagram.

HAP_i=mass percent, expressed as a decimal, of the specific HAP in cement and solvent i, as purchased, determined in accordance with paragraph (a) of this section for cements and solvents used in the month in processes that are not routed to a control device.

$TMASS_i$=total mass of cement and solvent i used in the month in processes that are not routed to a control device, grams.

n=number of cements and solvents used in the month in processes that are not routed to a control device.

HAP_j=mass percent, expressed as a decimal, of the specific HAP in cement and solvent j, as purchased, determined in accordance with paragraph (a) of this section, for cements and solvents used in the month in

processes that are routed to a control device during operating days, which are defined as days when the control system is operating within the operating range established during the performance test and when monitoring data are collected.

$TMASS_j$=total mass of cement and solvent j used in the month in processes that are routed to a control device during all operating days, grams.

EFF=efficiency of the control system determined during the performance test (capture system efficiency multiplied by the control device efficiency), percent.

m=number of cements and solvents used in the month that are routed to a control device during all operating days.

HAP_k=mass percent, expressed as a decimal, of the specific HAP in cement and solvent k, as purchased, for cements and solvents used in the month in processes that are routed to a control device during non-control operating days, which are defined as days when either the control system is not operating within the operating range established during the performance test or when monitoring data are not collected.

$TMASS_k$=total mass of cement and solvent k used in the month in processes that are routed to a control device during all non-control operating days, grams.

p=number of cements and solvents used in the month that are routed to a control device during all non-control operating days.

(4) Each monthly calculation is a compliance demonstration for the purpose of this subpart.

(c) *Methods to demonstrate compliance with the production-based emission limits in Table 1 to this subpart, option 2.* Use the methods and equations in paragraphs (c)(1) through (6) of this section to demonstrate initial and continuous compliance with the production-based emission limits for tire production affected sources using the compliance alternatives described in § 63.5985(b) and (c).

(1) *Methods to determine the mass percent of each HAP in cements and solvents.* Determine the mass percent of all HAP in cements and solvents using the applicable methods specified in paragraph (a) of this section.

(2) *Quantity of rubber used.* Determine your quantity of rubber used (megagrams) by accounting for the total mass of mixed rubber compound that is delivered to the tire production operation.

(3) *Compliance without use of an add-on control device.* If you do not use an add-on control device to meet the emission limits, use Equation 3 of this section to calculate the monthly HAP emission rate in grams of HAP emitted per megagram of rubber used, using the quantity of rubber used per month (megagrams), as determined in paragraph (c)(2) of this section so that the monthly average HAP emission does not exceed the HAP emission limit in Table 1 to this subpart, option 2. Equation 3 follows:

$$E_{month} = \frac{\sum_{i=1}^{n}(HAP_i)(TMASS_i)}{RMASS} \quad \text{(Eq. 3.)}$$

Where:

E_{month}=mass of all HAP emitted per total mass of rubber used month, grams per megagram.

HAP_i=mass percent, expressed as a decimal, of all HAP in cement and solvent i, as purchased, determined in accordance with paragraph (a) of this section.

$TMASS_i$=total mass of cement and solvent i used in the month, grams.

n=number of cements and solvents used in the month.

RMASS=total mass of rubber used per month, megagrams.

(4) *Compliance with use of an add-on control device.* If you use a control device to meet the emission limits, use Equation 4 of this section to calculate the monthly HAP emission rate in grams of HAP emitted per megagram of rubber used, using the quantity of rubber used per month (megagrams), as determined in paragraph (c)(2) of this section so that the monthly average HAP emission does not exceed the HAP emission limit in Table 1 of this subpart, option 2. Equation 4 follows:

$$E_{month} = \frac{\sum_{i=1}^{n}(HAP_i)(TMASS_i) + \sum_{j=1}^{m}(HAP_j)(TMASS_j)\left(1-\frac{EFF}{100}\right) + \sum_{k=1}^{p}(HAP_k)(TMASS_k)}{RMASS} \quad \text{(Eq. 4)}$$

Where:

E_{month}=mass of all HAP emitted per total mass rubber used per month, grams per megagram.

HAP_i=mass percent, expressed as a decimal, of all HAP in cement and solvent i, as purchased, determined in accordance with paragraph (a) of this section for cements and solvents used in the month in processes that are not routed to a control device.

$TMASS_i$=total mass of cement and solvent i used in the month in processes that are not routed to a control device, grams.

n=number of cements and solvents used in the month in processes that are not routed to a control device.

HAP_j=mass percent, expressed as a decimal, of all HAP in cement and solvent j, as purchased, determined in accordance with paragraph (a) of this section, for cements and solvents used in the month in processes that are routed to a control device during operating days, which are defined as days when the control system is operating within the operating range established during the performance test and when monitoring data are collected.

$TMASS_j$=total mass of cement and solvent j used in the month in processes that are routed to a control device during all operating days.

EFF=efficiency of the control system determined during the performance test (capture system efficiency multiplied by the control device efficiency), percent.

m=number of cements and solvents used in the month that are routed to a control device during all operating days.

HAP_k=mass percent, expressed as a decimal, of the specific HAP in cement and solvent k, as purchased, for cements and solvents used in the month in processes that are routed to a control device during non-control operating days, which are defined as days when either the control system is not operating within the operating range established during the performance test or when monitoring data are not collected.

$TMASS_k$=total mass of cement and solvent k used in the month in processes that are routed to a control device during all non-control operating days, grams.

p=number of cements and solvents used in the month that are routed to a control device during all non-control operating days.

RMASS=total mass of rubber used per month, megagrams.

(5) Each monthly calculation is a compliance demonstration for the purpose of this subpart.

(d) *Specific compliance demonstration requirements for tire production affected sources.* (1) Conduct any required compliance demonstration according to the requirements in § 63.5993.

(2) If you are demonstrating compliance with the HAP constituent option in Table 1 to this subpart, option 1, conduct the compliance demonstration using cements and solvents that are representative of cements and solvents typically used at your tire production affected source.

(3) Establish an operating range that corresponds to the control efficiency as described in Table 5 to this subpart.

(e) *How to take credit for HAP emissions reductions from add-on control devices.* If you want to take credit in Equations 2 and 4 of this

section for HAP emissions reduced using a control system, you must meet the requirements in paragraphs (e)(1) and (2) of this section.

(1) Monitor the established operating parameters as appropriate.

(i) If you use a thermal oxidizer, monitor the firebox secondary chamber temperature.

(ii) If you use a carbon adsorber, monitor the total regeneration stream mass or volumetric flow for each regeneration cycle, and the carbon bed temperature after each regeneration, and within 15 minutes of completing any cooling cycle.

(iii) If you use a control device other than a thermal oxidizer or a regenerative carbon adsorber, install and operate a continuous parameter monitoring system according to your site-specific performance test plan submitted according to § 63.7(c)(2)(i).

(iv) If you use a permanent total enclosure, monitor the face velocity across the natural draft openings (NDO) in the enclosure. Also, if you use an enclosure, monitor to ensure that the sizes of the NDO have not changed, that there are no new NDO, and that a HAP emission source has not been moved closer to an NDO since the last compliance demonstration was conducted.

(v) If you use other capture systems, monitor the parameters identified in your monitoring plan.

(2) Maintain the operating parameters within the operating range established during the compliance demonstration.

(f) *How to take credit for HAP emissions reductions when streams are combined.* When performing material balances to demonstrate compliance, if the storage of materials, exhaust, or the wastewater from more than one affected source are combined at the point where control systems are applied, any credit for emissions reductions needs to be prorated among the affected sources based on the ratio of their contribution to the uncontrolled emissions.

§ 63.5995 What are my monitoring installation, operation, and maintenance requirements?

(a) For each operating parameter that you are required by § 63.5994(e)(1) to monitor, you must install, operate, and maintain a continuous parameter monitoring system (CPMS) according to the requirements in § 63.5990(e) and (f) and in paragraphs (a)(1) through (6) of this section.

(1) You must operate your CPMS at all times that the process is operating.

(2) You must collect data from at least four equally spaced periods each hour.

(3) For at least 75 percent of the hours in an operating day, you must have valid data (as defined in your site-specific monitoring plan) for at least four equally spaced periods each hour.

(4) For each hour that you have valid data from at least four equally spaced periods, you must calculate the hourly average value using all valid data.

(5) You must calculate the daily average using all of the hourly averages calculated according to paragraph (a)(3) of this section for the 24-hour period.

(6) You must record the results for each inspection, calibration, and validation check as specified in your site-specific monitoring plan.

(b) For each temperature monitoring device, you must meet the requirements in paragraphs (a) and (b)(1) through (8) of this section.

(1) Locate the temperature sensor in a position that provides a representative temperature.

(2) For a non-cryogenic temperature range, use a temperature sensor with a minimum measurement sensitivity of 2.2 degrees centigrade or 0.75 percent of the temperature value, whichever is larger.

(3) For a cryogenic temperature range, use a temperature sensor with a minimum measurement sensitivity of 2.2 degrees centigrade or 2 percent of the temperature value, whichever is larger.

(4) Shield the temperature sensor system from electromagnetic interference and chemical contaminants.

(5) If a chart recorder is used, it must have a sensitivity in the minor division of at least 20 degrees Fahrenheit.

(6) Perform an electronic calibration at least semiannually according to the procedures in the manufacturer's owners manual. Following the electronic calibration, you must conduct a temperature sensor validation check in which a second or redundant temperature sensor placed near the process temperature sensor must yield a reading within 16.7 degrees centigrade of the process temperature sensor's reading.

(7) Conduct calibration and validation checks any time the sensor exceeds the manufacturer's specified maximum operating temperature range or install a new temperature sensor.

(8) At least monthly, inspect all components for integrity and all electrical connections for continuity, oxidation, and galvanic corrosion.

(c) For each integrating regeneration stream flow monitoring device associated with a carbon adsorber, you must meet the requirements in paragraphs (a) and (c)(1) and (2) of this section.

(1) Use a device that has an accuracy of ±10 percent or better.

(2) Use a device that is capable of recording the total regeneration stream mass or volumetric flow for each regeneration cycle.

(d) For any other control device, or for other capture systems, ensure that the CPMS is operated according to a monitoring plan submitted to the Administrator with the compliance status report required by § 63.9(h). The monitoring plan must meet the requirements in paragraphs (a) and (d)(1) through (3) of this section. Conduct monitoring in accordance with the plan submitted to the Administrator unless comments received from the Administrator require an alternate monitoring scheme.

(1) Identify the operating parameter to be monitored to ensure that the control or capture efficiency measured during the initial compliance test is maintained.

(2) Discuss why this parameter is appropriate for demonstrating ongoing compliance.

(3) Identify the specific monitoring procedures.

(e) For each pressure differential monitoring device, you must meet the requirements in paragraphs (a) and (e)(1) and (2) of this section.

(1) Conduct a quarterly EPA Method 2 procedure (found in 40 CFR part 60, appendix A) on the applicable NDOs and use the results to calibrate the pressure monitor if the difference in results are greater than 10 percent.

(2) Inspect the NDO monthly to ensure that their size has not changed, that there are no new NDO, and that no HAP sources have been moved closer to the NDO than when the last performance test was conducted.

§ 63.5996 How do I demonstrate initial compliance with the emission limits for tire production affected sources?

(a) You must demonstrate initial compliance with each emission limit that applies to you according to Table 6 to this subpart.

(b) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.6009(e).

Testing and Initial Compliance Requirements for Tire Cord Production Affected Sources

§ 63.5997 How do I conduct tests and procedures for tire cord production affected sources?

(a) *Methods to determine the mass percent of each HAP in coatings.* (1) To determine the HAP content in the

coating used at your tire cord production affected source, use EPA Method 311 of appendix A of this part, an approved alternative method, or any other reasonable means for determining the HAP content of your coatings. Other reasonable means include, but are not limited to: an MSDS, provided it contains appropriate information; a CPDS; or a manufacturer's HAP data sheet. You are not required to test the materials that you use, but the Administrator may require a test using EPA Method 311 (or an approved alternative method) to confirm the reported HAP content. If the results of an analysis by EPA Method 311 are different from the HAP content determined by another means, the EPA Method 311 results will govern compliance determinations.

(2) Unless you demonstrate otherwise, the HAP content analysis must be based on coatings prior to any cross-linking reactions, *i.e.*, curing. However, you may account for differences in HAP emissions resulting from chemical reactions based on the conversion rates of the individual coating formulations, chemistry demonstrations, or other demonstrations that are verifiable to the approving agency. Use the revised value in your compliance demonstration in the relevant equations in paragraph (b) of this section.

(b) *Methods to determine compliance with the emission limits in Table 2 to this subpart, option 1.* Use the equations in this paragraph (b) to demonstrate initial and continuous compliance with the emission limits for tire cord production sources using the compliance alternatives described in § 63.5987(a) and (b).

(1) *Determine mass percent of HAP.* Determine the mass percent of all HAP in each coating according to the procedures in paragraph (a) of this section.

(2) *Compliance without use of an add-on control device.* If you do not use an add-on control device to meet the emission limits, use Equation 1 of this section to calculate the monthly HAP emission rate in grams of HAP emitted per megagram of fabric processed at the tire cord production source to show that the monthly average HAP emissions do not exceed the emission limits in Table 2 to this subpart, option 1. Equation 1 follows:

$$E_{month} = \frac{\sum_{i=1}^{n} (HAP_i)(TCOAT_i)}{TFAB} \quad \text{(Eq. 1)}$$

Where:

E_{month}=mass of all HAP emitted per total mass of fabric processed in the month, grams per megagram.

HAP_i=mass percent, expressed as a decimal, of all HAP in the coating i, prior to curing and including any application station dilution, determined in accordance with paragraph (a) of this section.

$TCOAT_i$=total mass of coating i made and used for application to fabric at the facility in the month, grams.

n=number of coatings used in the month.

TFAB=total mass of fabric processed in the month, megagrams.

(3) *Compliance with use of an add-on control device.* If you use a control device to meet the emission limits, use Equation 2 of this section to calculate the monthly HAP emission rate in grams of HAP emitted per megagram of fabric processed to show that the monthly average HAP emissions do not exceed the HAP emission limit in Table 2 of this subpart, option 1. Equation 2 follows:

$$E_{month} = \frac{\sum_{i=1}^{n} (HAP_i)(TCOAT_i) + \sum_{j=1}^{m} (HAP_j)(TCOAT_j)\left(1 - \frac{EFF}{100}\right) + \sum_{k=1}^{p} (HAP_k)(TCOAT_k)}{TFAB} \quad \text{(Eq. 2)}$$

Where:

E_{month}=mass of all HAP emitted per total mass of fabric processed in the month, grams per megagram.

HAP_i=mass percent, expressed as a decimal, of all HAP in coating i, prior to curing and including any application stations dilution, determined in accordance with paragraph (a) of this section, for coatings used in the month in processes that are not routed to a control device.

$TCOAT_i$=total mass of coating i made and used for application to fabric at the facility in the month in processes that are not routed to a control device, grams.

n=number of coatings used in the month in processes that are not routed to a control device.

HAP_j=mass percent, expressed as a decimal, of all HAP in coating j, prior to curing and including any application station dilution, determined in accordance with paragraph (a) of this section, for coatings used in the month in processes that are routed to a control device during operating days, which are defined as days when the control system is operating within the operating range established during the performance test and when monitoring data are collected.

$TCOAT_j$=total mass of coating j made and used for application to fabric at the facility in the month in processes that are routed to a control device during all operating days, grams.

EFF=efficiency of the control system determined during the performance test (capture system efficiency multiplied by the control device efficiency), percent.

m=number of coatings used in the month that are routed to a control device during all operating days.

HAP_k=mass percent, expressed as a decimal, of all HAP in coating k, prior to curing and including any application station dilution, for coatings used in the month in processes that are routed to a control device during non-control operating days, which are defined as days when either the control system is not operating within the operating range established during the performance test or when monitoring data are not collected.

$TCOAT_k$=total mass of coating k made and used for application to fabric at the facility in the month in processes that are routed to a control device during all non-control operating days, grams.

p=number of coatings used in the month that are routed to a control device during all non-control operating days.

TFAB=total mass of fabric processed in the month, megagrams.

(4) Each monthly calculation is a compliance demonstration for the purpose of this subpart.

(c) *Methods to determine compliance with the emission limits in Table 2 of this subpart, option 2.* Use the equations in this paragraph (c) to demonstrate initial and continuous compliance with the emission limits for tire cord production sources using the compliance alternatives described in § 63.5987(a) and (b).

(1) Determine the mass percent of each HAP in each coating according to the procedures in paragraph (a) of this section.

(2) Use Equation 3 of this section to calculate the monthly average HAP emission rate when complying by using coatings without using an add-on control device to show that the monthly average HAP emissions do not exceed the emission limits in Table 2 to this subpart, option 2. Equation 3 follows:

$$E_{month} = \frac{\left(\sum_{i=1}^{n}(HAP_i)(TCOAT_i)\right)(10^6)}{\sum_{i=1}^{n} TCOAT_i} \quad \text{(Eq. 3)}$$

Where:

E_{month}=mass of the specific HAP emitted per total mass of coatings from all coatings made and used in tire cord fabric production per month, grams per megagram.

HAP_i=mass percent, expressed as a decimal, of the specific HAP in the coating i, prior to curing and including any application station dilution, determined in accordance with paragraph (a) of this section.

$TCOAT_i$=total mass of coating i made and used for application to fabric at the facility in the month, grams.

n=number of coatings used in the month.

(3) Use Equation 4 of this section to calculate the monthly average HAP emission rate when complying by using an add-on control device to show that the monthly average HAP emissions do not exceed the emission limits in Table 2 to this subpart, option 2. Equation 4 follows:

$$E_{month} = \frac{\left\{\sum_{i=1}^{n}(HAP_i)(TCOAT_i) + \sum_{j=1}^{m}(HAP_j)(TCOAT_j)\left(1-\frac{EFF}{100}\right) + \sum_{k=1}^{p}(HAP_k)(TMASS_k)\right\}(10^6)}{\sum_{i=1}^{n} TCOAT_i + \sum_{j=1}^{m} TCOAT_j + \sum_{k=1}^{p} TCOAT_k} \quad \text{(Eq. 4)}$$

Where:

E_{month}=mass of the specific HAP emitted per total mass of coatings from all coatings made and used in tire cord fabric production per month, grams per megagram.

HAP_i=mass percent, expressed as a decimal, of the specific HAP in coating i, prior to curing and including any application station dilution, determined in accordance with paragraph (a) of this section, for coatings used in the month in processes that are not routed to a control device.

$TCOAT_i$=total mass of coating i made and used for application to fabric at the facility in the month in processes that are not routed to a control device, grams.

n=number of coatings used in the month in processes that are not routed to a control device.

HAP_j=mass percent, expressed as a decimal, of the specific HAP in coating j, prior to curing and including any application station dilution, determined in accordance with paragraph (a) of this section, for coatings used in the month in processes that are routed to a control device during operating days, which are defined as days when the control system is operating within the operating range established during the performance test and when monitoring data are collected.

$TCOAT_j$=total mass of coating i made and used for application to fabric at the facility in the month in processes that are routed to a control device during all operating days, grams.

EFF=efficiency of the control system determined during the performance test (capture system efficiency multiplied by the control device efficiency), percent.

m=number of coatings used in the month that are routed to a control device during all operating days.

HAP_k=mass percent, expressed as a decimal, of the specific HAP in coating k, prior to curing and including any application station dilution, for coatings used in the month in processes that are routed to a control device during non-control operating days, which are defined as days when either the control system is not operating within the operating range established during the performance test or when monitoring data are not collected.

$TCOAT_k$=total mass of coating i made and used for application to fabric at the facility in the month in processes that are routed to a control device during all non-control operating days, grams.

p = number of coatings used in the month that are routed to a control device during all non-control operating days.

(4) Each monthly calculation is a compliance demonstration for the purpose of this subpart.

(d) *Specific compliance demonstration requirements for tire cord production affected sources.* (1) Conduct any required compliance demonstrations according to the requirements in § 63.5993.

(2) Conduct the compliance demonstration using coatings with average mass percent HAP content that are representative of the coatings typically used at your tire cord production affected source.

(3) Establish an operating range that corresponds to the control efficiency as described in Table 5 to this subpart.

(e) *How to take credit for HAP emissions reductions from add-on control devices.* If you want to take credit in Equations 2 and 4 of this section for HAP emissions reduced using a control system, you must meet the requirements in paragraphs (e)(1) and (2) of this section.

(1) Monitor the established operating parameters as appropriate.

(i) If you use a thermal oxidizer, continuously monitor the firebox secondary chamber temperature.

(ii) If you use a carbon adsorber, monitor the total regeneration stream mass or volumetric flow for each regeneration cycle and the carbon bed temperature after each regeneration and within 15 minutes of completing any cooling cycle.

(iii) If you use a control device other than a thermal oxidizer or a regenerative carbon adsorber, install and operate a continuous parameter monitoring system according to your site-specific performance test plan submitted according to § 63.7(c)(2)(i).

(iv) If you use a permanent total enclosure, monitor the face velocity across the NDO in the enclosure. Also, if you use an enclosure, monitor to ensure that the sizes of the NDO have not changed, that there are no new NDO, and that a HAP emission source has not been moved closer to an NDO since the last performance test was conducted.

(v) If you use other capture systems, monitor the parameters identified in your monitoring plan.

(2) Maintain the operating parameter within the operating range established during the compliance demonstration.

(f) *How to take credit for HAP emissions reductions when streams are combined.* When performing material balances to demonstrate compliance, if the storage of materials, exhaust, or the wastewater from more than one affected source are combined at the point where control systems are applied, any credit for emissions reductions needs to be prorated among the affected sources based on the ratio of their contribution to the uncontrolled emissions.

§ 63.5998 What are my monitoring installation, operation, and maintenance requirements?

For each operating parameter that you are required by § 63.5997(e)(1) to monitor, you must install, operate, and maintain a continuous parameter monitoring system according to the provisions in § 63.5995(a) through (e).

§ 63.5999 How do I demonstrate initial compliance with the emission limits for tire cord production affected sources?

(a) You must demonstrate initial compliance with each emission limit that applies to you according to Table 7 to this subpart.

(b) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.6009(e).

Testing and Initial Compliance Requirements for Puncture Sealant Application Affected Sources

§ 63.6000 How do I conduct tests and procedures for puncture sealant application affected sources?

(a) *Methods to determine compliance with the puncture sealant application emission limitations in Table 3 to this subpart.* Use the methods and equations in paragraph (b) of this section to demonstrate initial and continuous compliance with the overall control efficiency compliance alternatives described in § 63.5989(a) and (b). Use the methods and equations in paragraphs (c) through (g) of this section to demonstrate initial and continuous compliance with the HAP constituent compliance alternative described in § 63.5989(c) and (d).

(b) *Methods to determine compliance with the emission limits in Table 3 to this subpart, option 1.* Follow the test procedures described in § 63.5993 to determine the overall control efficiency of your system.

(1) You must also meet the requirements in paragraphs (b)(1)(i) and (ii) of this section.

(i) Conduct the performance test using a puncture sealant with an average mass percent HAP content that is representative of the puncture sealants typically used at your puncture sealant application affected source.

(ii) Establish all applicable operating limit ranges that correspond to the control system efficiency as described in Table 5 to this subpart.

(2) Use Equation 1 of this section to calculate the overall efficiency of the control system. If you have a permanent total enclosure that satisfies EPA Method 204 (found in 40 CFR part 51, appendix M) criteria, assume 100 percent capture efficiency for variable F. Equation 1 follows:

$$R = \frac{(F)(E)}{100} \qquad \text{(Eq. 1)}$$

Where:

R=overall control system efficiency, percent.

F=capture efficiency of the capture system on add-on control device, percent, determined during the performance test.

E=control efficiency of add-on control device k, percent, determined during the performance test.

(3) Monitor the established operating limits as appropriate.

(i) If you use a thermal oxidizer, monitor the firebox secondary chamber temperature.

(ii) If you use a carbon adsorber, monitor the total regeneration stream mass or volumetric flow for each regeneration cycle, and the carbon bed temperature after each regeneration, and within 15 minutes of completing any cooling cycle.

(iii) For each control device used other than a thermal oxidizer or a regenerative carbon adsorber, install and operate a continuous parameter monitoring system according to your site-specific performance test plan submitted according to § 63.7(c)(2)(i).

(iv) If you use a permanent total enclosure, monitor the face velocity across the NDO in the enclosure. Also, if you use an enclosure, monitor to ensure that the sizes of the NDO have not changed, that there are no new NDO, and that a HAP emission source has not been moved closer to an NDO since the last performance test was conducted.

(v) If you use other capture systems, monitor the parameters identified in your monitoring plan.

(vi) Maintain the operating parameter within the operating range established during the performance test.

(c) *Methods to determine the mass percent of each HAP in puncture sealants.* To determine the HAP content in the puncture sealant used at your puncture sealant application affected source, use EPA Method 311 of appendix A of 40 CFR part 63, an approved alternative method, or any other reasonable means for determining the HAP content of your puncture sealants. Other reasonable means include, but are not limited to: an MSDS, provided it contains appropriate information; a CPDS; or a manufacturer's hazardous air pollutant data sheet. You are not required to test the materials that you use, but the Administrator may require a test using EPA Method 311 (or an approved alternative method) to confirm the reported HAP content. If the results of an analysis by EPA Method 311 are different from the HAP content determined by another means, the EPA Method 311 results will govern compliance determinations.

(d) *Methods to determine compliance with the emission limits in Table 3 to this subpart, option 2.* Use the equations in this paragraph (d) to demonstrate initial and continuous compliance with the HAP constituent emission limits for puncture sealant application affected sources using the compliance alternatives described in § 63.5989(c) and (d).

(1) Use Equation 2 of this section to calculate the monthly average HAP emission rate when complying by using puncture sealants without using an add-on control device to show that the monthly average HAP emissions do not exceed the emission limits in Table 3 to this subpart, option 2. Equation 2 follows:

$$E_{month} = \frac{\left(\sum_{i=1}^{n}(HAP_i)(TPSEAL_i)\right)(10^6)}{\sum_{i=1}^{n} TPSEAL_i} \qquad \text{(Eq. 2)}$$

Where:

E_{month}=mass of the specific HAP emitted per total mass of puncture sealants from all puncture sealants used at the puncture

sealant affected source per month, grams per megagram.

HAP_i=mass percent, expressed as a decimal, of the specific HAP in puncture sealant i, including any application booth dilution, determined in accordance with paragraph (c) of this section.

$TPSEAL_i$=total mass of puncture sealant i used in the month, grams.

n=number of puncture sealants used in the month.

(2) Use Equation 3 of this section to calculate the monthly average HAP emission rate when complying by using puncture sealants by using an add-on control device to show that the monthly average HAP emissions do not exceed the emission limits in Table 3 to this subpart, option 2. Equation 3 follows:

$$E_{month} = \frac{\left\{\sum_{i=1}^{n}(HAP_i)(TPSEAL_i) + \sum_{j=1}^{m}(HAP_j)(TPSEAL_j)\left(1-\frac{EFF}{100}\right) + \sum_{k=1}^{p}(HAP_k)(TPSEAL_k)\right\}(10^6)}{\sum_{i=1}^{n}TPSEAL_i + \sum_{j=1}^{m}TPSEAL_j + \sum_{k=1}^{p}TPSEAL_k} \quad \text{(Eq. 3)}$$

Where:

E_{month}=mass of the specific HAP emitted per total mass of puncture sealants used at the puncture sealant affected source per month, grams per megagram.

HAP_i=mass percent, expressed as a decimal, of the specific HAP in puncture sealant i, including any application booth dilution, determined in accordance with paragraph (c) of this section for puncture sealants used in the month in processes that are not routed to a control device.

$TPSEAL_i$=total mass of puncture sealant i used in the month in processes that are not routed to a control device, gram.

n=number of puncture sealants used in the month in processes that are not routed to a control device.

HAP_j=mass percent, expressed as a decimal, of the specific HAP, in puncture sealant j, including any application booth dilution, determined in accordance with paragraph (c) of this section, for puncture sealants used in the month in processes that are routed to a control device during operating days, which are defined as days when the control system is operating within the operating range established during the performance test and when monitoring data are collected.

$TPSEAL_j$=total mass of puncture sealant j used in the month in processes that are routed to a control device during all operating days, grams.

EFF=efficiency of the control system determined during the performance test (capture system efficiency multiplied by the control device efficiency), percent.

m=number of puncture sealants used in the month that are routed to a control device during all operating days.

HAP_k=mass percent, expressed as a decimal, of the specific HAP, in puncture sealant k, including any application booth dilution, for puncture sealants used in the month in processes that are routed to a control device during non-control operating days, which are defined as days when either the control system is not operating within the operating range established during the performance test or when monitoring data are not collected.

$TPSEAL_k$=total mass of total mass of puncture sealant k used in the month in processes that are routed to a control device during all non-control operating days, grams.

p=number of puncture sealants used in the month that are routed to a control device during all non-control operating days.

(3) Each monthly calculation is a compliance demonstration for the purpose of this subpart.

(e) *Specific compliance demonstration requirements for puncture sealant application affected sources.* (1) Conduct any required compliance demonstrations according to the requirements in § 63.5993.

(2) Conduct the compliance demonstration using a puncture sealant with average mass percent HAP content that is representative of the puncture sealants typically used at your puncture sealant application affected source.

(3) Establish an operating range that corresponds to the appropriate control efficiency described in Table 5 to this subpart.

(f) *How to take credit for HAP emissions reductions from add-on control devices.* If you want to take credit in Equation 3 of this section for HAP emissions reduced using a control system, you must monitor the established operating parameters as appropriate and meet the requirements in paragraph (b)(3) of this section.

(g) *How to take credit for HAP emissions reductions when streams are combined.* When performing material balances to demonstrate compliance, if the storage of materials, exhaust, or the wastewater from more than one affected source are combined at the point where control systems are applied, any credit for emissions reductions needs to be prorated among the affected sources based on the ratio of their contribution to the uncontrolled emissions.

§ 63.6001 What are my monitoring installation, operation, and maintenance requirements?

For each operating limit that you are required by § 63.6000(b)(3) to monitor or each operating parameter that you are required by § 63.6000(f) to monitor, you must install, operate, and maintain a continuous parameter monitoring system according to the provisions in § 63.5995(a) through (e).

§ 63.6002 How do I demonstrate initial compliance with the emission limits for puncture sealant application affected sources?

(a) You must demonstrate initial compliance with each emission limit that applies to you according to Table 8 to this subpart.

(b) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.6009(e).

Continuous Compliance Requirements for Tire Production Affected Sources

§ 63.6003 How do I monitor and collect data to demonstrate continuous compliance with the emission limits for tire production affected sources?

(a) You must monitor and collect data as specified in Table 9 to this subpart.

(b) Except for periods of monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) while the affected source is operating. This includes periods of startup, shutdown, and malfunction when the affected source is operating.

(c) In data average calculations and calculations used to report emission or operating levels, you may not use data recorded during periods of monitoring malfunctions or associated repairs, or recorded during required quality assurance or control activities. Such data may not be used in fulfilling any applicable minimum data availability requirement. You must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

§ 63.6004 How do I demonstrate continuous compliance with the emission limits for tire production affected sources?

(a) You must demonstrate continuous compliance with each applicable limit in Table 1 to this subpart using the methods specified in Table 10 to this subpart.

(b) You must report each instance in which you did not meet an emission limit in Table 1 to this subpart. You must also report each instance in which you did not meet the applicable requirements in Table 10 to this subpart. These instances are deviations from the emission limits in this subpart. The deviations must be reported in accordance with the requirements in § 63.6010(e).

(c) You also must meet the following requirements if you are complying with the purchase alternative for tire production sources described in § 63.5985(a):

(1) If, after you submit the Notification of Compliance Status, you use a cement or solvent for which you have not previously verified percent HAP mass using the methods in § 63.5994(a), you must verify that each cement and solvent used in the affected source meets the emission limit, using any of the methods in § 63.5994(a).

(2) You must update the list of all the cements and solvents used at the affected source.

(3) With the compliance report for the reporting period during which you used the new cement or solvent, you must submit the updated list of all cements and solvents and a statement certifying that, as purchased, each cement and solvent used at the affected source during the reporting period met the emission limits in Table 1 to this subpart.

Continuous Compliance Requirements for Tire Cord Production Affected Sources

§ 63.6005 How do I monitor and collect data to demonstrate continuous compliance with the emission limits for tire cord production affected sources?

(a) You must monitor and collect data to demonstrate continuous compliance with the emission limits for tire cord production affected sources as specified in Table 11 to this subpart.

(b) You must monitor and collect data according to the requirements in § 63.6003(b) and (c).

§ 63.6006 How do I demonstrate continuous compliance with the emission limits for tire cord production affected sources?

(a) You must demonstrate continuous compliance with each applicable emission limit in Table 2 to this subpart using the methods specified in Table 12 to this subpart.

(b) You must report each instance in which you did not meet an applicable emission limit in Table 2 to this subpart. You must also report each instance in which you did not meet the applicable requirements in Table 12 to this subpart. These instances are deviations from the emission limits in this subpart. The deviations must be reported in accordance with the requirements in § 63.6010(e).

Continuous Compliance Requirements for Puncture Sealant Application Affected Sources

§ 63.6007 How do I monitor and collect data to demonstrate continuous compliance with the emission limitations for puncture sealant application affected sources?

(a) You must monitor and collect data to demonstrate continuous compliance with the emission limitations for puncture sealant application affected sources as specified in Table 13 to this subpart.

(b) You must monitor and collect data according to the requirements in § 63.6003(b) and (c).

§ 63.6008 How do I demonstrate continuous compliance with the emission limitations for puncture sealant application affected sources?

(a) You must demonstrate continuous compliance with each applicable emission limitation in Tables 3 and 4 to this subpart using the methods specified in Table 14 to this subpart.

(b) You must report each instance in which you did not meet an applicable emission limit in Table 3 to this subpart. You must also report each instance in which you did not meet the applicable requirements in Table 14 to this subpart. These instances are deviations from the emission limits in this subpart. The deviations must be reported in accordance with the requirements in § 63.6010(e).

Notifications, Reports, and Records

§ 63.6009 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.7 (b) and (c), 63.8(f) (4) and (6), and 63.9 (b) through (e) and (h) that apply to you by the dates specified.

(b) As specified in § 63.9(b)(2), if you startup your affected source before July 9, 2002, you must submit an Initial Notification not later than November 6, 2002.

(c) As specified in § 63.9(b)(3), if you startup your new or reconstructed affected source on or after July 9, 2002, you must submit an Initial Notification not later than 120 calendar days after you become subject to this subpart.

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

(e) If you are required to conduct a performance test, design evaluation, or other initial compliance demonstration as specified in Tables 5 through 8 to this subpart, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii). The Notification must contain the information listed in Table 15 to this subpart for compliance reports. The Notification of Compliance Status must be submitted according to the following schedules, as appropriate:

(1) For each initial compliance demonstration required in Tables 6 through 8 to this subpart that does not include a performance test, you must submit the Notification of Compliance Status before the close of business on the 30th calendar day following the completion of the initial compliance demonstration.

(2) For each initial compliance demonstration required in Tables 6 through 8 to this subpart that includes a performance test conducted according to the requirements in Table 5 to this subpart, you must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2).

(f) For each tire production affected source, the Notification of Compliance Status must also identify the emission limit option in § 63.5984 and the compliance alternative in § 63.5985 that you have chosen to meet.

(g) For each tire production affected source complying with the purchase compliance alternative in § 63.5985(a), the Notification of Compliance Status must also include the information listed in paragraphs (g)(1) and (2) of this section.

(1) A list of each cement and solvent, as purchased, that is used at the affected source and the manufacturer or supplier of each.

(2) The individual HAP content (percent by mass) of each cement and solvent that is used.

(h) For each tire production or tire cord production affected source using a control device, the Notification of Compliance Status must also include the information in paragraphs (h) (1) and (2) of this section for each operating

parameter in §§ 63.5994(e)(1) and 63.5997(e)(1) that applies to you.

(1) The operating parameter value averaged over the full period of the performance test (e.g., average secondary chamber firebox temperature over the period of the performance test was 1,500 degrees Fahrenheit).

(2) The operating parameter range within which HAP emissions are reduced to the level corresponding to meeting the applicable emission limits in Tables 1 and 2 to this subpart.

(i) For each puncture sealant application affected source using a control device, the Notification of Compliance Status must include the information in paragraphs (i)(1) and (2) of this section for each operating limit in § 63.6000(b)(3) and each operating parameter in § 63.6000(f).

(1) The operating limit or operating parameter value averaged over the full period of the performance test.

(2) The operating limit or operating parameter range within which HAP emissions are reduced to the levels corresponding to meeting the applicable emission limitations in Table 3 to this subpart.

(j) For each tire cord production affected source required to assess the predominant use for coating web substrates as required by § 63.5981(b), you must submit a notice of the results of the reassessment within 30 days of completing the reassessment. The notice shall specify whether this subpart XXXX is still the applicable subpart and, if it is not, which part 63 subpart is applicable.

§ 63.6010 What reports must I submit and when?

(a) You must submit each applicable report in Table 15 to this subpart.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report by the date in Table 15 to this subpart and according to the requirements in paragraphs (b)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.5983 and ending on June 30 or December 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in § 63.5983.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date that is specified for your affected source in § 63.5983.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting subparts pursuant to 40 CFR part 70 or 40 CFR part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section.

(c) The compliance report must contain information specified in paragraphs (c)(1) through (10) of this section.

(1) Company name and address.

(2) Statement by a responsible official, with that official's name, title, and signature, certifying the accuracy of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If you had a startup, shutdown or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).

(5) If there are no deviations from any emission limitations (emission limit or operating limit) that applies to you, a statement that there were no deviations from the emission limitations during the reporting period.

(6) If there were no periods during which the operating parameter monitoring systems were out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which the operating parameter monitoring systems or CPMS were out-of-control during the reporting period.

(7) For each tire production affected source, the emission limit option in § 63.5984 and the compliance alternative in § 63.5985 that you have chosen to meet.

(8) For each tire production affected source complying with the purchase compliance alternative in § 63.5985(a), and for each annual reporting period during which you use a cement and solvent that, as purchased, was not included in the list submitted with the Notification of Compliance Status in § 63.6009(g), an updated list of all cements and solvents used, as purchased, at the affected source. You must also include a statement certifying that each cement and solvent, as purchased, that was used at the affected source during the reporting period met the HAP constituent limits (option 1) in Table 1 to this subpart.

(9) For each tire cord production affected source, the emission limit option in § 63.5986 and the compliance alternative in § 63.5987 that you have chosen to meet.

(10) For each puncture sealant application affected source, the emission limit option in § 63.5988 and the compliance alternative in § 63.5989 that you have chosen to meet.

(d) For each deviation from an emission limitation (emission limit or operating limit) that occurs at an affected source where you are not using a CPMS to comply with the emission limitations in this subpart, the compliance report must contain the information in paragraphs (c)(1) through (4) and paragraphs (d)(1) and (2) of this section. This includes periods of startup, shutdown, and malfunction when the affected source is operating.

(1) The total operating time of each affected source during the reporting period.

(2) Information on the number, duration, and cause of deviations (including unknown cause, if applicable) and the corrective action taken.

(e) Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 40 CFR part 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If an affected source submits a compliance report (pursuant to Table 10 to this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A) which includes all required information concerning deviations from any emission limitation (including any operating limit) or work practice requirement in this subpart, submission of the compliance report shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permit authority.

(f) Upon notification to the Administrator that a tire production affected source has eliminated or reformulated cement and solvent so that the source can demonstrate compliance using the purchase alternative in § 63.5985(a), future compliance reports for this affected source may be submitted annually.

(g) If acceptable to both the Administrator and you, you may submit reports and notifications electronically.

§ 63.6011 What records must I keep?

(a) You must keep the records specified in paragraphs (a)(1) through (3) of this section.

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) Records of performance tests as required in § 63.10(b)(2)(viii).

(3) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(b) For each tire production affected source, you must keep the records specified in Table 9 to this subpart to show continuous compliance with each emission limit that applies to you.

(c) For each tire cord production affected source, you must keep the records specified in Table 11 to this subpart to show continuous compliance with each emission limit that applies to you.

(d) For each puncture sealant application affected source, you must keep the records specified in Table 13 to this subpart to show continuous compliance with each emission limit that applies to you.

§ 63.6012 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.6013 What parts of the General Provisions apply to me?

Table 17 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

§ 63.6014 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the United States Environmental Protection Agency, or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA has delegated authority to your State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are listed in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.5981 through 63.5984, 63.5986, and 63.5988.

(2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.6015 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act and in § 63.2, the General Provisions. The following are additional definitions of terms used in this subpart:

As purchased means the condition of a cement and solvent as delivered to the facility, prior to any mixing, blending, or dilution.

Capture system means a hood, enclosed room, or other means of collecting organic HAP emissions into a closed-vent system that conveys these emissions to a control device.

Cements and solvents means the collection of all organic chemicals, mixtures of chemicals, and compounds used in the production of rubber tires, including cements, solvents, and mixtures used as process aids. Cements and solvents include, but are not limited to, tread end cements, undertread cements, bead cements, tire building cements and solvents, green tire spray, blemish repair paints, side wall protective paints, marking inks, materials used to process equipment, and slab dip mixtures. Cements and solvents do not include coatings or process aids used in tire cord production, puncture sealant application, rubber processing, or materials used to construct, repair, or maintain process equipment, or chemicals and compounds that are not used in the tire production process such as materials used in routine janitorial or facility grounds maintenance, office supplies (*e.g.*, dry-erase markers, correction fluid), architectural paint, or any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution to and use by the general public.

Coating means a compound or mixture of compounds that is applied to a fabric substrate in the tire cord production operation that allows the fabric to be prepared (*e.g.*, by heating, setting, curing) for incorporation into a rubber tire.

Components of rubber tires means any piece or part used in the manufacture of rubber tires that becomes an integral portion of the rubber tire when manufacture is complete and includes mixed rubber compounds, sidewalls, tread, tire beads, and liners. Other components often associated with rubber tires such as wheels, valve stems, tire bladders and inner tubes are not considered components of rubber tires for the purposes of these standards. Tire cord and puncture sealant, although components of rubber tires, are considered as separate affected sources in these standards and are defined separately.

Control device means a combustion device, recovery device, recapture device, or any combination of these devices used for recovering or oxidizing organic hazardous air pollutant vapors. Such equipment includes, but is not limited to, absorbers, carbon adsorbers, condensers, incinerators (oxidizers), flares, boilers, and process heaters.

Control system efficiency means the percent of total volatile organic compound emissions, as measured by EPA Method 25 or 25A (40 CFR part 60, appendix A), recovered or destroyed by a control device multiplied by the percent of total volatile organic compound emissions, as measured by

Method 25 or 25A, that are captured and conveyed to the control device.

Deviation means any instance in which an affected source, subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart including, but not limited to, any emission limitation (including any operating limit) or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation (including any operating limit) or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Emission limitation means any emission limit, opacity limit, operating limit, or visible emission limit.

Fabric processed means the amount of fabric coated and finished for use in subsequent product manufacturing.

Mixed rubber compound means the material, commonly referred to as rubber, from which rubber tires and components of rubber tires are manufactured. For the purposes of this definition, mixed rubber compound refers to the compound that leaves the rubber mixing process (*e.g.*, banburys) and is then processed into components from which rubber tires are manufactured.

Monthly operating period means the period in the Notification of Compliance Status report comprised of the number of operating days in the month.

Operating day means the period defined in the Notification of Compliance Status report. It may be from midnight to midnight or a portion of a 24-hour period.

Process aid means a solvent, mixture, or cement used to facilitate or assist in tire component identification; component storage; tire building; tire curing; and tire repair, finishing, and identification.

Puncture sealant means a mixture that may include, but is not limited to, solvent constituents, mixed rubber compound, and process oil that is applied to the inner liner of a finished tire for the purpose of sealing any future hole which might occur in the tread when an object penetrates the tire.

Responsible official means responsible official as defined in 40 CFR 70.2.

Rubber means the sum of the materials (for example, natural rubber, synthetic rubber, carbon black, oils, sulfur) that are combined in specific formulations for the sole purpose of making rubber tires or components of rubber tires.

Rubber mixing means the physical process of combining materials for use in rubber tire manufacturing to make mixed rubber compound using the collection of banburys and associated drop mills.

Rubber tire means a continuous solid or pneumatic cushion typically encircling a wheel and usually consisting, when pneumatic, of an external rubber covering.

Rubber used means the total mass of mixed rubber compound delivered to the tire production operations in a tire manufacturing facility (*e.g.*, the collection of warm-up mills, extruders, calendars, tire building, or other tire component and tire manufacturing equipment).

Tire cord means any fabric (*e.g.*, polyester, cotton) that is treated with a coating mixture that allows the fabric to more readily accept impregnation with rubber to become an integral part of a rubber tire.

Tables to Subpart XXXX of Part 63

As stated in § 63.5984, you must comply with the emission limits for each new, reconstructed, or existing tire production affected source in the following table:

TABLE 1 TO SUBPART XXXX OF PART 63.—EMISSION LIMITS FOR TIRE PRODUCTION AFFECTED SOURCES

For each . . .	You must meet the following emission limits.
1. Option 1—HAP constituent option	a. Emissions of each HAP in Table 16 to this subpart must not exceed 1,000 grams HAP per megagram (2 pounds per ton) of total cements and solvents used at the tire production affected source, and b. Emissions of each HAP not in Table 16 to this subpart must not exceed 10,000 grams HAP per megagram (20 pounds per ton) of total cements and solvents used at the tire production affected source.
2. Option 2—production-based option	Emissions of HAP must not exceed 0.024 grams per megagram (0.00005 pounds per ton) of rubber used at the tire production affected source.

As stated in § 63.5986, you must comply with the emission limits for tire cord production affected sources in the following table:

TABLE 2 TO SUBPART XXXX OF PART 63.—EMISSION LIMITS FOR TIRE CORD PRODUCTION AFFECTED SOURCES

For each . . .	You must meet the following emission limits.
1. Option 1.a (production-based option)—Existing tire cord production affected source.	Emissions must not exceed 280 grams HAP per megagram (0.56 pounds per ton) of fabric processed at the tire cord production affected source.
2. Option 1.b (production-based option)—New or reconstructed tire cord production affected source.	Emissions must not exceed 220 grams HAP per megagram (0.43 pounds per ton) of fabric processed at the tire cord production affected source.
3. Option 2 (HAP constituent option)—Existing, new or reconstructed tire cord production affected source.	a. Emissions of each HAP in Table 16 to this subpart must not exceed 1,000 grams HAP per megagram (2 pounds per ton) of total coatings used at the tire cord production affected source, and b. Emissions of each HAP not in Table 16 to this subpart must not exceed 10,000 grams HAP per megagram (20 pounds per ton) of total coatings used at the tire cord production affected source.

As stated in § 63.5988(a), you must comply with the emission limits for puncture sealant application affected sources in the following table:

TABLE 3 TO SUBPART XXXX OF PART 63.—EMISSION LIMITS FOR PUNCTURE SEALANT APPLICATION AFFECTED SOURCES

For each . . .	You must meet the following emission limit.
1. Option 1.a (percent reduction option)—Existing puncture sealant application spray booth.	Reduce spray booth HAP (measured as volatile organic compounds (VOC)) emissions by at least 86 percent by weight.
2. Option 1.b (percent reduction option)—New or reconstructed puncture sealant application spray booth.	Reduce spray booth HAP (measured as VOC) emissions by at least 95 percent by weight.
3. Option 2 (HAP constituent option) Existing, new or reconstructed puncture sealant application spray booth.	a. Emissions of each HAP in Table 16 to this subpart must not exceed 1,000 grams HAP per megagram (2 pounds per ton) of total puncture sealants used at the puncture sealant affected source, and b. Emissions of each HAP not in Table 16 to this subpart must not exceed 10,000 grams HAP per megagram (20 pounds per ton) of total puncture sealants used at the puncture sealant affected source.

As stated in § 63.5988(b), you must comply with the operating limits for puncture sealant application affected sources in the following table unless you are meeting Option 2 (HAP constituent option) limits in Table 3 to this subpart:

TABLE 4 TO SUBPART XXXX OF PART 63.—OPERATING LIMITS FOR PUNCTURE SEALANT APPLICATION CONTROL DEVICES

For each . . .	You must . . .
1. Thermal oxidizer to which puncture sealant application spray booth emissions are ducted.	Maintain the daily average firebox secondary chamber temperature within the operating range established during the performance test.
2. Carbon adsorber (regenerative) to which puncture sealant application spray booth emissions are ducted.	a. Maintain the total regeneration mass, volumetric flow, and carbon bed temperature at the operating range established during the performance test. b. Reestablish the carbon bed temperature to the levels established during the performance test within 15 minutes of each cooling cycle.
3. Other type of control device to which puncture sealant application spray booth emissions are ducted.	Maintain your operating parameter(s) within the range(s) established during the performance test and according to your monitoring plan.
4. Permanent total enclosure capture system	a. Maintain the face velocity across any NDO at least at the levels established during the performance test. b. Maintain the size of NDO, the number of NDO, and their proximity to HAP emission sources consistent with the parameters established during the performance test.
5. Other capture system	Maintain the operating parameters within the range(s) established during the performance test and according to your monitoring plan.

As stated in § 63.5993, you must comply with the requirements for performance tests in the following table:

TABLE 5 TO SUBPART XXXX OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS

If you are using . . .	You must . . .	Using . . .	According to the following requirements . . .
1. A thermal oxidizer.	a. Measure total HAP emissions, determine destruction efficiency of the control device, and establish a site-specific firebox secondary chamber temperature limit at which the emission limit that applies to the affected source is achieved.	i. Method 25 or 25A performance test and data from the temperature monitoring system.	(1). Measure total HAP emissions and determine the destruction efficiency of the control device using Method 25 (40 CFR part 60, appendix A). You may use Method 25A (40 CFR part 60, appendix A) if: an exhaust gas volatile organic matter concentration of 50 parts per million (ppmv) or less is required to comply with the standard; the volatile organic matter concentration at the inlet to the control system and the required level of control are such that exhaust volatile organic matter concentrations are 50 ppmv or less; or because of the high efficiency of the control device exhaust, is 50 ppmv or less, regardless of the inlet concentration. (2). Collect firebox secondary chamber temperature data every 15 minutes during the entire period of the initial 3-hour performance test, and determine the average firebox temperature over the 3-hour performance test by computing the average of all of the 15-minute reading.

TABLE 5 TO SUBPART XXXX OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

If you are using . . .	You must . . .	Using . . .	According to the following requirements . . .
2. A carbon adsorber (regenerative).	a. Measure total organic HAP emissions, establish the total regeneration mass or volumetric flow, and establish the temperature of the carbon bed within 15 minutes of completing any cooling cycles. The total regeneration mass, volumetric flow, and carbon bed temperature must be those at which the emission limit that applies to the affected source is achieved.	i. Method 25 or Method 25A performance test and data from the carbon bed temperature monitoring device.	(1). Measure total HAP emissions using Method 25. You may use Method 25A, if an exhaust gas volatile organic matter concentration of 50 ppmv or less; or because of the high efficiency of the control device, exhaust is 50 ppmv or less is required to comply with the standard; the volatile organic matter concentration (VOMC) at the inlet to the control system and the required level of control are such that exhaust VOMCs are 50 ppmv or less; or because of the high efficiency of the control device, exhaust is 50 ppmv or less, regardless of the inlet concentration. (2). Collect carbon bed total regeneration mass or volumetric flow for each carbon bed regeneration cycle during the performance test. (3). Record the maximum carbon bed temperature data for each carbon bed regeneration cycle during the performance test. (4). Record the carbon bed temperature within 15 minutes of each cooling cycle during the performance test. (5). Determine the average total regeneration mass or the volumetric flow over the 3-hour performance test by computing the average of all of the readings. (6). Determine the average maximum carbon bed temperature over the 3-hour performance test by computing the average of all of the readings. (7). Determine the average carbon bed temperature within 15 minutes of the cooling cycle over the 3-hour performance test.
3. Any control device other than a thermal oxidizer or carbon adsorber.	Determine control device efficiency and establish operating parameter limits with which you will demonstrate continuous compliance with the emission limit that applies to the affected source.	EPA-approved methods and data from the continuous parameter monitoring system.	Conduct the performance test according to the site-specific plan submitted according to § 63.7(c)(2)(i).
4. All control devices.	a. Select sampling ports' location and the number of traverse ports.	Method 1 or 1A of 40 CFR part 60, appendix A.	Locate sampling sites at the inlet and outlet of the control device and prior to any releases to the atmosphere.
	b. Determine velocity and volumetric flow rate.	Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A.	
	c. Conduct gas analysis	Method 3, 3A, or 3B of 40 CFR part 60 appendix A.	
	d. Measure moisture content of the stack gas.	Method 4 of 40 CFR part 60, appendix A.	
5. A permenent total enclosure (PTE).	Measure the face velocity across natural draft openings and document the design features of the enclosure.	Method 204 of CFR part 51, appendix M.	Capture efficiency is assumed to be 100 percent if the criteria are met
6. Temporary total enclosure (TTE).	Construct a temporarily installed enclosure that allows you to determine the efficiency of your capture system and establish operating parameter limits.	Method 204 and the appropriate combination of Methods 204A–204F of 40 CFR part 51, appendix M.	

As stated in § 63.5996, you must show initial compliance with the emission limits for tire production affected sources according to the following table:

TABLE 6 TO SUBPART XXXX OF PART 62.—INITIAL COMPLIANCE WITH THE EMISSION LIMITS FOR TIRE PRODUCTION AFFECTED SOURCES

For . . .	For the following emission limit . . .	You have demonstrated initial compliance if . . .
1. Sources complying with the purchase compliance alternative in § 63.5985(a).	The HAP constituent option in Table 1 to this subpart, option 1.	You demonstrate for each monthly period that no cements and solvents were purchased and used at the affected source containing HAP in amounts above the composition limits in Table 1 to this subpart, option 1, determined according to the procedures in § 63.5994(a) and (b)(1).
2. Sources complying with the monthly average compliance alternative without using a control device in § 63.5985(b).	The HAP constituent option in Table 1 to this subpart, option 1.	You demonstrate that the monthly average HAP emissions for each monthly operating period do not exceed the emission limits in Table 1 to this subpart, option 1, determined according to the applicable procedures in § 63.5994(a) and (b)(2).
3. Sources complying with the monthly average compliance alternative using a control device in § 63.5985(c).	The HAP constituent option in Table 1 to this subpart, option 1.	You demonstrate that the monthly average HAP emissions for each monthly operating period do not exceed the emission limits in Table 1 to this subpart, option 1, determined according to the applicable procedures in § 63.5994(a), (b)(3) and (4), and (d) through (f).
4. Sources complying with the monthly average compliance alternative without use of a control device in § 63.5985(b).	The production-based option in Table 1 to this subpart, option 2.	You demonstrate that the monthly average HAP emissions for each monthly operating period do not exceed the emission limits in Table 1 to this subpart, option 2, determined according to the applicable procedures in § 63.5994(c)(1) through (3).
5. Sources complying with the monthly average compliance alternative using a control device in § 63.5985(c).	The production-based option in Table 1 to this subpart, option 2.	You demonstrate that the monthly average HAP emissions for each monthly operating period do not exceed the emission limits in Table 1 to this subpart, option 2, determined according to the applicable procedures in § 63.5994(c)(1) and (2), (4) and (5), and (d) through (f).

As stated in § 63.5999, you must show initial compliance with the emission limits for tire cord production affected sources according to the following table:

TABLE 7 TO SUBPART XXXX OF PART 63.—INITIAL COMPLIANCE WITH THE EMISSION LIMITS FOR TIRE CORD PRODUCTION AFFECTED SOURCES

For . . .	For the following emission limit . . .	You have demonstrated initial compliance if . . .
1. Sources complying with the monthly average alternative without using an add-on control device according to § 63.5987(a).	The production-based option in Table 2 to this subpart, option 1.	You demonstrate that the monthly average HAP emissions for each monthly operating period do not exceed the emission limits in Table 2 to this subpart, option 1, determined according to the procedures in § 63.5997(a), (b)(1) and (2).
2. Sources complying with the monthly average alternative using an add-on control device according to § 63.5987(b).	The production-based option in Table 2 to this subpart, option 1.	You demonstrate that the monthly average HAP emissions for each monthly operating period do not exceed the emission limits in Table 2 to this subpart, option 1, determined according to the procedures in § 63.5997(a), (b)(1) and (3) through (4), and (d) through (f).
3. Sources complying with the monthly average alternative without using an add-on control device according to § 63.5987(a).	The HAP constituent option in Table 2 to this subpart, option 2.	You demonstrate that the monthly average HAP emissions for each monthly operating period do not exceed the HAP constituent emission limits in Table 2 to this subpart, option 2, determined according to the applicable procedures in § 63.5997(a) and (c)(1) and (2).
4. Sources complying with the monthly average alternative using an add-on control device according to § 63.5987(b).	The HAP constituent option in Table 2 to this subpart, option 2.	You demonstrate that the monthly average HAP emissions for each monthly operating period do not exceed the HAP constituent emission limits in Table 2 to this subpart, option 2, determined according to the applicable procedures in § 63.5997(c)(1) and (3) through (4), and (d) through (f).

As stated in § 63.6002, you must show initial compliance with the emission limits for puncture sealant application affected sources according to the following table:

TABLE 8 TO SUBPART XXXX OF PART 63.—INITIAL COMPLIANCE WITH THE EMISSION

For . . .	For the following emission limit . . .	You have demonstrated initial compliance if . . .
1. Sources complying with the overall control efficiency alternative in § 63.5989(a).	The percent reduction option in Table 3 to this subpart, option 1.	You demonstrate that you conducted the performance tests, determined the overall efficiency of your control system, demonstrated that the applicable limits in Table 3 to this subpart, option 1, have been achieved, and established the operating limits in Table 4 of this subpart for your equipment according to the applicable procedures in § 63.6000(b).
2. Sources complying with the permanent total enclosure and control device efficiency alternative in § 63.5989(b).	The percent reduction option in Table 3 to this subpart, option 1.	You demonstrate that you conducted the performance tests, determined the individual efficiencies of your capture and control systems, demonstrated that the applicable limits in Table 3 to this subpart, option 1, have been achieved, and established the operating limits in Table 4 of this subpart for your equipment according to the applicable procedures in § 63.6000(b).
3. Sources complying with the monthly average alternative in § 63.5989(c) without using an add-on control device.	The HAP constituent option in Table 3 to this subpart, option 2.	You demonstrate that the monthly average HAP emissions for each monthly operating period do not exceed the HAP constituent emission limits in Table 3 to this subpart, option 2, determined according to the applicable procedures in § 63.6000(c) and (d)(1).
4. Sources complying with the HAP constituent alternative in § 63.5989(d) by using an add-on control device.	The HAP constituent option in Table 3 to this subpart, option 2.	You demonstrate that the monthly average HAP emissions for each monthly operating period do not exceed the HAP constituent emission limits in Table 3 to this subpart, option 2, determined according to the applicable procedures in § 63.6000(c), (d)(2) and (3), and (e) through (f).

As stated in § 63.6003, you must maintain minimum data to show continuous compliance with the emission limits for tire production affected sources according to the following table:

TABLE 9 TO SUBPART XXXX OF PART 63.—MINIMUM DATA FOR CONTINUOUS COMPLIANCE WITH THE EMISSION LIMITS FOR TIRE PRODUCTION AFFECTED SOURCES

For . . .	You must maintain . . .
1. Sources complying with purchase compliance alternative in § 63.5985(a) that are meeting the HAP constituent emission limit (option 1) in Table 1 to this subpart.	a. A list of each cement and solvent as purchased and the manufacturer or supplier of each. b. A record of Method 311 (40 CFR part 60, appendix A), or approved alternative method, test results indicating the mass percent of each HAP for each cement and solvent as purchased.
2. Sources complying with the monthly average compliance alternative without using a control device according to § 63.5985(b) that are meeting emission limits in Table 1 to this subpart.	a. A record of Method 311, or approved alternative method, test results, indicating the mass percent of each HAP for each cement and solvent, as purchased. b. The mass of each cement and solvent used each monthly operating period. c. The total mass of rubber used each monthly operating period (if complying with the production-based emission limit, option 2, in Table 1 to this subpart). d. All data and calculations used to determine the monthly average mass percent for each HAP for each monthly operating period. e. Monthly averages of emissions in the appropriate emission limit format.
3. Sources complying with the monthly average compliance alternative using a control device according to § 63.5985(c) that are meeting emission limits in Table 1 to this subpart.	a. The same information as sources complying with the monthly average alternative without using a control device. b. Records of operating parameter values for each operating parameter that applies to you.

As stated in § 63.6004, you must show continuous compliance with the emission limits for tire production affected sources according to the following table:

TABLE 10 TO SUBPART XXXX OF PART 63.—CONTINUOUS COMPLIANCE WITH THE EMISSION LIMITS FOR TIRE PRODUCTION AFFECTED SOURCES

For . . .	For the following emission limit . . .	You must demonstrate continuous compliance by . . .
1. Sources complying with purchase compliance alternative in § 63.5985(a).	The HAP constituent option in Table 1 to this subpart, option 1.	Demonstrating for each monthly period that no cements and solvents were purchased and used at the affected source containing HAP in amounts above the composition limits in Table 1 to this subpart, option 1, determined according to the procedures in § 63.5994(a) and (b)(1).

TABLE 10 TO SUBPART XXXX OF PART 63.—CONTINUOUS COMPLIANCE WITH THE EMISSION LIMITS FOR TIRE PRODUCTION AFFECTED SOURCES—Continued

For . . .	For the following emission limit . . .	You must demonstrate continuous compliance by . . .
2. Sources complying with the monthly average compliance alternative without using a control device according to § 63.5985(b).	The HAP constituent option in Table 1 to this subpart, option 1.	Demonstrating that the monthly average HAP emissions for each monthly operating period do not exceed the emission limits in Table 1 to this subpart, option 1, determined according to the applicable procedures in § 63.5994(a) and (b)(2).
3. Sources complying with the monthly average compliance alternative using a control device according to § 63.5985(c).	The HAP constituent option in Table 1 to this subpart, option 1.	Demonstrating that the monthly average HAP emissions for each monthly operating period do not exceed the emission limits in Table 1 to this subpart, option 1, determined according to the applicable procedures in § 63.5994(a), (b)(3) and (4), and (d) through (f).
4. Sources complying with the monthly average compliance alternative without using a control device according to § 63.5985(b).	The production-based option in Table 1 to this subpart, option 2.	Demonstrating that the monthly average HAP emissions for each monthly operating period do not exceed the emission limits in Table 1 to this subpart, option 2, determined according to the applicable procedures in § 63.5994(c)(1) through (3).
5. Sources complying with the monthly average compliance alternative using a control device according to § 63.5985(c).	The production-based option in Table 1 to this subpart, option 2.	Demonstrating that the monthly average HAP emissions for each monthly operating period do not exceed the emission limits in Table 1 to this subpart, option 2, determined according to the applicable procedures in § 63.5994(c)(1) and (2), (4) and (5), and (d) through (f).

As stated in § 63.6005, you must maintain minimum data to show continuous compliance with the emission limits for tire cord production affected sources according to the following table:

TABLE 11 TO SUBPART XXXX OF PART 63.—MINIMUM DATA FOR CONTINUOUS COMPLIANCE WITH THE EMISSION LIMITS FOR TIRE CORD PRODUCTION AFFECTED SOURCES

For . . .	You must maintain . . .
1. Sources complying with the monthly average alternative without using an add-on control device according to § 63.5987(a) that are meeting emission limits in Table 2 to this subpart.	a. A record of Method 311 (40 CFR part 63, appendix A), or approved alternative method, test results, indicating the mass percent of each HAP for coating used. b. The mass of each coating used each monthly operating period. c. The total mass of fabric processed each monthly operating period (if complying with the production-based option in Table 2 to this subpart, option 1). d. All data and calculations used to determine the monthly average mass percent for each HAP for each monthly operating period. e. Monthly averages of emissions in the appropriate emission emission limit format.
2. Sources complying with the monthly average alternative using an add-on control device according to § 63.5987(b) that are meeting emission limits in Table 2 to this subpart.	a. The same information as sources complying with the monthly average alternative without using a control device. b. Records of operating parameter values for each operating parameter that applies to you.

As stated in § 63.6006, you must show continuous compliance with the emission limits for tire cord production affected sources according to the following table:

TABLE 12 TO SUBPART XXXX OF PART 63.—CONTINUOUS COMPLIANCE WITH THE EMISSION LIMITS FOR TIRE CORD PRODUCTION AFFECTED SOURCES

For . . .	For the following emission limit . . .	You must demonstrate continuous compliance by . . .
1. Sources complying with the monthly average compliance alternative without using an add-on control device according to § 63.5987(a).	In Table 2 to this subpart	a. Demonstrating that the monthly average HAP emissions for each monthly operating period do not exceed the emission limits in Table 2 to this subpart, option 1, determined according to the applicable procedures in § 63.5997(a) and (b)(1) and (2). b. Demonstrating that the monthly average HAP emissions for each monthly operating period do not exceed the HAP constituent emission limits in Table 2 to this subpart, option 2, determined according to the applicable procedures in § 63.5997(a) and (c)(1) and (2).

TABLE 12 TO SUBPART XXXX OF PART 63.—CONTINUOUS COMPLIANCE WITH THE EMISSION LIMITS FOR TIRE CORD PRODUCTION AFFECTED SOURCES—Continued

For . . .	For the following emission limit . . .	You must demonstrate continuous compliance by . . .
2. Sources complying with the monthly average compliance alternative using an add-on control device according to §63.5987(b).	In Table 2 to this subpart	a. Demonstrating that the monthly average HAP emissions for each monthly operating period do not exceed the emission limits in Table 2 to this subpart, option 1, determined according to the applicable procedures in §63.5997(a), (b)(1) and (3) through (4), and (d) through (f). b. Demonstrating that the monthly HAP emissions for each monthly operating period do not exceed the HAP constituent emission limits in Table 2 to this subpart, option 2, determined according to the applicable procedures in §63.5997(c)(1) and (3) through (4), and (d) through (f).

As stated in §63.6007, you must maintain minimum data to show continuous compliance with the emission limitations for puncture sealant application affected sources according to the following table:

TABLE 13 TO SUBPART XXXX OF PART 63.—MINIMUM DATA FOR CONTINUOUS COMPLIANCE WITH THE EMISSION LIMITATIONS FOR PUNCTURE SEALANT APPLICATION AFFECTED SOURCES

For . . .	You must maintain . . .
1. Sources complying with the control efficiency alternatives in §63.5989(a) or (b) that are meeting the percent reduction emission limits in Table 3 to this subpart, option 1, using a thermal oxidizer to reduce HAP emissions so that they do not exceed the operating limits in Table 4 to this subpart.	Records of the secondary chamber firebox temperature for 100 percent of the hours during which the process was operated.
2. Sources complying with the control efficiency alternatives in §63.5989(a) or (b) that are meeting the percent reduction emission limits in Table 3 to this subpart, option 1, using a carbon adsorber to reduce HAP emissions so that they do not exceed the operating limits in Table 4 to this subpart.	Records of the total regeneration stream mass or volumetric flow for each regeneration cycle for 100 percent of the hours during which the process was operated, and a record of the carbon bed temperature after each regeneration, and within 15 minutes of completing any cooling cycle for 100 percent of the hours during which the process was operated.
3. Sources complying with the control efficiency alternatives in §63.5989(a) or (b) that are meeting the percent reduction emission limits in Table 3 to this subpart, option 1, using any other type of control device to which puncture sealant application spray booth HAP emissions are ducted so that they do not exceed the operating limits in Table 4 to this subpart.	Records of operating parameter values for each operating parameter that applies to you.
4. Sources complying with the permanent total enclosure compliance alternative in §63.5989(b) that are meeting the percent reduction emission limits in Table 3 to this subpart, option 1, using a permanent total enclosure capture system to capture HAP emissions so that they do not exceed the operating limits in Table 4 to this subpart.	Records of the face velocity across any NDO, the size of NDO, the number of NDO, and their proximity to HAP emission sources.
5. Sources complying with the overall control efficiency alternative in §63.5989(a) that are meeting the percent reduction emission limits in Table 3 to this subpart, option 1, using any other capture system to capture HAP emissions so that they do not exceed the operating limits in Table 4 to this subpart.	Records of operating parameter values for each operating parameter that applies to you.
6. Sources complying with the monthly average alternative without using an add-on control device according to §63.5988(a) that are meeting the HAP constituent emission limits in Table 3 to this subpart, option 2.	a. A record of Method 311 (40 CFR part 63, appendix A), or approved alternative method, test results, indicating the mass percent of each HAP for puncture sealant used. b. The mass of each puncture sealant used each monthly operating period. c. All data and calculations used to determine the monthly average mass percent for each HAP for each monthly operating period. d. Monthly averages of emissions in the appropriate emission limit format.

TABLE 13 TO SUBPART XXXX OF PART 63.—MINIMUM DATA FOR CONTINUOUS COMPLIANCE WITH THE EMISSION LIMITATIONS FOR PUNCTURE SEALANT APPLICATION AFFECTED SOURCES—Continued

For . . .	You must maintain . . .
7. Sources complying with the monthly average alternative using an add-on control device according to § 63.5988(a) that are meeting the HAP constituent emission limits in Table 3 to this subpart, option 2.	a. The same information as sources complying with the monthly average alternative that are not using a control device. b. Records of operating parameter values for each operating parameter that applies to you.

As stated in § 63.6008, you must show continuous compliance with the emission limitations for puncture sealant application affected sources according to the following table:

TABLE 14 TO SUBPART XXXX OF PART 63.—CONTINUOUS COMPLIANCE WITH THE EMISSION LIMITATIONS FOR PUNCTURE SEALANT APPLICATION AFFECTED SOURCES

For . . .	You must demonstrate continuous compliance by . . .
1. Each carbon adsorber used to comply with the operating limits in Table 4 to this subpart.	a. Monitoring and recording every 15 minutes the total regeneration stream mass or volumetric flow, and the carbon bed temperature after each regeneration, and within 15 minutes of completing any cooling cycle, and b. Maintaining the total regeneration stream mass or volumetric flow, and the carbon bed temperature after each regeneration, and within 15 minutes of completing any cooling cycle within the operating levels established during your performance test.
2. Each thermal oxidizer used to comply with operating limits in Table 4 to this subpart.	a. Continuously monitoring and recording the firebox temperature every 15 minutes, and b. Maintaining the daily average firebox temperature within the operating level established during your performance test.
3. Other "add-on" control or capture system hardware used to comply with the operating limits in Table 4 to this subpart.	Continuously monitoring and recording specified parameters identified through compliance testing and identified in the Notification of Compliance Status report.
4. Sources complying with the monthly average compliance alternative without using an add-on control device according to § 63.5989(c) that are meeting the HAP constituent emission limits in Table 3 to this subpart, option 2.	Demonstrating that the monthly average HAP emissions for each monthly operating period do not exceed the HAP constituent emission limits in Table 3 to this subpart, option 2, determined according to the applicable procedures in § 63.6000(c) and (d)(1).
5. Sources complying with the monthly average compliance alternative by using an add-on control device according to § 63.5989(d) that are the HAP constituent emission limits in Table 3 to this subpart, option 2.	Demonstrating that the monthly average HAP emissions for each monthly operating period do not exceed the HAP constituent emission limits in Table 3 to this subpart, option 2, determined according to the applicable procedures in § 63.6000(c), (d)(2) and (3), and (e) through (g).

As stated in § 63.6010, you must submit each report that applies to you according to the following table:

TABLE 15 TO SUBPART XXXX OF PART 63.—REQUIREMENTS FOR REPORTS

You must submit a(n)	The report must contain . . .	You must submit the report . . .
1. Compliance report	a. If there are no deviations from any emission limitations that apply to you, a statement that there were no deviations from the emission limitations during the reporting period. If there were no periods during which the CPMS was out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which the CPMS was out-of-control during the reporting period.	Semiannually according to the requirements in § 63.6010(b), unless you meet the requirements for annual reporting in § 63.6010(f).
	b. If you have a deviation from any emission limitation during the reporting period at an affected source where you are not using a CPMS, the report must contain the information in § 63.6010(d). If the deviation occurred at a source where you are using a CMPS or if there were periods during which the CPMS were out-of-control as specified in § 63.8(c)(7), the report must contain the information required by § 63.5990(f)(3).	Semiannually according to the requirements in § 63.6010(b), unless you meet the requirements for annual reporting in § 63.6010(f).
	c. If you had a startup, shutdown or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).	Semiannually according to the requirements in § 63.6010(b), unless you meet the requirements for annual reporting in § 63.6010(f).

TABLE 15 TO SUBPART XXXX OF PART 63.—REQUIREMENTS FOR REPORTS—Continued

You must submit a(n)	The report must contain . . .	You must submit the report . . .
2. Immediate startup, shutdown, and malfunction report if you had a startup, shutdown, or malfunction during the reporting period that is not consistent with your startup, shutdown, and malfunction plan..	a. Actions taken for the event	By fax or telephone within 2 working days after starting actions inconsistent with the plan.
	b. The information in § 63.10(d)(5)(ii)	By letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority (§ 63.10(d)(5)(ii)).

You must use the information listed in the following table to determine which emission limit in the HAP constituent options in Tables 1 through 3 to this subpart is applicable to you:

TABLE 16 TO SUBPART XXXX OF PART 63.—SELECTED HAZARDOUS AIR POLLUTANTS

CAS No.	Selected hazardous air pollutants
50000	Formaldehyde
51796	Ethyl carbamate (Urethane)
53963	2-Acetylaminofluorene
56235	Carbon tetrachloride
57147	1,1-Dimethyl hydrazine
57578	beta-Propiolactone
58899	Lindane (all isomers)
59892	N-Nitrosomorpholine
60117	Dimethyl aminoazobenzene
62759	N-Nitrosodimethylamine
64675	Diethyl sulfate
67663	Chloroform
67721	Hexachloroethane
71432	Benzene (including benzene from gasoline)
75014	Vinyl chloride
75070	Acetaldehyde
75092	Methylene chloride (Dichloromethane)
75218	Ethylene oxide
75558	1,2-Propylenimine (2-Methyl aziridine)
75569	Propylene oxide
77781	Dimethyl sulfate
79061	Acrylamide
79447	Dimethyl carbamoyl chloride
79469	2-Nitropropane
88062	2,4,6-Trichlorophenol
91941	3,3-Dichlorobenzidene
92671	4-Aminobiphenyl
92875	Benzidine
95534	o-Toluidine
95807	2,4-Toluene diamine
96128	1,2-Dibromo-3-chloropropane
96457	Ethylene thiourea
98077	Benzotrichloride
101144	4,4-Methylene bis(2-chloroaniline)
101779	4,4-Methylenedianiline
106467	1,4-Dichlorobenzene(p)
106898	Epichlorohydrin (l-Chloro-2,3-epoxypropane)
106934	Ethylene dibromide (Dibromoethane)
106990	1,3-Butadiene
107062	Ethylene dichloride (1,2-Dichloroethane)
107131	Acrylonitrile
107302	Chloromethyl methyl ether
117817	Bis(2-ethylhexyl)phthalate (DEHP)
118741	Hexachlorobenzene
119904	3,3-Dimethoxybenzidine
119937	3,3-Dimethyl benzidine
122667	1,2-Diphenylhydrazine
123911	1,4-Dioxane (1,4-Diethyleneoxide)
127184	Tetrachloroethylene (Perchloroethylene)
140885	Ethyl acrylate
302012	Hydrazine
542756	1,3-Dichloropropene

TABLE 16 TO SUBPART XXXX OF PART 63.—SELECTED HAZARDOUS AIR POLLUTANTS—Continued

CAS No.	Selected hazardous air pollutants
542881	Bis(chloromethyl)ether
680319	Hexamethylphosphoramide
684935	N-Nitroso-N-methylurea
1120714	1,3-Propane sultone
1332214	Asbestos
1336363	Polychlorinated biphenyls (Aroclors)
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin
8001352	Toxaphene (chlorinated camphene)
	Arsenic Compounds
	Chromium Compounds
	Coke Oven Emissions

As stated in § 63.6013, you must comply with the applicable General Provisions (GP) requirements according to the following table:

TABLE 17 TO SUBPART XXXX OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART XXXX

Citation	Subject	Brief description of applicable sections	Applicable to Subpart XXXX?	
			Using a control device	Not using a control device
§ 63.1	Applicability	Initial applicability determination; applicability after standard established; permit requirements; extensions; notifications.	Yes	Yes.
§ 63.2	Definitions	Definitions for part 63 standards	Yes	Yes.
§ 63.3	Units and Abbreviations	Units and abbreviations for part 63 standards	Yes	Yes.
§ 63.4	Prohibited Activities	Prohibited activities; compliance date; circumvention; severability.	Yes	Yes.
§ 63.5	Construction/Reconstruction.	Applicability; applications; approvals	Yes	Yes.
§ 63.6(a)	Applicability	GP apply unless compliance extension; GP apply to area sources that become major.	Yes	Yes.
§ 63.6(b)(1)–(4)	Compliance Dates for New and Reconstructed Sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for section 112(f).	Yes	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes	Yes.
§ 63.6(b)(6)	[Reserved]			
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources that Become Major.		No	No.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources.	Comply according to date in subpart, which must be no later than 3 years after effective date; for CAA section 112(f) standards, comply within 90 days of effective date unless compliance extension.	Yes	Yes.
§ 63.6(c)(3)–(4)	[Reserved]			
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources that Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (for example, 3 years).	Yes	Yes.
§ 63.6(d)	[Reserved]			

TABLE 17 TO SUBPART XXXX OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART XXXX—Continued

Citation	Subject	Brief description of applicable sections	Applicable to Subpart XXXX?	
			Using a control device	Not using a control device
§ 63.6(e)(1)–(2)	Operation & Maintenance	Operate to minimize emissions at all times; correct malfunctions as soon as practicable; and operation and maintenance requirements independently enforceable; information Administrator will use to determine if operation and maintenance requirements were met.	Yes	Yes.
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction Plan (SSMP).		Yes	No.
§ 63.6(f)(1)	Compliance Except During SSM.		Yes	No.
§ 63.6(f)(2)–(3)	Methods for Determining Compliance.	Compliance based on performance test; operation and maintenance plans; records; inspection.	Yes	Yes.
§ 63.6(g)(1)–(3)	Alternative Standard	Procedures for getting an alternative standard	Yes	Yes.
§ 63.6(h)	Opacity/Visible Emission (VE) Standards.		No	No.
§ 63.6(i)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes	Yes.
§ 63.6(j)	Presidential Compliance Exemption.	President may exempt source category from requirement to comply with rule.	Yes	Yes.
§ 63.7(a)(1)–(2)	Performance Test Dates		No	No.
§ 63.7(a)(3)	CAA section 114 Authority	Administrator may require a performance test under CAA section 114 at any time.	Yes	No.
§ 63.7(b)(1)	Notification of Performance Test.	Must notify Administrator 60 days before the test	Yes	No.
§ 63.7(b)(2)	Notification of Rescheduling.	If rescheduling a performance test is necessary, must notify Administrator 5 days before scheduled date of rescheduled date.	Yes	No.
§ 63.7(c)	Quality Assurance/Test Plan.	Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with; test plan approval procedures; performance audit requirements; and internal and external quality assurance procedures for testing.	Yes	No.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes	No.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests.	Performance tests must be conducted under representative conditions; cannot conduct performance tests during SSM; not a violation to exceed standard during SSM.	Yes	No.
§ 63.7(e)(2)	Conditions for Conducting Performance Tests.	Must conduct according to rule and EPA test methods unless Administrator approves alternative.	Yes	No.
§ 63.7(e)(3)	Test Run Duration	Must have three test runs of at least 1 hour each; compliance is based on arithmetic mean of three runs; and conditions when data from an additional test run can be used.	Yes	No.
§ 63.7(f)	Alternative Test Method	Procedures by which Administrator can grant approval to use an alternative test method.	Yes	No.
§ 63.7(g)	Performance Test Data Analysis.	Must include raw data in performance test report; must submit performance test data 60 days after end of test with the Notification of Compliance Status report; and keep data for 5 years.	Yes	No.

TABLE 17 TO SUBPART XXXX OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART XXXX—Continued

Citation	Subject	Brief description of applicable sections	Applicable to Subpart XXXX?	
			Using a control device	Not using a control device
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test.	Yes	No.
§ 63.8(a)(1)	Applicability of Monitoring Requirements.	Subject to all monitoring requirements in standard	Yes	Yes.
§ 63.8(a)(2)	Performance Specifications.	Performance Specifications in appendix B of 40 CFR part 60 apply.	Yes	No.
§ 63.8(a)(3)	[Reserved]			
§ 63.8(a)(4)	Monitoring with Flares		No	No.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes	Yes.
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing monitoring systems; must install on each effluent before it is combined and before it is released to the atmosphere unless Administrator approves otherwise; if more than one monitoring system on an emission point, must report all monitoring system results, unless one monitoring system is a backup.	Yes	Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance.	Maintain monitoring system in a manner consistent with good air pollution control practices.	Applies as modified by § 63.5990(e) and (f).	No.
§ 63.8(c)(1)(i)	Routine and Predictable SSM.		No	No.
§ 63.8(c)(1)(ii)	SSM not in SSMP		No	No.
§ 63.8(c)(1)(iii)	Compliance with Operation and Maintenance Requirements.	How Administrator determines if source complying with operation and maintenance requirements; review of source operation and maintenance procedures, records, manufacturer's instructions, recommendations, and inspection of monitoring system.	Yes	Yes.
§ 63.8(c)(2)–(3)	Monitoring System Installation.	Must install to get representative emission and parameter measurements; must verify operational status before or at performance test.	Yes	No.
§ 63.8(c)(4)	Continuous Monitoring System (CMS) Requirements.		Applies as modified by § 63.5990(f).	No.
§ 63.8(c)(5)	Continuous Opacity Monitoring Systems (COMS) Minimum Procedures.		No	No.
§ 63.8(c)(6)	CMS Requirements		Applies as modified by § 63.5990(e).	No.
§ 63.8(c)(7)–(8)	CMS Requirements	Out-of-control periods, including reporting	Yes	No.
§ 63.8(d)	CMS Quality Control		Applies as modified by § 63.5990(e) and (f).	No.
§ 63.8(e)	CMS Performance Evaluation.		No	No.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method.	Procedures for Administrator to approve alternative monitoring.	Yes	Yes.

TABLE 17 TO SUBPART XXXX OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART XXXX—Continued

Citation	Subject	Brief description of applicable sections	Applicable to Subpart XXXX?	
			Using a control device	Not using a control device
§ 63.8(f)(6)	Alternative to Relative Accuracy Test.		No	No.
§ 63.8(g)	Data Reduction		Applies as modified by § 63.5990(f).	No.
§ 63.9(a)	Notification Requirements	Applicability and state delegation	Yes	Yes.
§ 63.9(b)(1)-(5)	Initial Notifications	Submit notification 120 days after effective date; notification of intent to construct/reconstruct, notification of commencement of construct/reconstruct, notification of startup; and contents of each.	Yes	Yes.
§ 63.9(c)	Request for Compliance Extension.	Can request if cannot comply by date or if installed best available control technology or lowest achievable emission rate.	Yes	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes	Yes.
§ 63.9(e)	Notification of Performance Test.	Notify Administrator 60 days prior	Yes	No.
§ 63.9(f)	Notification of VE/Opacity Test.	No	No.	
§ 63.9(g)	Additional Notifications When Using CMS.	No	No.	
§ 63.9(h)	Notification of Compliance Status.	Contents; due 60 days after end of performance test or other compliance demonstration, except for opacity/VE, which are due 30 days after; when to submit to Federal vs. State authority.	Yes	Yes.
§ 63.9(i)	Adjustment of Submittal Deadlines.	Procedures for Administrator to approve change in when notifications must be submitted.	Yes	Yes.
§ 63.9(j)	Change in Previous Information.	Must submit within 15 days after the change	Yes	Yes.
§ 63.10(a)	Recordkeeping/Reporting	Applies to all, unless compliance extension; when to submit to Federal vs. State authority; procedures for owners of more than 1 source.	Yes	Yes.
§ 63.10(b)(1)	Recordkeeping/Reporting	General Requirements; keep all records readily available; and keep for 5 years..	Yes	Yes.
§ 63.10(b)(2)(i)-(iv)	Records related to Start-up, Shutdown, and Malfunction..	Yes	No.	
§ 63.10(b)(2)(vi) and (x)–(xi).	CMS Records	Malfunctions, inoperative, out-of-control; calibration checks; adjustments, maintenance.	Yes	No.
§ 63.10(b)(2) (vii)–(ix).	Records	Measurements to demonstrate compliance with emission limitations; performance test, performance evaluation, and visible emission observation results; and measurements to determine conditions of performance tests and performance evaluations.	Yes	Yes.
§ 63.10(b)(2) (xii)	Records	Records when under waiver	Yes	Yes.
§ 63.10(b)(2) (xiii)	Records		No	No.
§ 63.10(b)(2) (xiv)	Records	All documentation supporting Initial Notification and Notification of Compliance Status.	Yes	Yes.
§ 63.10(b)(3)	Records	Applicability determinations	Yes	Yes.

TABLE 17 TO SUBPART XXXX OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART XXXX—Continued

Citation	Subject	Brief description of applicable sections	Applicable to Subpart XXXX?	
			Using a control device	Not using a control device
§ 63.10(c)	Records		No	No.
§ 63.10(d)(1)	General Reporting Requirements.	Requirement to report	Yes	Yes.
§ 63.10(d)(2)	Report of Performance Test Results.	When to submit to Federal or State authority	Yes	No.
§ 63.10(d)(3)	Reporting Opacity or VE Observations.		No	No.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes	Yes.
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.		Yes	No.
§ 63.10(e)	Additional CMS Reports		No	No.
§ 63.10(f)	Waiver for Recordkeeping/Reporting.	Procedures for Administrator to waive	Yes	Yes.
§ 63.11	Flares		No	No.
§ 63.12	Delegation	State authority to enforce standards	Yes	Yes.
§ 63.13	Addresses	Addresses where reports, notifications, and requests are sent.	Yes	Yes.
§ 63.14	Incorporation by Reference.	Test methods incorporated by reference	Yes	Yes.
§ 63.15	Availability of Information	Public and confidential information	Yes	Yes.

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July 10, 2002

Part IV

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7243–9]

RIN 2060–AH82

National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for the Polyvinyl Chloride (PVC) and Copolymers Production source category. These NESHAP require that PVC and copolymers production facilities, which already must comply with the existing Vinyl Chloride NESHAP, continue to comply with that existing NESHAP. This rule reflects EPA's determination that the hazardous air pollutants (HAP) control level resulting from compliance with the existing Vinyl Chloride NESHAP already reflects the application of maximum achievable control technology (MACT) and, thus, meets the requirements of section 112(d) of the Clean Air Act (CAA), except for equipment leaks at new sources, for the PVC and Copolymers Production source category. For equipment leaks, new sources must comply with the most current technology standards in the Generic MACT rule. By requiring compliance with the Vinyl Chloride NESHAP, the EPA is promoting regulatory consistency and eliminating the costs that would be incurred by enforcing a new set of standards that likely would result in no additional HAP emissions reductions.

EFFECTIVE DATE: July 10, 2002.

ADDRESSES: Docket No. A–99–40 contains supporting information used in developing these MACT standards. All dockets are located at the U.S. EPA, Air and Radiation Docket and Information Center, Waterside Mall, Room M–1500, Ground Floor, 401 M Street SW, Washington, DC 20460, and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For further information concerning applicability and rule determinations, contact the appropriate State or local agency representative. If no State or local representative is available, contact the EPA Regional Office staff listed in 40 CFR 63.13. For information concerning the analyses performed in developing the NESHAP, contact Warren Johnson, Organic Chemicals Group, Emission Standards Division (C504–04), U.S. EPA, Research Triangle Park, North Carolina 27711, (919) 541–5124, *johnson.warren@epa.gov.*

SUPPLEMENTARY INFORMATION:

Docket

The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (*See* section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

Public Comments

The NESHAP for this source category were proposed on December 8, 2000 (65 FR 76958). The comment letters received on the proposal are available in Docket No. A–99–40, along with a summary of the comment letters and EPA's responses to the comments. In response to the public comments, EPA adjusted the final NESHAP where appropriate.

Worldwide Web (WWW)

In addition to being available in the docket, an electronic copy of today's final NESHAP will also be available on the WWW through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the NESHAP will be posted on the TTN's policy and guidance page for newly proposed or final rules at *http://www.epa.gov/ttn/oarpg/t3pfpr.html.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities

Categories and entities potentially regulated by this action include:

Category	NAICS code	SIC code	Examples of affected entities
Industry	325211	2821	Facilities that polymerize vinyl chloride monomer to produce polyvinyl chloride and/or copolymer products.

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 § 63.211 of the rule. If you have any questions regarding the applicability of this action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Judicial Review

Under section 307(b)(1) of the CAA, judicial review of the final NESHAP is available by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by September 9, 2002. Only those objections to the NESHAP which were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2) of the CAA, the requirements that are the subject of today's final NESHAP may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Outline

The information presented in this preamble is organized as follows:

I. What Are the Environmental, Energy and Economic Impacts?
II. What Changes and Clarifications did we Make Since Proposal?
  A. Rule Applicability
  B. MACT Floor Determination
  C. Clarifications
III. How did we Respond to Significant comments?
  A. Rule Applicability
  B. MACT Floor Determination
  C. Recordkeeping and Reporting
IV. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review
B. Executive Order 13132, Federalism
C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
E. Unfunded Mandates Reform Act
F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
G. Paperwork Reduction Act
H. National Technology Transfer and Advancement Act of 1995
I. Congressional Review Act
J. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution or Use

I. What Are the Environmental, Energy, and Economic Impacts?

The nationwide environmental and cost impacts for today's final rule are the same as for the proposed rule, which had no environmental, energy or economic impacts anticipated beyond the current requirements of 40 CFR part 61, subpart F, which are already in effect.

As a result of today's action, new sources in this source category must comply with 40 CFR part 63, subpart UU, instead of 40 CFR part 61, subpart V, for leak detection and repair (LDAR), which are the standards to which existing sources must comply. Although more comprehensive, 40 CFR part 63, subpart UU, is also more flexible and for new sources would be no more costly, and perhaps less costly, than 40 CFR part 61, subpart V. In addition, we do not anticipate the construction of any new sources within the next 5 years.

II. What Changes and Clarifications Did We Make Since Proposal?

A. Rule Applicability

In the final rule, we have added language to explicitly clarify that only facilities in vinyl chloride service are affected, and language that specifically excludes research and development (R&D) facilities from the applicability.

B. MACT Floor Determination

After considering comments and collecting additional information, we have concluded that the floor determination we made at proposal is the most appropriate basis for MACT for this source category.

In reiterating our floor determination, we took into consideration that some plants are capable of stripping the residual vinyl chloride monomer (RVCM) from their resins to a greater degree than others. We also took into account that some State permits require lower quarterly and annual average RVCM limits based upon the resins being produced. We attributed the RVCM stripping rates as a function of the resin design specifications and properties rather than the performance of stripping technology.

In order to respond to comments that we had not determined a stringent enough floor for RVCM, we collected additional information, specifically to try to consider other ways to determine the floor. Traditionally in MACT standards, control performance is measured as a fixed removal or destruction efficiency associated with the specific technology applied. The most stringent control performance often translates easily to a floor level of control when it exists at five or more facilities. We knew this was not the case with applying stripping technology to reduce RVCM, but wanted to better understand the correlation between the stripping efficiencies and the resins being produced to see if there was a way to come up with a daily RVCM limit based on actual performance rather than using the part 61 NESHAP as the basis for the floor.

We began by trying to base best stripper performance on the lowest RVCM daily average numbers, but found that the lowest numbers (generally less than 10 parts per million (ppm)) are specifically tied to the producers of primarily suspension pipe grade resins. Although these facilities also produce smaller quantities of other PVC resins, they are able to keep their low daily averages because their output is generally greater than 80 percent pipe grade resins. At the other end of the spectrum, facilities producing primarily copolymer resins or blending resins, while using identical stripping technology, would not physically be able to meet these RVCM numbers. We believe that most of the industry, particularly the smaller specialty resin manufacturing facilities, would be adversely affected commercially because they would not be able to produce all the products they do now if we were to set limits that were based solely on the achievable RVCM in pipe grade resins. In particular, some copolymer, specialty and blending resins could get eliminated from the market place.

We then considered segregating the facilities by resins type and identifying the best performers within each group of facilities. However, there is variation in the resin characteristics within each resin type, and just about all of the 28 facilities produce a wide array of resins which change to meet market demands for particular resin characteristics. More specifically, we considered segregating the sources based upon the resins each source produced. While each source seemed to specialize in the production of particular resin types, it was uncommon for any source to produce one type of resin exclusively during the course of any calendar quarter. While our focus was on the prominent RVCM differences between suspension and dispersion resins, some of the other resin types we considered in this segregation of sources included low fusion suspension resins, blending resins, micro suspension resins, emulsion resins, and copolymer resins. We found that, even after segregating the sources by primary resin type produced, the desired resin characteristics still have a greater influence on the RVCM than the stripper technology.

We also considered adding quarterly limits in addition to the daily RVCM limits of the part 61 NESHAP because the commenters suggested that sources were achieving quarterly limits more stringent than the daily limits in the part 61 NESHAP. In order to do this, we took into account those copolymer and blending resins most difficult to strip. The resulting quarterly averages were around 1,500 ppm for dispersion resins other than latex and around 250 ppm for all other resins. But, by requiring these as quarterly limits, we in essence would simply require that facilities continue to operate as they do now, under the part 61 NESHAP, and in adding a quarterly limit, we create another reporting and recordkeeping burden with no commensurate HAP emissions reductions. In addition, since we did not have information on every facility in the category, we also ran the risk of inadvertently eliminating the production of some resins by setting too restrictive a quarterly limit.

What we found in the additional information collected since proposal reinforced our conclusion that since wide variations can occur even in normal operations, the operators at these facilities must maintain a conservative operation, keeping the RVCM as low as possible without sheering the product resin by overly stripping in order to comply with the existing NESHAP. This is MACT for this source cateogry, and it is the performance level necessary to control RVCM to a maximum degree while also keeping enough flexibility in the rule to allow for the production of the wide range of resins being manufactured at these facilities.

The most recent data show that, even among facilities with the lowest RVCM

numbers, facilities still have episodes of nearly 400 ppm as a daily average at normal operations. The part 61 NESHAP have daily not to exceed limits for RVCM of 400 ppm (2,000 ppm for dispersion, non-latex resins). From this, we conclude that the part 61 NESHAP still best represent the MACT floor for this source category.

We also reconsidered other HAP besides vinyl chloride monomer (VCM) in the process, but have not found a floor for control that exists beyond the part 61 NESHAP. Currently, all HAP in this source category exist as feed stock to the polymerization process or solvents used for cleaning process equipment. Outside of the RVCM limits in the product and equipment leak definition, the driving factor in this source category for level of HAP control nationwide is the part 61 NESHAP limit on VCM. This limit requires that VCM emissions must be less than 10 ppm before equipment can be opened or the process can be vented to the atmosphere. The process equipment centers around a reactor where the VCM is polymerized. This reactor and associated equipment remain closed, unless there is a reason to open them, and unspent VCM feed stock is either recovered and returned to the process or incinerated following the batch process. Likewise, other HAP present in the reactor either remain in the product after stripping or get stripped out and are either sent back to the process or incinerated. The floor level of control currently applied is driven by the presence of VCM, so by using VCM as a surrogate for all HAP from the reactor, we are controlling at the existing MACT floor.

Arguably, there are outside activities which may introduce HAP mechanically to the PVC and copolymer resins following their manufacture in the reactor and before they leave the plant location. We consider these later material introductions or milling to be outside the source category description provided in the 1992 source category document to support the listing notice. The PVC and copolymer reactor process is a chemical manufacturing process in which the PVC and copolymer resins are created chemically from feed stocks. This is distinctly different than the mechanical mixing or milling of these resins with other materials, which sometimes follows PVC and copolymer manufacturing processes at a facility. We simply considered these follow-on operations to be outside the scope of PVC and copolymer manufacturing process equipment since they are separate mechanical operations that follow the chemical reaction, recovery and emissions control steps of the resin manufacturing process. This is also consistent with the part 61 NESHAP which makes this distinction by defining applicable process equipment as being in vinyl chloride service.

Regarding the standards for equipment leaks, however, we agree with commenters' observations that "HON-like" requirements are practiced by one newly constructed source. Those requirements represent the most technologically advanced LDAR for this category. And, while this does not pose a floor for existing sources, we believe this does reflect MACT for new sources. We believe that new sources should be constructed with the latest technology in mind, and that these requirements would pose no new burdens, since, while the "HON-like" requirements are more comprehensive, they are also more flexible in allowing monitoring to be relaxed where not warranted. For this reason, we also see the "HON-like" LDAR requirements as a fitting alternative for existing sources, if they elect to use them. Hence, we have added language to the final rule that requires new sources to comply with the LDAR requirements in 40 CFR part 63, subpart UU, National Emission Standards for Equipment Leaks—Control Level 2 Standards, and allows existing sources to use these requirements as an alternative to the requirements in 40 CFR part 61, subpart V, Nation Emission Standard for Equipment Leaks (Fugitive Emission Sources). New sources that meet, or existing sources opting to meet, all the requirements of 40 CFR part 63, subpart UU, to comply with MACT are henceforth not required to meet any of the requirements in 40 CFR part 61, subpart V, since both of these subparts address the same emissions types and complying with both sets of requirements would be redundant. For consistency, the compliance schedule set forth in 40 CFR part 61, subpart F, will continue to apply for new and existing sources as the referencing subpart, regardless of whether a source is meeting the requirements of 40 CFR part 61, subpart V, or part 63, subpart UU, to comply with MACT LDAR.

C. Clarifications

After considering comments on using a table to specify which of the general provisions apply, we decided to keep the general provisions paragraphs unchanged from what was proposed. As written, these paragraphs make up only a few lines of rule text. And, although a table might make this rule appear more consistent with other MACT rules, a table here could add complexity to what is now very simple text.

Commenters also expressed concerns over massive re-certification requirements or duplication of reports and records for sources already complying with the part 61 NESHAP that might be implied by the promulgation of the part 63 NESHAP unless otherwise clarified. Although we added no new language to the rule to clarify this, we want to clarify that the part 63 NESHAP do not require sources that are already in compliance with the part 61 NESHAP to re-certify their compliance status or create duplicate records or reports to demonstrate compliance with the part 63 NESHAP.

III. How Did We Respond to Significant Comments?

This section presents a summary of our responses to significant public comments received on the proposed rule. A comprehensive summary of public comments and responses can be found in the document entitled "Public Comments and EPA Responses to the Proposed NESHAP for Polyvinyl Chloride and Copolymers Production" (Docket No. A–99–40).

A. Rule Applicability

Comment: One commenter requested that we consider adding a provision to exclude facilities from the applicability that manufacture polyvinyl chloride and related copolymers for R&D purposes only.

Response: Although we believe that we sufficiently addressed this in 40 CFR 63.212(c) of the proposal by referencing the exclusion for R&D facilities in 40 CFR 61.60(b), we agree that a simpler exclusion in the final rule would be more clear and consistent with other MACT standards. So, we have added this exclusion language in the rule in the place of the former reference to 40 CFR 61.60(b).

Comment: Several commenters asked that we define the intended scope of the source definition, specifically as to whether the rule would affect activities and equipment that were not in vinyl chloride service as defined in 40 CFR 61.61(l). These commenters requested that we specifically state in the rule that the source includes all activities and equipment in vinyl chloride service, to be consistent with the part 61 NESHAP, if that is what we intended.

Response: Although we believe that we sufficiently addressed this by making a broad reference to the definitions in the part 61 NESHAP, we agree that a more specific phrase in the definition of source would be helpful. So, we have added language to the source definition in 40 CFR 63.212(b) to clarify that the affected activities and

equipment are those that are in vinyl chloride service.

B. MACT Floor Determination

Comment: Many comments we received endorsed the proposed MACT floor determination and resulting levels of stringency. However, two commenters challenged our floor approach and questioned whether we considered all available data. These two commenters specifically pointed to lower quarterly RVCM averages consistently achieved by some facilities, the use of "HON-like" LDAR at one newly constructed facility, and challenged our not identifying a best-performing five facilities in the category on which to base MACT.

Response: We actually had considered much of these data and the lower RVCM numbers at proposal, and for the same reasons we set out in the proposal, we believe that the proposed determination is sound. We did, however, gather additional information to further study the relationships between the RVCM numbers and stripper performance across the industry. In responding to comments, our general approach was to see if additional information could support a decision to either lower the existing daily RVCM limits, or enhance these limits with additional quarterly limits as a way to effectively reduce HAP emissions. We reviewed a sampling of compliance reports which sources had submitted to State authorities in Delaware, Louisiana and Texas between May 1998 and February 2001 which portrayed the general description of the resins being produced with both the daily and quarterly RVCM performance of each facility. We also studied further the effects of resin characteristics on stripping technology performance.

We found that the stripping of RVCM from the product is most tied to the characteristics of the product being manufactured, more specifically the size, porosity, hardness and stability of the product particles. Smaller, less porous, and harder or less stable particles are more difficult to strip than larger and more porous particles, making each grade of resin somewhat unique in stripping capabilities. This makes the stringency less dependent upon the stripping technology and more dependent on product and process knowledge. As we looked closer into the relative performance of stripping different resin grades, we found that the facilities were consistently stripping the respective resins to the best of their abilities. Specifically, we found that the manufacturers of primarily suspension pipe grade resins consistently had lower quarterly RVCM numbers, around 10 ppm or lower, because these resins are the easiest to strip, being comprised of larger size, more porous and stable particles. Conversely, the manufacturers of primarily copolymer and blend resins consistently had higher quarterly numbers, around 250 ppm and lower, since these resins do not strip out of the resin characteristics as easily. With this knowledge, we considered introducing quarterly average limits (in addition to the daily RVCM limits required by the existing NESHAP) based upon the type of resin being manufactured at a particular facility, but decided that this is not realistic for two reasons. First, even the facilities which primarily produce the suspension pipe grade occasionally produce other resins. And, since these RVCM limits would be averaged across the facility, setting these quarterly limits could directly impact their ability to produce certain grades of resin and still comply with the MACT standards. Second, based on what we found in the existing quarterly reports, we realized that to codify best stripping performance as a step function of each resin type's design characteristics would simply mirror the level of performance that the industry is already achieving under the part 61 NESHAP. In practice, this codification would require additional reporting and recordkeeping with no commensurate reduction in HAP emissions.

As for identifying the best-performing five facilities, the commenters related performance of the strippers directly to low quarterly RVCM numbers. If you only consider the data from one or two States, low RVCM numbers may appear to be a direct performance indicator due to a narrower representation of resin manufacturing. But, we considered the industry as a whole, on a national scale, taking into account resins that are not manufactured in all States and recognizing that the same technology was being applied across the category. Arguably, since performance is relative to resin characteristics, some of the better performers might actually be manufacturers of resins that are more difficult to strip, even though their RVCM daily averages are higher than others. From what we could determine from the data available, the manufacturers of those resins are applying the technology to the maximum degree for each of the respective resins that they produce in order to avoid compliance violations under the part 61 NESHAP. The resulting variability in RVCM numbers averaged daily is a function of the resin characteristics and not a reasonable measure of stripper performance, unless you are only making one type of resin. Each of the facilities we reviewed produces multiple types of resins, each with unique characteristics and all employ stripper technology.

In regard to the standards for LDAR, however, we agree with the commenters' observations that "HON-like" requirements are practiced by one newly constructed source, and that these requirements represent the most technologically advanced LDAR for this category. We believe this reflects MACT for new sources and believe that new sources should be constructed with the latest technology in mind. We also see the "HON-like" LDAR requirements as a fitting alternative for existing sources, if they elect to use it.

Comment: Two commenters contended that we overlooked the control of some HAP related to PVC and copolymers production in the proposal.

Response: Although we considered other HAP besides VCM at proposal, we gathered more information to see if there were HAP in the process that were better controlled than what the part 61 NESHAP required. This also raised a clarity question about what was included in the process, similar to the comments we received asking us to clarify whether or not we intended to only include activities and equipment in vinyl chloride service. For activities and equipment that are in vinyl chloride service, we reconsidered the HAP in the process. We concluded that there were no more stringent control requirements than those of the part 61 NESHAP. We considered HAP that are introduced by activities and equipment that were not in vinyl chloride service to be outside the scope of the PVC and copolymers source category, consistent with the way we have distinguished between process units in other MACT standards and consistent with the part 61 NESHAP.

C. Recordkeeping and Reporting

Comment: While commenters generally agreed with us that the compliance date for existing sources could become immediately effective upon publication, if having the same requirements as the part 61 NESHAP, several commenters expressed concern over whether publication of the part 63 rule would trigger new testing and re-certification requirements, and duplication of records and reports in absence of other guidance. Their comments also expressed concern over the need for additional lead time if such testing, re-certification and reports and records would be necessary for demonstrating compliance.

Response: It is not our intent to create new testing, re-certification, reports and recordkeeping burdens for sources that have already demonstrated sustained compliance with the part 61 NESHAP. Although we have not added specific language to the part 63 rule in this regard, we expect that any documentation necessary for demonstrating compliance with the part 61 NESHAP would be satisfactory for demonstrating compliance with the part 63 rule.

VI. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a "significant regulatory action" because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. 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." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the NESHAP. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless EPA consults with State and local officials early in the process of developing the NESHAP.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and EPA's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, it must include a certification from EPA's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. 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 rule does not have tribal implications, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to the rule.

D. 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 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 that EPA considered.

The 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 rule is not subject to Executive Order 13045 because it is based solely on technology performance. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, this rule has been determined not to be "economically significant" as defined under Executive Order 12866.

E. 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 final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in aggregate, or by 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's regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The 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 1 year. There are no cost burdens introduced by today's rule. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, 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. Therefore, today's rule is not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1966 (SBREFA), 5 U.S.C. 601 et seq.

The 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 whose parent company has fewer than 750 employees; (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.

Pursuant to the provisions of 5 U.S.C. 605(b), we have determined that the final rule will not have a significant economic impact on a substantial number of small entities. We have determined, following discussions with State and industry representatives, that the scope of today's rule includes no small entities as defined above. 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.

G. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in 40 CFR part 61, subpart F (Vinyl Chloride NESHAP) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control No. 2060–0071. An Information Collection Request (ICR) document was prepared by EPA (ICR No. 186.08), and a copy may be obtained from Susan Auby by mail at Office of Environmental Information, Collection Strategies Division (2822T), U.S. EPA, 1200 Pennsylvania Avenue NW, Washington, DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 566–1672. You may also download a copy off the Internet at *http://www.epa.gov/icr*.

Today's NESHAP (*i.e.*, 40 CFR part 63, subpart J) require that PVC and copolymers production facilities continue to comply with 40 CFR part 61, subpart F. In addition, new sources must comply with 40 CFR part 63, subpart UU, instead of 40 CFR part 61, subpart V, for LDAR. Although more comprehensive, 40 CFR part 63, subpart UU, is also more flexible and for new sources would be no more burdensome, and perhaps less burdensome, than 40 CFR part 61, subpart V, which are the standards to which the existing sources must currently comply. Therefore, today's NESHAP add no additional information collection burden. Consequently, no ICR has been prepared for today's NESHAP.

H. National Technology Transfer and Advancement Act of 1995

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 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) 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.

Since this final rule does not include any new technical standards requirements, EPA is not adopting any voluntary consensus standards in this action.

Under § 63.7(f) of 40 CFR part 63 subpart A of the General Provisions, a source may apply to EPA for permission to use alternative test methods in place of any existing EPA testing method requirements.

I. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the 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 United States. The 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 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) and, therefore, will be effective on July 10, 2002.

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

The rule 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 it is not a significant regulatory action under Executive Order 12866.

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: July 3, 2002.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63 of

the Code of the 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.*

2. Part 63 is amended by adding subpart J to read as follows:

Subpart J—National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production

What This Subpart Covers

Sec.
63.210 What is the purpose of this subpart?
63.211 Am I subject to this subpart?
63.212 What parts of my facility does this subpart cover?
63.213 When do I have to comply with this subpart?

Standards and Compliance Requirements

63.214 What are the requirements I must comply with?

Other Requirements and Information

63.215 What General Provisions apply to me?
63.216 Who administers this subpart?
63.217 What definitions apply to this subpart?

Subpart J—National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production

What This Subpart Covers

§ 63.210 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for polyvinyl chloride (PVC) and copolymers production.

§ 63.211 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a PVC plant, as defined in 40 CFR 61.61(c) of this chapter, that is a major source of hazardous air pollutants (HAP) emissions or that is located at, or is part of, a major source of HAP emissions.

(b) You are a major source of HAP emissions if you own or operate a plant site that emits or has the potential to emit any single 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.

§ 63.212 What parts of my facility does this subpart cover?

(a) This subpart applies to each new or existing affected source at PVC and copolymers production operations.

(b) The affected source subject to this subpart is the collection of all equipment and activities in vinyl chloride service necessary to produce PVC and copolymers. This subpart applies to the PVC and copolymers production operations that meet the applicability criteria at 40 CFR 61.60(a)(3) of this chapter.

(c) An affected source is a new affected source if you commenced construction or reconstruction of the affected source after July 10, 2002.

(d) An affected source is existing if it is not new.

(e) This subpart does not apply to research and development facilities, as defined in section 112(c)(7) of the Clean Air Act.

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

(a) If you have a new affected source, you must comply with this subpart according to paragraphs (a)(1) and (2) of this section:

(1) If you startup your affected source before July 10, 2002, then you must comply with the standards in this subpart no later than July 10, 2002.

(2) If you startup your affected source after July 10, 2002, then you must comply with the standards in this subpart upon startup of your affected source.

(b) If you have an existing affected source, you must be in compliance with the standards in this subpart by July 10, 2002.

(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 and an affected source subject to this subpart, paragraphs (c)(1) and (2) of this section apply.

(1) An area source that meets the criteria of a new affected source as specified at § 63.212(d) must be in compliance with this subpart upon becoming a major source.

(2) An area source that meets the criteria of an existing affected source as specified at § 63.212(e) must be in compliance with this subpart upon becoming a major source.

Standards and Compliance Requirements

§ 63.214 What are the requirements I must comply with?

(a) You must meet all the requirements in 40 CFR part 61, subpart F of this chapter, as they pertain to processes that manufacture polymerized vinyl chloride, except as specified in paragraphs (a)(1) and (2) of this section. These requirements include the emission standards and compliance, testing, monitoring, notification, recordkeeping, and reporting requirements.

(1) Where 40 CFR part 61, subpart F, references 40 CFR part 61, subpart V, a new source must comply with the provisions of 40 CFR part 63, subpart UU, instead of the provisions of 40 CFR part 61, subpart V.

(2) Where 40 CFR part 61, subpart F, references 40 CFR part 61, subpart V, an existing source must comply with either the provisions of 40 CFR part 63, subpart UU, or the provisions of 40 CFR part 61, subpart V.

(b) Sources that comply with all of the provisions of 40 CFR part 63, subpart UU, are not required to meet any of the provisions of 40 CFR part 61, subpart V.

Other Requirements and Information

§ 63.215 What General Provisions apply to me?

(a) All the provisions in 40 CFR part 61, subpart A of this chapter, apply to this subpart.

(b) The provisions in subpart A of this part also apply to this subpart as specified in (b)(1) through (3) of this section.

(1) The general applicability provisions in § 63.1(a)(1) through (8) and (13) through (14).

(2) The specific applicability provisions in § 63.1(b) through (e) except for the reference to § 63.10 for recordkeeping procedures.

(3) The construction and reconstruction provisions in § 63.5 except for the references to § 63.6 for compliance procedures and the references to § 63.9 for notification procedures.

§ 63.216 Who administers this subpart?

(a) This subpart can be administered by us, the EPA, or a delegated authority such as your State, local, or tribal agency. If the EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency has the primary authority to administer and enforce this subpart. You should contact your EPA Regional Office to find out if the authority to implement and enforce this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraphs (b)(1) through (5) of this section are retained by the Administrator of EPA and are not transferred to the State, local, or tribal agency.

(1) Approval of alternatives to the non-opacity emissions standards in §§ 63.211, 63.212 and 63.214 under 40 CFR 61.12(d) of this chapter. Where these standards reference another subpart, the cited provisions will be

delegated according to the delegation provisions of the referenced subpart.

(2) [Reserved]

(3) Approval of major alternatives to test methods under 40 CFR 61.13(h) of this chapter and as defined in § 63.90.

(4) Approval of major alternatives to monitoring under 40 CFR 61.14(g) of this chapter and as defined in § 63.90.

(5) Approval of major alternatives to recordkeeping and reporting under 40 CFR 61.10 of this chapter and as defined in § 63.90.

§ 63.217 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act; 40 CFR 61.02 of this chapter, the NESHAP General Provisions; 40 CFR 61.61 of this chapter, the Vinyl Chloride NESHAP; and, § 63.2, in regard to terms used in §§ 63.1 and 63.5.

[FR Doc. 02–17361 Filed 7–9–02; 8:45 am]

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Part II

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology; Final Rules and Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7215–7]

RIN 2060–AH68

National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: This action promulgates amendments to the "generic" maximum achievable control technology (MACT) standards to add national emission standards for hazardous air pollutants (NESHAP) for four additional source categories: Cyanide Chemicals Manufacturing, Carbon Black Production, Ethylene Production, and Spandex Production. The generic MACT standards provide a structural framework that allows source categories with similar emission types and MACT control requirements to be covered under one subpart, thus promoting regulatory consistency in NESHAP development. The EPA has identified these four source categories as major sources of hazardous air pollutants (HAP), including cyanide compounds, acrylonitrile, acetonitrile, carbonyl sulfide, carbon disulfide, benzene, 1,3 butadiene, toluene, and 2,4 toluene diisocyanate (TDI). Benzene is a known human carcinogen, and 1,3 butadiene is considered to be a probable human carcinogen. The other pollutants can cause noncancer health effects in humans. These standards will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of MACT. This action also promulgates NESHAP for the heat exchange systems and wastewater operations at ethylene manufacturing facilities.

EFFECTIVE DATE: July 12, 2002.

ADDRESSES: Docket No. A–97–17 contains supporting information used in developing the generic MACT standards. Dockets established for each of the source categories to be assimilated under the generic MACT standards with this action include: Cyanide Chemicals Manufacturing (Docket No. A–2000–14), Carbon Black Production (Docket No. A–98–10), Ethylene Production (Docket No. A–98–22), and Spandex Production (Docket No. A–98–25). These dockets include source-category-specific supporting information. All dockets are located at the U.S. EPA, Air and Radiation Docket and Information Center, Waterside Mall, Room M–1500, Ground Floor, 401 M Street SW, Washington, DC 20460, and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For further information concerning applicability and rule determinations, contact the appropriate State or local agency representative. If no State or local representative is available, contact the EPA Regional Office staff listed in 40 CFR 63.13. For information concerning the analyses performed in developing the NESHAP, contact the following at the Emission Standards Division, U.S. EPA, Research Triangle Park, North Carolina 27711:

Information type	Contact (mailcode)	Group	Phone/facsimile/ e-mail address
General	Mark Morris (C50404)	Organic Chemicals Group.	(919) 541–5416/(919) 541–3470/morris.mark@epa.gov
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Spandex Production	Elaine Manning (C43903).	Waste and Chemical Processes Group.	(919) 541–5499/(919) 541–3470/manning.elaine@epa.gov

SUPPLEMENTARY INFORMATION: *Docket.* The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (*See* section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

Public Comments. The NESHAP for the four source categories mentioned above were proposed on December 6, 2000 (65 FR 76408). The comment letters received on the proposal are available in Docket No. A–97–17 or the dockets established for the four source categories (*see* **ADRESSESS**), along with a summary of the comment letters and EPA's responses to the comments. In response to the public comments, EPA adjusted the final NESHAP where appropriate.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's final NESHAP will also be available on the WWW through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the NESHAP will be posted on the TTN's policy and guidance page for newly proposed or final rules at *http://www.epa.gov/ttn/oarpg/t3pfpr.html.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

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

Category	NAICS code	SIC code	Examples of regulated entities
Industrial	325188, 325199	2819, 2869	Producers and coproducers of hydrogen cyanide and sodium cyanide.
	325182	2895	Producers of carbon black by thermal-oxidative decomposition in a closed system, thermal decomposition in a cyclic process, or thermal decomposition in a continuous process.
	325110	2869	Producers of ethylene from refined petroleum or liquid hydrocarbons.
	325222	2824	Producers of spandex.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. Not all facilities classified under the NAICS or SIC codes are affected. Other types of entities not listed could be affected. To determine whether your facility is regulated by this action, you should examine the applicability criteria in § 63.1104 of the final NESHAP. 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.

Judicial Review: The NESHAP were proposed on December 6, 2000 (65 FR 76408). This action announces EPA's final decisions on the NESHAP. Under section 307(b)(1) of the CAA, judicial review of the final NESHAP is available by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by September 10, 2002. Only those objections to the NESHAP which were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2) of the CAA, the requirements that are the subject of today's final NESHAP may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

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

I. Introduction
A. What Is the Purpose of the NESHAP?
B. What is the source of authority for development of NESHAP?
C. What criteria are used in the development of NESHAP?
D. Why is the EPA including today's standards in the generic MACT standards?
II. Summary of Major Comments and Changes Since Proposal to 40 CFR Part 63, Subpart YY and the Referenced Subparts
III. Cyanide Chemicals Manufacturing
A. Summary of Environmental, Energy, Cost, and Economic Impacts
B. Summary of Major Comments and Changes Since Proposal
IV. Carbon Black Production
A. Summary of Environmental, Energy, Cost, and Economic Impacts
B. Summary of Major Comments and Changes Since Proposal
C. New Source Review/Prevention of Significant Deterioration Applicability
V. Ethylene Production
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B. Summary of Major Comments and Changes Since Proposal
VI. Spandex Production
A. Summary of Environmental, Energy, Cost and Economic Impacts
B. Summary of Major Comments and Changes Since Proposal
VII. Administrative Requirements
A. Executive Order 12866, Regulatory Planning and Review
B. Executive Order 13132, Federalism
C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
E. Unfunded Mandates Reform Act of 1995
F. Regulatory Flexibility Act (RFA) as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601, *et seq.*
G. Paperwork Reduction Act
H. National Technology Transfer and Advancement Act
I. Congressional Review Act
J. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

I. Introduction

A. What Is the Purpose of the NESHAP?

The purpose of the final NESHAP is to protect the public health by reducing emissions of HAP from facilities in four source categories: Cyanide Chemicals Manufacturing, Carbon Black Production, Ethylene Production, and Spandex Production.

B. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. The four categories of major sources for which NESHAP are being established by today's action were listed on the following dates: Cyanide Chemicals Manufacturing, July 16, 1992 (57 FR 31576) and February 12, 1998 (63 FR 6291); Carbon Black Production, June 4, 1996 (61 FR 28197); Ethylene Production, June 4, 1996 (61 FR 28197); and Spandex Production, July 16, 1992 (57 FR 31576). Major sources of HAP are those that have the potential to emit greater than 10 tons per year (tpy) of any one HAP or 25 tpy of any combination of HAP.

C. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost of achieving the emissions reductions, any health and

environmental impacts, and energy requirements.

D. Why Is the EPA Including Today's Standards in the Generic MACT Standards?

We are including NESHAP for the Cyanide Chemicals Manufacturing, Carbon Black Production, Ethylene Production, and Spandex Production source categories under the generic MACT standards to reduce the regulatory burden associated with the development of separate rulemakings. An owner or operator should consult the generic MACT standards for information on applicability of the standards to their source, compliance schedules, and standards. The generic MACT standards generally refer the owner or operator to other subparts for requirements necessary to demonstrate compliance.

We are including the NESHAP for the Cyanide Chemicals Manufacturing, Carbon Black Production, Ethylene Production, and Spandex Production source categories in the generic MACT standards to simplify the rulemaking process, to minimize the potential for duplicative or conflicting requirements, to conserve limited resources, and to ensure consistency of the air emissions requirements applied to similar emission points. We believe that the generic MACT regulatory framework is appropriate for these source categories because it allows us to incorporate specific applicability and control requirements that reflect our decisions on these source categories while also utilizing generic requirements previously established for similar emission sources that we have determined are also applicable here.

II. Summary of Major Comments and Changes Since Proposal to 40 CFR Part 63, Subpart YY and the Referenced Subparts

The major comments received regard the performance specifications for continuous parameter monitoring systems (CPMS) that were proposed as an amendment to the referenced 40 CFR part 63, subpart SS. Other comments received on subpart YY and the referenced subparts and the responses to those comments are in Docket No. A–97–17.

Several commenters stated that the proposed performance specifications for CPMS would be costly and would not provide an environmental benefit. We proposed performance specifications for CPMS to ensure that such systems are installed, calibrated, and operated in a manner that would yield accurate and reliable information regarding the performance of closed vent systems and control devices. Subpart SS currently states that "all monitoring equipment shall be installed, calibrated, maintained, and operated according to manufacturer's specifications or other written procedures that provide adequate assurance that the equipment would reasonably be expected to monitor accurately." Therefore, owners and operators are already required by subpart SS to follow written performance specifications, but not necessarily the ones that we proposed in the amendments.

We have decided not to include the performance specifications for CPMS in the final subpart SS for two reasons. First, the number and complexity of the comments would not allow for the expeditious promulgation of the standards for the four source categories we are including under subpart YY. Second, we are currently developing performance specifications for CPMS to be followed by owners and operators of all sources subject to standards under 40 CFR part 63.

Since owners and operators subject to subpart SS are currently required to follow specifications for CPMS, even though they may not be as specific as those we proposed, we have decided to wait for the rulemaking that will propose performance specifications for all of 40 CFR part 63. We decided it would be premature to promulgate performance specifications for subpart SS when the performance specifications that would ultimately be promulgated for all of 40 CFR part 63 may be significantly different as a result of possible public comments received on that rulemaking.

III. Cyanide Chemicals Manufacturing

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

1. What Are the Air Quality Impacts?

Nationwide baseline HAP emissions are estimated to be 238 megagrams per year (Mg/yr) (263 tpy). The final standards will reduce HAP emissions by approximately 106 Mg/yr (117 tpy). This is a 45 percent HAP emission reduction from the baseline level for this source category and a 58 percent reduction for those facilities required to install controls to comply with the final standards.

We also estimate that the final standards will reduce emissions of volatile organic compounds (VOC) by 102 Mg/yr (113 tpy). We estimate that the final standards will result in an increase in sulfur oxides (SO_X) emissions of 7.3 Mg/yr (8 tpy), an increase in nitrogen oxides (NO_X) emissions of 10.3 Mg/yr (11.4 tpy), an increase in carbon monoxide (CO) emissions of 42.1 Mg/yr (46.4 tpy), and an increase in particulate matter (PM) emissions of 0.3 Mg/yr (0.3 tpy). Increases in emissions would result from on-site combustion of fossil fuels and emission streams because of control device operations.

2. What Are the Non-Air Health, Environmental, and Energy Impacts?

We believe that there will not be significant adverse non-air health, environmental or energy impacts associated with the final standards. This is supported by impacts analyses associated with the application of the control and recovery devices required under the final standards. We determine impacts relative to the baseline that is set at the level of control in absence of the rule.

Control of equipment leaks is expected to reduce the amount of HAP-containing material that would be discharged to a facility's wastewater treatment stream through equipment washdown or from stormwater runoff.

The use of a scrubber for HAP control of emissions from vents will create HAP-containing effluent. It is anticipated that any wastewater stream created from the use of a scrubber would be treated at a facility's wastewater treatment system with other waste streams.

There are minimal solid or hazardous waste impacts expected as a result of the final standards. A small amount of solid waste may result from replacement of equipment such as seals, packing, rupture disks, and other equipment components, such as pumps and valves. A minimum amount of solid or hazardous waste could also be generated from the use of steam strippers to control wastewater emissions. The possible sources generated include organic compounds recovered in the steam stripper overhead condenser or solids removed during feed pretreatment.

The energy demands associated with the final standards will result from the use of additional electricity, natural gas, and fuel oil to run control equipment. The storage tank, transfer operations, equipment leak, and wastewater controls are not expected to require any additional energy. The total nationwide energy demand that would result from implementing the process vent controls is approximately 3.1×10^{14} Joules per year.

3. What Are the Cost and Economic Impacts?

The total estimated capital cost of the final standards is $939,000. The total estimated annual cost of the final standards is $2.4 million. These costs represent fourth quarter 1998 dollars.

We prepared an economic impact analysis to evaluate the impacts that the final standards would have on the cyanide manufacturing market, consumers, and society. The total annualized social cost (in 1998 dollars) of the final standards on the industry is $2.4 million, which is much less than 0.001 percent of total baseline revenue for the affected sources. A screening analysis indicates that no individual firm affected by the final standards for the cyanide chemicals manufacturing source category would experience costs in excess of 0.001 percent of sales. For this reason, we believe that the impact of the final standards will be minimal. No cyanide chemicals manufacturing facility closures are expected.

B. Summary of Major Comments and Changes Since Proposal

In response to comments received on the proposed standards, we made several changes to the final standards, as well as some clarifications designed to make our intentions clearer. The substantive comments and/or changes and responses made since the proposal are summarized in the following paragraphs. Our complete responses to public comments are contained in a memorandum that can be obtained from the docket (see **ADDRESSES** section).

1. Applicability of the Rule

Some commenters expressed that there was potential for confusion regarding the applicability of the rule. One commenter requested that we specifically exempt downstream equipment from the cyanide chemicals manufacturing NESHAP if the equipment is subject to another NESHAP.

Another commenter expressed that confusion regarding the overlapping requirements affecting the same equipment could be reduced if refined hydrogen cyanide (HCN) "burned on-site as a fuel in a boiler or industrial furnace" was excluded as part of the HCN process. The commenter explained that some producers that generate HCN as a byproduct of acrylonitrile manufacture opt to burn the byproduct HCN on-site as a fuel in boilers and/or industrial furnaces where its end use is regulated under other standards.

One commenter requested that we clarify and restrict the applicability of the rule by revising the definition of "CCMPU" as follows:

Cyanide chemicals manufacturing process unit or CCMPU means the equipment assembled and connected by hard-piping or duct work to process raw materials to manufacture, store, and transport a cyanide chemicals product. A cyanide chemicals manufacturing process unit shall be limited to any one of the following: an Andrussow process unit, a BMA process unit, a sodium cyanide process unit, or a Sohio hydrogen cyanide process unit * * *.

The commenter explained that, as proposed, the definition of CCMPU could include a chemical manufacturing process unit that creates HCN or sodium cyanide as an incidental or unintended byproduct that could be considered an affected source subject to the cyanide chemicals manufacturing requirements. The commenter stated that this clarification could also be fulfilled by modifying the definition for "cyanide chemicals product," as follows:

Cyanide chemicals product means either hydrogen cyanide or sodium cyanide which is manufactured as the intended product of a CCMPU or a byproduct of the Sohio process. Other hydrogen cyanide or sodium cyanide byproducts, impurities, wastes and trace contaminants are not considered to be cyanide chemicals products.

Based on comments received, we made a few changes to the final standards. To avoid overlapping requirements applying to downstream boilers and/or industrial furnaces, we excluded HCN vent streams used for fuel value in boilers and/or industrial furnaces from HCN chemical manufacturing processes. Exclusion of these boilers and industrial furnaces that use vented emissions for fuel value from the requirements of the cyanide chemicals manufacturing process control requirements is consistent with what is done in other MACT standards.

We also made the commenter's suggested amendments to the "CCMPU" and "cyanide chemicals product" definitions in the final standards. These amendments were made because the intent of the commenter's suggested amendments is consistent with our intent, and we believe that the amended definitions will reduce any potential confusion regarding the applicability of the rule.

2. Process Vent Standards

BMA/Andrussow process vent MACT control level. During our evaluation of comments received on the proposed process vent standards, we reevaluated the MACT level of control established for BMA/Andrussow process vents. Based on our reevaluation, we decided to remove from the MACT analyses HCN rich vent streams that are routed to a boiler or industrial furnace for use as fuel. We did this to be consistent with other NESHAP and because these vent streams are already regulated by other standards. Once we removed these streams and adjusted the floor based on new information received from industry, the MACT floor and MACT level of control was determined to reduce HAP emissions by 98 weight-percent (rather than by 99 weight-percent) or to a concentration level of 20 parts per million by volume (ppmv). Therefore, the final standards have been modified to require that you reduce HAP emissions from Andrussow/BMA process vents by 98 weight-percent (rather than by 99 weight-percent), or to a concentration level of 20 ppmv. Because the MACT level of control has been changed to 98 weight-percent, the final standards also allow you to comply with the requirements for Andrussow/BMA process vents by routing emissions to a flare.

Wet-end process vents. One commenter requested that the final standards clarify that cyanide chemical manufacturing wastewater collection systems and treatment equipment (tanks) containing discarded wastewater are not part of the process and are not subject to the process vent requirements. The commenter explained that weak HAP and cyanide bearing wastewater is sent to, and handled in, on-site wastewater collection and treatment systems and collected in sumps and pumped into tanks where the wastewater is either recycled to recover HCN, or treated in these tanks by hydrolysis and alkaline chlorination. The commenter stated that such vents should be clarified to be subject to the requirements specified for process and maintenance wastewater control requirements under 40 CFR 63.1106 (a) and (b).

Based on this comment, we evaluated the wet end of the sodium cyanide process unit regarding the clarity of the applicability of the wet-end process vent requirements versus the applicability of discarded process wastewater vent requirements. Based on the definitions for "wet-end process vent," "wastewater," and "process wastewater," applicability of requirements appeared to be clear. However, to avoid any potential applicability confusion, the final standards include an amended definition for "wet-end process vent" that specifically clarifies that discarded water that is no longer used in the production process is considered to be process wastewater and that vents from process and maintenance wastewater

operations are not wet-end process vents.

Annual emissions. One commenter stated that the MACT floor determination for Andrussow/BMA process vents was based on annual emissions and the proposed standards require compliance with the floor level of control based on a formula that calculates an overall HAP emission reduction based on hourly emission rates. The commenter requested that compliance be based on meeting the proposed weight-percent reduction on an annual basis to be consistent with the MACT floor. The commenter also requested that Item 2 of Table 9 be modified as follows:

a. Reduce the overall annual emission of total HAP from the collection of process vents from continuous unit operations in the process unit by 99 weight-percent in accordance with paragraph (g)(4) of this section.

We agree that the MACT floor for Andrussow/BMA process vents was based on annual emissions and, therefore, compliance with MACT should also be based on annual emissions. We have amended the final standards (Item 2 of Table 9 of § 63.1103(g)) as suggested by the commenter.

3. Unsafe-to-Monitor Equipment

Two commenters expressed safety concerns with the proposed leak detection and repair (LDAR) provisions. It was expressed that many of the lines in HCN service are intentionally placed in out-of-the-way locations to minimize risk in the event of a leak. One commenter requested that we either exempt "unsafe-to-monitor" equipment components from the LDAR program or stay implementation of these requirements to allow adequate opportunity to investigate safer methods than those proposed. The commenter explained that a large percentage of pipeline components in HCN service that would be subject to the proposed LDAR provisions are elevated and are not accessible during operation due to safety concerns. The commenter stated that facilities already have procedures in place to ensure that there are no leaks when equipment is in HCN service. Industry feedback indicates that HCN equipment is unsafe to monitor at all times that equipment is in operation.

Based on our evaluation of the comments received regarding safety concerns with the proposed LDAR provisions, we concur that there are some equipment components that may never be safe to monitor. Therefore, we have added language to the final standards specifying that you are allowed to designate "unsafe-to-monitor" equipment with your Notification of Compliance Status report. If it is demonstrated to the Administrator's satisfaction that designated equipment is never safe to monitor, you would not be required to monitor the designated equipment.

4. Hydrogen Fueled Flares

Destruction efficiency. One commenter expressed that a 99%+ destruction efficiency is supported for hydrogen flares based on data included in the EPA's "Basis for Hydrogen Flaring" report. The commenter stated that these data were based on test methods developed with the EPA and a special flare test-rig built for the experiment.

Another commenter requested that we add language to 40 CFR 63.1103(g)(4)(ii)(B) to allow an owner or operator of a cyanide manufacturing facility to include a flare control efficiency greater than 98% in the calculation of the overall HAP emission reduction, provided they can demonstrate a higher control efficiency based on technically relevant measurements that are of sufficient quality, considering data variability.

We agree with the commenters that an owner or operator of a cyanide manufacturing facility should be allowed to include a flare control efficiency greater than 98% in the calculation of their overall HAP emission reduction provided they can demonstrate a higher control efficiency for their flare. Therefore, the final standards allow an owner or operator to include a flare control efficiency greater than 98% in the calculation of their overall HAP emission reduction if they can demonstrate, to the Administrator's satisfaction, a greater control efficiency (40 CFR 63.1103(g)(4)(ii)(A)).

Flare compliance monitoring requirements. Several commenters recommended that a waiver from testing for all HCN flares be granted. Specifically, one commenter requested a waiver from testing of the net heating value using EPA Method 18, and two commenters requested that a waiver from testing the velocity, using EPA Method 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A, be granted (40 CFR 63.11(b)(6)(ii) and (7)(i), respectively). One commenter expressed that flow velocity testing using EPA Method 2, 2A, 2C, 2D, or 2G of 40 CFR part 60, appendix A, require the insertion of a probe into the waste gas stream which poses safety risks.

Based on comments received regarding it being unsafe to test HCN-rich vent streams to flares, and our evaluation of the comments, we have included provisions in the final standards that allow an owner or operator to submit engineering calculations and/or data to substantiate that flares meet applicable heat content and flow rates under worst case conditions (40 CFR 63.987(b)(3)(v) and (4)).

IV. Carbon Black Production

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

1. What Are the Air Quality Impacts?

We estimate that the final NESHAP will reduce HAP emissions by 1,830 Mg/yr (2,020 tpy). This is a 26 percent HAP emission reduction from the total baseline HAP emissions, and a 95 percent HAP emission reduction for those facilities required to install controls to meet the standards.

We estimate that the final NESHAP will reduce CO emissions by 474,000 Mg/yr (522,000 tpy); VOC by 16,900 Mg/yr (18,600 tpy); hydrogen sulfide by 10,300 Mg/yr (11,300 tpy); and PM by 740 Mg/yr (820 tpy). We estimate that the final NESHAP will increase SO_X emissions by 32,900 Mg/yr (36,200 tpy) as a result of on-site combustion of fossil fuels. However, the air quality benefits of the final NESHAP (i.e., reduction in HAP, CO, VOC, and hydrogen sulfide emissions) outweigh the negative impacts associated with the anticipated increases in emissions of SO_X and NO_X.

2. What Are the Cost and Economic Impacts?

The total estimated capital cost of the final NESHAP is $54.9 million. The total estimated annual cost of the final NESHAP is $11.2 million. These costs represent fourth quarter 1998 dollars.

We prepared an economic impact analysis to evaluate the impacts the final NESHAP will have on the industry, market, consumers, and society. The total annualized social cost (in 1997 dollars) of the final NESHAP to the industry is $11.2 million, which is less than 0.001 percent of total baseline revenue for the affected sources. A screening analysis suggests only one of the firms affected by the final NESHAP will experience costs in excess of 1 percent of sales, and no firm will experience costs in excess of 1.5 percent of sales. For this reason, we believe that the impact of the final NESHAP will be minimal. We expect no facility closures as a result of the final NESHAP.

3. What Are the Non-Air Health, Environmental, and Energy Impacts?

We believe that there will not be any significant adverse non-air health, environmental or energy impacts associated with the final NESHAP. This is supported by impacts analyses associated with the application of control and recovery devices required under the final NESHAP.

There are no water pollution or solid waste impacts expected from the use of air emission control devices as a result of the final NESHAP. An increase in energy consumption will result from the use of combustion control systems. We estimate that carbon black production facilities will consume an additional 186 million cubic feet of natural gas per year to meet the regulatory requirements of the final NESHAP. This represents an increase in total domestic natural gas consumption of less than 1/100th of one percent.

B. Summary of Major Comments and Changes Since Proposal

In response to comments received on the proposed standards for the Carbon Black Production source category, we made several changes to the final NESHAP. Only one substantive change was made based on comments received on the proposal. We have summarized the relevant comment/change made in the following paragraphs. Our complete responses to public comments are contained in a memorandum that can be obtained from the docket (see **ADDRESSES** section).

One commenter requested an exemption from the closed vent system initial and annual closed vent system inspection requirements. The commenter expressed that certain safety features are incorporated into their closed vent system operations to protect against overpressure in the case of catastrophic failure of their process filter systems. Concern was expressed that the proposed initial and annual closed vent system inspection requirements may defeat these safety measures because cost-effective technology to provide leak proof seals for the extreme operating temperature ranges that occur in the carbon black production process is not available. The commenter explained that the catastrophic loss of a bag filter due to gaseous build-up and failure can result in ignition of gases, fires, and explosions. In order to prevent the failure of the compartments, industry isolates the failed compartment from the process. Safety relief valves (e.g., weighted-lid systems) are designed into the system to relieve excess pressures, to prevent fires and explosions, and to prevent loss of compartments. The commenter explained that a typical pressure relief device used in carbon black production does not seal 100 percent, but that the process emits very small amounts of HAP, and single bag failure results in emissions that lead to opacity exceedances.

We evaluated the commenter's concerns and request for exemption from closed vent system inspection requirements for specified pressure relief devices used to protect against overpressure in the case of catastrophic failure of their process filter systems. Based on safety concerns and technology considerations, we have included provisions in the final NESHAP that exempt pressure relief devices that meet specified criteria (i.e., devices used to protect against overpressure in the case of catastrophic failure of the process filter system) from the closed vent system inspection requirements of 40 CFR 63.983(b) and (c). The final NESHAP require that exempted pressure relief devices meeting criteria specified in the NESHAP be identified in your Notification of Compliance Status report.

C. New Source Review/Prevention of Significant Deterioration Applicability

A question arose concerning the potential installation of cogeneration technology at carbon black plants which would recover waste heat and gas for use as a fuel input for power generation. This technology could potentially be used to meet the HAP control requirements of the NESHAP. However, cogeneration may result in NO_X emissions during normal operation. If NO_X emission increases are great enough, they may trigger the need for preconstruction permits under the nonattainment new source review (NSR) or prevention of significant deterioration (PSD) program. It is possible, however, that we could consider the application of cogeneration technology to be a pollution control project (PCP), as defined within the context of PSD and NSR, such that cogeneration facilities installed as a result of the NESHAP would qualify for an exemption from NSR/PSD.

In 1992, we adopted an explicit PCP exclusion for electric utility steam generating units (57 FR 32314). In a July 1, 1994, guidance memorandum, we provided guidance to permitting authorities on the approvability of PCP exclusions for source categories other than electric utilities. In that guidance (available at *http://www.epa.gov/rgytgrnj/programs/artd/air/nsr/nsrmemos/pcpguide.pdf*), we indicated that add-on controls and fuel switches to less polluting fuels may qualify for an exclusion from major NSR as a PCP. To be eligible to be excluded from otherwise applicable major NSR requirements, a PCP must, on balance, be "environmentally beneficial," and the permitting authority must ensure that the project will not cause or contribute to a violation of the national ambient air quality standards (NAAQS) or PSD increment, or adversely affect visibility or other air quality related values (AQRV) in a Class I area, and that offsetting reductions are secured in the case of a project which would result in a significant increase of a nonattainment pollutant. The permitting authority can make these determinations outside of the major NSR process. The 1994 guidance did not supercede existing NSR requirements, including approved State NSR programs, nor void or create an exclusion from any applicable minor source preconstruction review requirements in an approved State implementation plan (SIP). Any minor NSR permitting requirements in a SIP would continue to apply, regardless of any exclusion from major NSR that might be approved for a source under the PCP exclusion policy.

We believe that the current guidance on the PCP exclusion adequately provides for the possible exemption from major NSR for cogeneration technology resulting from the NESHAP. Permitting authorities should follow that guidance to the extent allowed under the applicable SIP in order to determine whether the installation of cogeneration technology in a given circumstance qualifies as a PCP. Projects that qualify for the exclusion would be covered under minor source regulations in the applicable SIP, and permitting authorities would be expected to provide adequate safeguards against NAAQS and increment violations and adverse impacts on AQRV in Federal Class I areas. Only in those areas where potential adverse impacts cannot be resolved through the minor NSR programs or other mechanisms would major NSR apply.

V. Ethylene Production

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

Environmental, energy, cost, and economic impacts were estimated for the proposed ethylene production NESHAP. No changes have been made to the provisions for process vents, storage vessels, transfer operations, or equipment leaks that would affect these estimates. The changes that were made

to the waste and heat exchange system requirements did not materially change the estimated impacts. The changes generally refined the NESHAP provisions and made them consistent with the basis of the original estimates; therefore, the impacts estimates have not been revised.

Specifically, the original estimates of impacts associated with heat exchange system requirements were estimated to be minimal because the proposed NESHAP would have required monthly monitoring which is already being performed by most facilities. As pointed out by several comments, most facilities are not testing at the inlet and outlet of each heat exchanger, as required in the proposed NESHAP, and such a requirement would result in increased compliance costs. However, this requirement has been removed from the NESHAP, making the requirements consistent with the basis of the original impacts assessment.

Although the requirements for waste have been significantly revised, they remain consistent with the basis for the original impacts assessment. The original assessment was based on the assumption that facilities with a total annual benzene (TAB) quantity less than 10 Mg/yr would have to add equipment to manage and treat waste streams. The revised waste requirements maintain this requirement. For facilities with a TAB quantity greater than 10 Mg/yr, the majority of comments regarding the impacts estimated for waste concerned the fact that costs were not included for facilities that will have to add equipment to manage and treat streams that were previously uncontrolled due to a compliance option. The revised NESHAP allow facilities to use the compliance options; therefore, it is not necessary to revise the impacts assessment.

The estimates of environmental, energy, cost, and economic impacts, which have not been revised, are presented in detail in the preamble for the proposed ethylene production NESHAP (65 FR 76433, December 6, 2000). In summary, it is estimated that the NESHAP will decrease HAP emissions by 60 percent or 992 Mg/yr (1,090 tpy) and VOC emissions by 64 percent or 9,271 Mg/yr (10,188 tpy). The annual cost (including amortized capital costs, operating and maintenance costs, and recovery credits) is estimated to range from $7,600 per year for facilities already managing and treating their waste according to the Benzene Waste Operations NESHAP to $1.3 million per year for facilities with a TAB quantity less than 10 Mg/yr that are not currently subject to the Benzene Waste Operations NESHAP requirements to manage and treat waste streams. No adverse economic impact is expected and no significant adverse non-air health, environmental, or energy impacts are expected to result from compliance with the ethylene production NESHAP.

B. Summary of Major Comments and Changes Since Proposal

Comments on the proposed NESHAP were received from ten different entities. A comprehensive summary of public comments can be found in the document entitled "National Emission Standards for Hazardous Air Pollutants—Ethylene Production, Background Information Document for Final Standards, Summary of Public Comments and Responses" (the ethylene production NESHAP BID). The BID contains summaries of all of the comments received with corresponding responses that describe all of the changes that have been made to the NESHAP.

The most significant comments concerned three emission types: waste, heat exchange systems, and equipment leaks. These comments also resulted in the most significant changes to the proposed NESHAP. The following sections summarize the comments received and changes that have been made regarding waste, heat exchange systems, and equipment leaks.

1. Waste Operations

Several commenters disagreed with the determination of MACT for waste for a variety of reasons. Generally, commenters argued that the MACT floor should be based on the Benzene Waste Operations NESHAP. As such, commenters viewed our proposed requirements as more stringent than the MACT floor, which they stated are not justified. Commenters mainly disagreed with the fact that the proposed waste requirements did not include the 1, 2, and 6 Mg/yr compliance options, the 10 Mg/yr TAB quantity applicability cut-off, and applicability and treatment requirements based on benzene. We considered each of the specific issues and came to the conclusions discussed in the following sections.

Compliance options. At proposal, we determined that the standard requirements of the Benzene Waste Operations NESHAP represented the MACT floor for both new and existing ethylene sources. The standard Benzene Waste Operations NESHAP requirements state that facilities with 10 Mg/yr or greater TAB quantity must control waste streams that have flow rates of at least 0.02 liters per minute (lpm), wastewater quantities of at least 10 Mg/yr, and benzene concentrations of at least 10 parts per million by weight (ppmw). In addition to the standard control requirements, the Benzene Waste Operations NESHAP includes three compliance options that allow a facility to chose which streams to manage and treat as long as certain conditions are met: either the TAB quantity for the untreated waste streams cannot exceed 2 Mg/yr, the facility TAB quantity for treated and untreated process wastewater streams is less than 1 Mg/yr, or the facility TAB quantity for all waste streams with at least 10 percent water content is less than 6 Mg/yr. These options are referred to as the 1, 2, and 6 Mg/yr compliance options. The waste or wastewater streams that can be exempted from management and treatment vary with the different compliance options. Details of these compliance options are specified in 40 CFR 61.342(c), (d), and (e) of the Benzene Waste Operations NESHAP.

Commenters disagreed with the fact that the compliance options were not included in the waste requirements for the proposed Ethylene Production NESHAP. Generally, the commenters argued that the compliance options have been found to be equivalent to the standard requirements of the Benzene Waste Operations NESHAP, through development of the Benzene Waste Operations NESHAP and the waste standards for the Petroleum Refineries NESHAP and, therefore, should be included. The commenters also noted that three of the five best performing facilities are using a compliance option.

Since proposal of the Ethylene Production NESHAP, we have obtained information on which facilities are using compliance options and what streams they are controlling. Our general finding is that, regardless of how a facility is complying with the Benzene Waste Operations NESHAP, facilities typically control continuous streams, and facilities tend not to control intermittent streams. Examples of streams that are typically not controlled are samples and maintenance waste (both during normal operations and turn-arounds). The fact that the same types of streams are typically being controlled, regardless of whether a facility is complying with the standard requirements or a compliance option, supports the finding that the 1, 2 and 6 Mg/yr compliance options are equivalent to the standard Benzene Waste Operations NESHAP requirements (and to each other) in the level of control achieved at ethylene production facilities. Therefore, we have determined that it is appropriate to include the 1, 2, and 6 Mg/yr

compliance options in the Ethylene Production NESHAP.

10 Mg/yr applicability cut-off. Under the proposed NESHAP, all ethylene production facilities that are major sources of HAP emissions, including those with a TAB quantity less than 10 Mg/yr, would have been required to comply with the waste management and treatment requirements. Facilities with a TAB quantity less than 10 Mg/yr are not currently required to comply with the management and treatment requirements of the Benzene Waste Operations NESHAP. Commenters argued that because the Benzene Waste Operations NESHAP represents the floor, the 10 Mg/yr applicability cut-off should be included in the Ethylene Production NESHAP. Commenters cited the Petroleum Refineries NESHAP as a precedent, noting that the Benzene Waste Operations NESHAP was determined to represent the MACT floor for waste control at petroleum refineries and the Petroleum Refineries NESHAP does not require control of waste at sources with a TAB quantity less than 10 Mg/yr.

Review of the practices in use at the five best performing ethylene production facilities (representing 12 percent of the industry) shows that four of the five are subject to and, therefore, are assumed to be complying with the management and treatment requirements of the Benzene Waste Operations NESHAP. Only one of the best performing facilities is not required to comply with the management and treatment requirements of the Benzene Waste Operations NESHAP because the TAB quantity for the facility is less than 10 Mg/yr. Exempting facilities with a TAB quantity less than 10 Mg/yr from management and treatment requirements would not reflect the level of control achieved by the average of the five best-performing facilities.

We have determined that the MACT floor for waste includes the management and treatment of waste streams from ethylene production, regardless of a facility's TAB quantity. However, using the Benzene Waste Operations NESHAP stream applicability requirements to determine which streams must be controlled at facilities with a TAB quantity less than 10 Mg/yr may not be appropriate. The 1, 2, and 6 Mg/yr compliance options are not appropriate because their use at a facility with a TAB quantity less than 10 Mg/yr could result in no waste streams being controlled. For example, the 6 Mg/yr option allows a facility to choose which streams to manage and treat as long as the TAB quantity for all streams is less than 6 Mg/yr. If the TAB quantity for the facility is already 6 Mg/yr or less, no streams would have to be managed and treated, which is not consistent with the MACT floor level of control. Requiring facilities to comply with the standard requirements of the Benzene Waste Operations NESHAP would also not be appropriate because it may require the facilities to treat intermittent streams which are generally not controlled by the best-performing facilities that form the basis of the MACT floor determination.

We have determined that the most appropriate way to require facilities with a TAB quantity less than 10 Mg/yr to achieve the level of control achieved by the best-performing facilities is to specify the streams that must be controlled. Data received since proposal indicate that the best performing ethylene facilities control two types of streams as part of their Benzene Waste Operations NESHAP compliance strategy: (1) Spent caustic streams (wastes from the caustic washing process to remove sulfur compounds and other contaminants from the process stream), and (2) dilution steam blowdown streams (condensed steam used to quench the cracked gas condensates). We have determined that it is appropriate to apply the flow rate and concentration control applicability cut-offs in the standard requirements of the Benzene Waste Operations NESHAP to these streams. The best-performing facilities are generally not controlling intermittent streams.

Based on this information, the Ethylene Production NESHAP have been revised to require that facilities with a TAB quantity less than 10 Mg/yr manage and treat, according to the requirements of the Benzene Waste Operations NESHAP, each spent caustic and dilution steam blowdown waste stream with a benzene concentration greater than or equal to 10 ppmw, a flow rate greater than or equal to 0.02 lpm, and an annual wastewater quantity greater than or equal to 10 Mg/yr. The control requirements for these streams apply at all times except during periods of startup, shutdown, and malfunction (SSM), if the SSM precludes the ability to comply and the facility follows the provisions of their SSM plan.

Benzene as a surrogate. One modification made to the Benzene Waste Operations NESHAP requirements for the proposed Ethylene Production NESHAP waste requirements was to base the requirements on total HAP rather than benzene. For example, in the standard requirements of the Benzene Waste Operations NESHAP, a stream containing less than 10 ppmw of benzene is not required to be managed and treated. Under the proposed Ethylene Production NESHAP, streams containing less than 10 ppmw total HAP would not have been required to be managed and treated. Similarly, the Benzene Waste Operations NESHAP require streams to be treated to reduce benzene to 10 ppmw or by 99 percent while the proposed Ethylene Production NESHAP would have required streams to be treated to reduce total HAP to 10 ppmw or by 99 percent.

Several commenters disagreed with EPA's decision to base applicability and treatment requirements on total HAP rather than benzene. Commenters argued that because they are currently treating wastes based on benzene concentration, the requirement to treat wastes based on total HAP concentration is an above-the-floor option. The commenters stated that existing treatment systems are not likely to be capable of treating to the more stringent standards based on total HAP. Commenters stated that although the additional costs would be significant, the additional emission reductions would be minimal because benzene is generally an appropriate surrogate for HAP, and little additional emission reduction would be achieved.

Our original intent in proposing stream applicability and treatment requirements on total HAP content rather than benzene content was to ensure that streams containing HAP other than benzene are treated and controlled. We maintain that because compliance with the Benzene Waste Operations NESHAP represents the MACT floor and results in control of HAP other than benzene, the MACT floor includes control of HAP other than benzene. However, we have determined that it is not necessary to base stream applicability and treatment requirements on total HAP to ensure that all HAP are managed and treated. Information obtained through survey responses and comments shows that, with few exceptions, all of the waste streams from ethylene production units that contain HAP contain benzene. According to commenters (Docket A–98–22), of all the waste streams generated by 33 ethylene manufacturing production units, only two do not contain benzene but contain other HAP. One stream is generated from a reflux drum on a debutanizer column. The stream contains 1,3-butadiene and has a flow rate of 2 gallons per minute. The other stream is an intermittent stream that is generated during turnarounds that contains naphthalene. Applying the finding that the best-performing

facilities generally control continuous streams but not intermittent streams, either due to flow rate and concentration cut-offs or use of a compliance option, we have determined that controlling the continuous 1,3-butadiene stream, but not the naphthalene turnaround stream, is consistent with the MACT floor. To ensure that continuous streams that contain HAP other than benzene are controlled, while at the same time minimizing the burden of identifying these streams, we are specifically requiring management and treatment of waste streams that contain greater than or equal to 10 ppmw of 1,3-butadiene. To ensure that this requirement does not result in the control of intermittent streams that are generally not controlled, the flow rate applicability cutoffs for benzene-containing streams (0.02 lpm or 10 Mg/yr wastewater quantity) also applies to the butadiene streams.

We have determined that it is not necessary to express the treatment requirements in terms of total HAP. We agree with commenters that treatment and control devices used to remove or destroy benzene will remove and destroy the other HAP regulated by this rule to approximately the same level. Benzene can be used as a surrogate to determine treatment and control efficiencies. If no benzene is present in a regulated stream, another HAP (such as 1,3-butadiene) must be used to show that treatment and control efficiencies required for benzene are achieved for that HAP. In such cases, compliance can also be demonstrated by routing the stream to a control device that is being used to comply with the Benzene Waste Operations NESHAP.

Off-site waste treatment. Some facilities send their regulated wastes off-site for treatment by another entity. The proposed rule specified that wastes must not be transferred unless the transferee has submitted to EPA a certification that they will manage and treat the waste in accordance with the rule and that they accept the responsibility for compliance. Several commenters stated that the certification requirements should be deleted.

The final rule retains the certification requirements. The discharger has the ultimate responsibility for assuring that waste transferred to another party for off-site treatment is treated in conformity with the applicable standard. The transferee is acting as the agent of the discharger when it accepts responsibility for treating the waste. The provisions in the proposal requiring certification by the transferee are less onerous for the discharger than the only practicable alternative, which would require that the discharger actively supervise the activities of the offsite treatment facility. The certification provisions are similar to the requirements of 40 CFR part 63, subpart G (the Hazardous Organic NESHAP), and will pose no unreasonable burden on the generators or receivers of the waste.

2. Heat Exchange Systems

Sampling location. The proposed Ethylene Production NESHAP included requirements to sample cooling water at the inlet and outlet of each heat exchanger for the presence of compounds that indicate a leak. Sampling at each heat exchanger was required to address the fact that cooling water circulation rates through ethylene production units tend to be relatively high. Obtaining only one inlet and outlet sample for the entire system (for example, at the cooling tower) could result in a leak not being detected because the concentration of the leaked compound could be lower that the detection limit of the testing method used.

Several commenters argued that the requirement does not reflect the floor level of control, stating that none of the best-performing facilities are required to test at the inlet and outlet of every heat exchanger. These commenters argued that such a requirement would be an above-the-floor option that is not cost effective. Several commenters provided estimates of the additional costs associated with sampling and testing at each heat exchanger. The estimated annualized costs provided by the commenters ranged from $60,000 to $1.2 million per year for a single ethylene production unit.

One commenter suggested an approach for addressing the circulation rate issue. The commenter based the suggestion on the assumptions that: (1) The requirements of the Hazardous Organic NESHAP result in an adequate level of leak detection, and (2) the circulation rate of cooling water through an ethylene production unit is eight times the circulation rate through a Hazardous Organic NESHAP unit. Using these assumptions, the 1 ppmw leak definition of the Hazardous Organic NESHAP and the average of circulation rates reported for ethylene units in survey responses, the commenter estimated that a 6.35 pound per hour (lb/hr) leak rate would be detected at a Hazardous Organic NESHAP unit. The commenter suggested allowing facilities to decide where to test for leaks with the condition that a leak of this magnitude would be detected. The commenter stated that such a requirement would ensure a level of performance comparable to the Hazardous Organic NESHAP and would provide facilities flexibility to tailor a monitoring program to their unique circumstances. The commenter explained that one facility may choose to sample the combined cooling water flow from many heat exchangers using a test method with a relatively low detection limit, while another may sample the flow from fewer exchangers using a higher detection limit.

Based on information provided by commenters, we agree that requiring testing at the inlet and outlet of each heat exchanger does not represent the floor level of control. We find that the suggestion to allow facilities to develop a site-specific sampling plan based on performance comparable to the Hazardous Organic NESHAP would represent the floor. We have reviewed and agree with the commenter's suggested approach for establishing the floor level sampling plan based on a specified leak detection limit, with one exception. We adjusted the calculation to correct an error in calculating the average circulation rate, which resulted in a leak rate that must be detected of 6.75 lb/hr. Going beyond the floor to the proposed testing requirement would impose costs that are unreasonable given the small emissions reductions that would be achieved. The final rule allows the use of any sampling location plan that is sufficiently sensitive to detect a leak rate of 6.75 lb/hr.

Monitoring frequency. Commenters expressed concern that the proposed rule did not allow reduced heat exchanger monitoring frequency for sustained good performance, which is allowed in other LDAR programs. One of the commenters suggested that we adopt the Hazardous Organic NESHAP requirements for heat exchanges, which start with monthly monitoring and then allow quarterly monitoring. We agree with these comments in general. The floor for heat exchangers is an LDAR program with monthly monitoring. We recognize, however, that the emission performance of LDAR programs is variable and is influenced by a number of site-specific factors. We believe that providing an incentive in the final rule for reduced monitoring will encourage facilities to undertake measures to diagnose the causes of leaks and reduce the frequency of occurrence. Accordingly, the final rule includes a provision for reduced monitoring for units with sustained good performance in preventing leaks. This provision is generally consistent with the Hazardous Organic NESHAP, and we believe it is

equivalent to the floor and will provide an incentive for greater emissions reductions while minimizing monitoring burden.

The final rule requires monthly monitoring for the first 6 months. If no leaks are detected during this period, then the monitoring frequency changes to quarterly. If a leak is subsequently detected, then monthly monitoring is required until the leak is repaired. After the leak is repaired, then monthly monitoring is required for 6 months. If no leaks occur during this period, the monitoring frequency returns to quarterly.

Repair requirements. The proposed Ethylene Production NESHAP would have required a leak to be repaired within 15 days of being detected. Commenters stated that the best-performing facilities are not required to repair leaks within 15 days so this is an above-the-floor option. Commenters provided detailed comments on the steps and costs involved in repairing heat exchangers.

Our original intent in requiring repair in 15 days was to provide consistency with the repair requirements for other leaking components. Through the comments received in response to the proposed NESHAP, we have learned that repairing heat exchangers is different than repairing other types of leaking components. According to commenters, to repair a heat exchanger, it must be shut down, isolated from the process, cleaned, opened, tested to find the leak(s), and repaired. The commenters added that removing an exchanger from service often requires a unit to be shutdown. Commenters provided the contrasting example of a leaking valve, for which packing and flange bolts can often simply be tightened externally or, in extreme cases, can be externally pumped with a sealant or clamped to repair. Based on the information received in response to the proposed NESHAP, we agree that the 15-day repair period is more stringent than the floor and that the more stringent requirement is not reasonable because it does not allow adequate time for repair. We have determined that a 45-day repair period represents the floor. This is the repair period allowed by the Hazardous Organic NESHAP. In addition to extending the repair period to 45 days, we have revised the repair and delay of repair provisions to be consistent with the Hazardous Organic NESHAP.

3. Equipment Leaks

The proposed Ethylene Production NESHAP required connector monitoring. Commenters disagreed with the approach EPA used to determine the MACT floor, stating that HAP emissions from uncontrolled connectors are overestimated due to an inaccurate emission factor. One commenter (Docket A–98–22) provided an alternate emission factor based on data that they gathered from ethylene production units. According to the commenter, when their emission factor is used in the MACT floor analysis, it results in a different five best-performing facilities, of which only two perform connector monitoring. Commenters asserted that connector monitoring is, therefore, not part of the floor. In addition, one commenter explained that their study shows that there is no statistically significant difference between the average emission rates for connectors being monitored for the first time and those that are monitored as part of a continuing monitoring program. Commenters also provided cost data to show that some facilities will incur high costs to monitor connectors with no statistically measurable emissions benefit.

Due to uncertainties regarding connector emission factors used in the original MACT floor analysis, we performed an analysis using an emission factor provided by a commenter; however, this does not mean that we have accepted the commenter's emissions factor as a more accurate estimator of connector emissions (Docket A–98–22). The objective of the analyses was to determine the impact using different connector emission factors would have on which facilities are determined to be the five best-performing sources. Although this analysis resulted in a slightly different five best-performing sources, the floor was the same, since three of the five facilities are monitoring connectors. Through this analysis, we have concluded that, regardless of the emission factor used, the majority of the best-performing facilities are performing connector monitoring.

We also conducted a study of the existing permits at certain facilities that had adopted permit conditions requiring 100 percent connector monitoring annually in exchange for emissions credits to be used for operational flexibility. In setting the MACT floor we found our knowledge of existing permit conditions compelling in terms of emissions benefits and therefore relevant in establishing the MACT floor. Certainly any monitoring worthy of conducting for the purpose of obtaining emissions credits was beneficial beyond cost.

Based on these analyses, we conclude that connector monitoring is part of the MACT floor. We do not believe that the available data support the commenters' conclusion that connector monitoring should not be included in the MACT floor. However, in consideration of the data submitted by the industry, we elected to require compliance with 40 CFR part 63, subpart UU, National Emission Standards for Equipment Leaks, which requires connector monitoring, but also allows for reduced monitoring frequency for good performance instead of annual monitoring. This provides the opportunity to reduce monitoring costs in cases where a low proportion of connectors are leaking. In offering a performance-based requirement for connector monitoring, we also have provided some consistency in approach with the heat exchanger and other equipment monitoring provisions.

VI. Spandex Production

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

1. What Are the Air Quality Impacts?

There are no additional emissions reductions achieved by the final NESHAP. The level of control required by the final NESHAP is already in place at the two affected reaction spinning facilities.

2. What Are the Cost Impacts?

The total estimated annual compliance cost of the final NESHAP is $78,040. This estimate includes annualized capital costs for monitoring equipment purchased. Annual costs also include monitoring, recordkeeping, and reporting costs. Costs were not included for control equipment since this is already in place at the two reaction spinning process facilities.

The capital costs are estimated to be $32,820 (in 1998 dollars). The capital costs are for purchase of thermocouples and liquid flow transducers for CPMS equipment and closed vent systems leak detection monitors. These costs are more than likely an overestimate because the two affected facilities already have monitors on their carbon adsorbers.

3. What Are the Economic Impacts?

The goal of the economic impact analysis is to estimate the market response of the spandex production facilities to the final NESHAP and to determine the economic effects that may result from the final NESHAP. The Spandex Production source category contains five facilities, but only the two facilities that use the reaction spinning process are affected by the final

NESHAP. These potentially affected facilities are owned by one company.

Spandex fiber production leads to potential HAP emissions from fiber spinning lines, storage tanks, and process vents; however, the emission sources are well controlled by the affected spandex manufacturing facilities. The mandated levels of control are met at these sources; therefore, no costs for additional add-on air pollution control equipment are expected to be incurred by the spandex facilities to comply with the final NESHAP. Instead, the compliance costs for the final NESHAP relate primarily to monitoring, reporting, and recordkeeping activities. The estimated total annualized cost for the final NESHAP is $78,040, which represents less than 0.01 percent of the revenues of the companies that own the spandex manufacturing facilities. The final NESHAP are, therefore, expected to have a negligible impact on the Spandex Production source category.

The economic impacts at the facility and company levels are measured by comparing the annualized compliance cost for each entity to its revenues. A cost-to-sales ratio is first calculated and then is multiplied by 100 to convert the ratio into percentages. For the final NESHAP, a cost-to-sales ratio exceeding 1 percent is determined to be an initial indicator of the potential for a significant facility impact. Revenues at the facility level are not available, therefore estimated facility revenues received from the sale of spandex fiber are used. Both affected facilities are expected to incur positive compliance costs. The ratio of costs to estimated revenues range from a low of 0.22 percent to a high of 0.35 percent. Thus, on average, the economic impact of the final NESHAP is minimal for the facilities producing spandex fibers.

The share of compliance costs to company sales are calculated to determine company level impacts. One company owns the two affected facilities, so only one firm faces positive compliance costs from the final NESHAP. The ratio of costs to company revenues is 0.10 percent. At the company level, the final NESHAP are not anticipated to have a significant economic impact on companies that own and operate the spandex fiber facilities. For more information, consult the economic impact analysis report entitled, Economic Impact Analysis: Spandex Production, which is in the docket for the spandex source category.

4. What Are the Non-Air Health, Environmental and Energy Impacts?

We believe that there would not be significant adverse environmental or energy impacts associated with the final NESHAP. The industry's baseline level of control is high, and the level of control required by the final NESHAP is currently being achieved for the emission point types. Environmental impacts from the application of the control or recovery devices proposed for the Spandex Production source category are also expected to be minimal for secondary air pollutants. In general, we determine impacts relative to the baseline that is set at the level of control in absence of the final NESHAP.

There is no incremental increase in emissions related to water pollution or solid waste as a result of the final NESHAP.

B. Summary of Major Comments and Changes Since Proposal

Comments on the proposed Spandex Production NESHAP were received from two different entities: the Institute of Clean Air Companies (ICAC) and Dupont. A summary and response to the general comments submitted can be found in Docket A–98–25.

Dupont's comments expressed concern that because the dry spinning spandex production process was not mentioned in the proposal, this could be interpreted as no standard for this source category and, as a result, these facilities would be subject to a case-by-case MACT determination. The discussion of this comment can be found in direct final amendments that are being published separately in this issue of the **Federal Register**.

VII. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether a final regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that today's final rule is not a "significant regulatory action" because it will not have an annual effect on the economy of $100 million or more and is therefore not subject to OMB review.

B. 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." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the rule. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the rule.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and EPA's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a final rule with federalism implications to OMB for review

pursuant to Executive Order 12866, EPA must include a certification from its federalism official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

Today's final 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. No facilities subject to the final rule are owned by State or local governments. Therefore, State and local governments will not have any direct compliance costs resulting from the final rule. Furthermore, EPA is directed to develop the final rule by section 112 of the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to the final rule.

C. 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 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." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

The final rule does not have tribal implications. 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to the final rule.

D. Executive Order 13045, Protection of Children From Environmental Health Risks 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 EPA.

The 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. Today's final rule is not subject to Executive Order 13045 because it establishes an environmental standard based on technology, not health or safety risk. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, today's final rule has been determined not to be "economically significant" as defined under Executive Order 12866.

E. 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 must generally 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 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, 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.

The EPA has determined that the final rule does not contain a Federal mandate that may result in expenditures of $100 million or more by State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The total cost to the private sector is approximately $22.2 million per year. The final rule contains no mandates affecting State, local, or Tribal governments. Thus, today's final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

We have determined that the final 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.

F. Regulatory Flexibility Act (RFA) as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601, et seq.

The RFA generally requires us to give special consideration to the effect of Federal regulations on small entities and to consider regulatory options that might mitigate any such impacts. We must prepare a regulatory flexibility analysis unless we determine 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 today's final rule on small entities, a small entity is defined differently for the four source categories for which we are proposing standards. Based on those definitions, there are no small entities affected by the final rule. Pursuant to the provisions of 5 U.S.C. 605(b), we have determined that the final rule will not have a significant economic impact on a substantial number of small entities.

G. Paperwork Reduction Act

The information collection requirements in today's final rule have been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An ICR document has been prepared by EPA (ICR No.

1893.03) and a copy may be obtained from Susan Auby by mail at the U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822T), 1200 Pennsylvania Avenue NW, Washington, DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded off the internet at *http://www.epa.gov/icr*. The information requirements are not effective until OMB approves them.

Information is required to ensure compliance with the final rule. If the relevant information were collected less frequently, EPA would not be reasonably assured that a source is in compliance with the rule. In addition, EPA's authority to take administrative action would be reduced significantly.

The final rule requires owners or operators of affected sources to retain records for a period of 5 years. The 5-year retention period is consistent with the General Provisions of 40 CFR part 63 and with the 5-year record retention requirement in the operating permit program under title V of the CAA.

The recordkeeping and reporting requirements of the final rule are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to us for which a claim of confidentiality is made will be safeguarded according to our policies in 40 CFR part 2, subpart B, "Confidentiality of Business Information."

The EPA expects the final rule to affect a total of 75 facilities over the first 3 years. The EPA assumes that no new facilities will become subject to the rule during each of the first 3 years. The EPA expects 75 existing facilities to be affected by the final rule, and these existing facilities will begin complying in the third year.

The estimated average annual burden for the first 3 years after promulgation of the rule for the industries and the implementing agency is outlined below. You can find the details of this information collection in the "Standard Form 83 Supporting Statement for ICR No. 1893.03," in Docket No. A–97–17.

Affected entity	Total hours	Labor costs (10^3)	Capital costs (10^3)	Operating and Maintenance costs (10^3)	Total costs (10^3)
Industry	33,926	1,510	4,901	16	6,427
Implementing agency	3,465	117	0	0	117

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. Control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law No. 104–113) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement 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, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

The final rule involves technical standards. The EPA cites the following methods in the final rule: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3B, 4, 18, 25, 25A, 27, 316, and 320. Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods. No applicable voluntary consensus standards were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 27, and 316. Three voluntary consensus standards were identified as acceptable alternatives to EPA test methods and procedures and are cited in the final rule.

The voluntary consensus standard, American Society of Mechanical Engineers (ASME) PTC 19–10–1981—Part 10, Flue and Exhaust Gas Analyses, is cited in the final rule for its manual method for measuring the oxygen content of exhaust gas. Part 10 of ASME PTC 19–10–1981 is an acceptable alternative to Method 3B.

The voluntary consensus standard, American Society for Testing and Materials (ASTM) D6420–99, Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry (GC/MS), is appropriate in the cases described below for inclusion in the rule in addition to EPA Methods. 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 where: (1) The target compounds 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 compounds not listed in Table 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 compounds not listed in Table 1.1 of ASTM D6420–99 and not amenable to detection by mass spectrometry, ASTM D6420–99 does not apply.

The voluntary consensus standard, ASTM D1946–90 (2000), Standard Practice for Analysis of Reformed Gas by Gas Chromatography, is an acceptable method for measuring process vent emissions of carbon monoxide and hydrogen for the purposes of the final rule.

The search and review results have been documented and are placed in the Generic MACT docket (Docket No. A–97–17).

I. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the 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 United States. The 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 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) and, therefore, will be effective on July 12, 2002.

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

This rule 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 it is not a significant regulatory action under Executive Order 12866.

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: May 15, 2002.

Christine Todd Whitman,

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.*

2. Part 63 is amended by adding a new subpart XX to read as follows:

Subpart XX—National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations

Sec.

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Introduction

§ 63.1080 What is the purpose of this subpart?

This subpart establishes requirements for controlling emissions of hazardous air pollutants (HAP) from heat exchange systems and waste streams at new and existing ethylene production units.

§ 63.1081 When must I comply with the requirements of this subpart?

You must comply with the requirements of this subpart according to the schedule specified in § 63.1102(a).

Definitions

§ 63.1082 What definitions do I need to know?

(a) Unless defined in paragraph (b) of this section, definitions for terms used in this subpart are provided in the Clean Air Act, § 63.1103(e), and 40 CFR 61.341.

(b) The following definitions apply to terms used in this subpart:

Continuous butadiene waste stream means the continuously flowing process wastewater from the following equipment: The aqueous drain from the debutanizer reflux drum, water separators on the C4 crude butadiene transfer piping, and the C4 butadiene storage equipment; and spent wash water from the C4 crude butadiene carbonyl wash system. The continuous butadiene waste stream does not include butadiene streams generated from sampling, maintenance activities, or shutdown purges. The continuous butadiene waste stream does not include butadiene streams from equipment that is currently an affected source subject to the control requirements of another NESHAP. The continuous butadiene waste stream contains less than 10 parts per million by weight (ppmw) of benzene.

Dilution steam blowdown waste stream means any continuously flowing process wastewater stream resulting from the quench and compression of cracked gas (the cracking furnace effluent) at an ethylene production unit and is discharged from the unit. This stream typically includes the aqueous or oily-water stream that results from condensation of dilution steam (in the cracking furnace quench system), blowdown from dilution steam generation systems, and aqueous streams separated from the process between the cracking furnace and the

cracked gas dehydrators. The dilution steam blowdown waste stream does not include dilution steam blowdown streams generated from sampling, maintenance activities, or shutdown purges. The dilution steam blowdown waste stream also does not include blowdown that has not contacted HAP-containing process materials.

Heat exchange system means any cooling tower system or once-through cooling water system (e.g., river or pond water). A heat exchange system can include more than one heat exchanger and can include an entire recirculating or once-through cooling system.

Process wastewater means water which comes in contact with benzene or butadiene during manufacturing or processing operations conducted within an ethylene production unit. Process wastewater is not organic wastes, process fluids, product tank drawdown, cooling water blowdown, steam trap condensate, or landfill leachate. Process wastewater includes direct-contact cooling water.

Spent caustic waste stream means the continuously flowing process wastewater stream that results from the use of a caustic wash system in an ethylene production unit. A caustic wash system is commonly used at ethylene production units to remove acid gases and sulfur compounds from process streams, typically cracked gas. The spent caustic waste stream does not include spent caustic streams generated from sampling, maintenance activities, or shutdown purges.

Applicability for Heat Exchange Systems

§ 63.1083 Does this subpart apply to my heat exchange system?

The provisions of this subpart apply to your heat exchange system if you own or operate an ethylene production unit expressly referenced to this subpart XX from subpart YY of this part. The provisions of subpart A (General Provisions) of this part do not apply to this subpart except as specified in subpart YY of this part.

§ 63.1084 What heat exchange systems are exempt from the requirements of this subpart?

Your heat exchange system is exempt from the requirements in §§ 63.1085 and 63.1086 if it meets any one of the criteria in paragraphs (a) through (e) of this section.

(a) Your heat exchange system operates with the minimum pressure on the cooling water side at least 35 kilopascals greater than the maximum pressure on the process side.

(b) Your heat exchange system contains an intervening cooling fluid, containing less than 5 percent by weight of total HAP listed in Table 1 to this subpart, between the process and the cooling water. This intervening fluid must serve to isolate the cooling water from the process fluid and must not be sent through a cooling tower or discharged. For purposes of this section, discharge does not include emptying for maintenance purposes.

(c) The once-through heat exchange system is subject to a National Pollution Discharge Elimination System (NPDES) permit with an allowable discharge limit of 1 part per million by volume (ppmv) or less above influent concentration, or 10 percent or less above influent concentration, whichever is greater.

(d) Your once-through heat exchange system is subject to a NPDES permit that meets all of the conditions in paragraphs (d)(1) through (4) of this section.

(1) The permit requires monitoring of a parameter or condition to detect a leak of process fluids to cooling water.

(2) The permit specifies the normal range of the parameter or condition.

(3) The permit requires monthly or more frequent monitoring for the parameters selected as leak indicators.

(4) The permit requires you to report and correct leaks to the cooling water when the parameter or condition exceeds the normal range.

(e) Your recirculating or once-through heat exchange system cools process fluids that contain less than 5 percent by weight of total HAP listed in Table 1 to this subpart.

Heat Exchange System Requirements

§ 63.1085 What are the general requirements for heat exchange systems?

Unless you meet one of the requirements for exemptions in § 63.1084, you must meet the requirements in paragraphs (a) through (d) of this section.

(a) Monitor the cooling water for the presence of substances that indicate a leak according to § 63.1086.

(b) If you detect a leak, repair it according to § 63.1087 unless repair is delayed according to § 63.1088.

(c) Keep the records specified in § 63.1089.

(d) Submit the reports specified in § 63.1090.

Monitoring Requirements for Heat Exchange Systems

§ 63.1086 How must I monitor for leaks to cooling water?

You must monitor for leaks to cooling water by monitoring each heat exchange system according to the requirements of paragraph (a) of this section, monitoring each heat exchanger according to the requirements of paragraph (b) of this section, or monitoring a surrogate parameter according to the requirements of paragraph (c) of this section. If you elect to comply with the requirements of paragraph (a) or (b) of this section, you may use alternatives in paragraph (d)(1) or (2) of this section for determining the mean entrance concentration.

(a) *Heat exchange system.* Monitor cooling water in each heat exchange system for the HAP listed in Table 1 to this subpart (either total or speciated) or other representative substances (e.g., total organic carbon or volatile organic compounds (VOC)) that indicate the presence of a leak according to the requirements in paragraphs (a)(1) through (5) of this section.

(1) You define the equipment that comprises each heat exchange system. For the purposes of implementing paragraph (a) of this section, a heat exchange system may consist of an entire heat exchange system or any combinations of heat exchangers such that, based on the rate of cooling water at the entrance and exit to each heat exchange system and the sensitivity of the test method being used, a leak of 3.06 kg/hr or greater of the HAP in Table 1 to this subpart would be detected. For example, if the test you decide to use has a sensitivity of 1 ppmv for total HAP, you must define the heat exchange system so that the cooling water flow rate is 51,031 liters per minute or less so that a leak of 3.06 kg/hr can be detected.

(2) Monitoring periods. For existing sources, monitor cooling water as specified in paragraph (a)(2)(i) of this section. Monitor heat exchange systems at new sources according to the specifications in paragraph (a)(2)(ii) of this section.

(i) Monitor monthly for 6 months, both initially and following completion of a leak repair. Then monitor as provided in either paragraph (a)(2)(i)(A) or (a)(2)(i)(B) of this section, as appropriate.

(A) If no leaks are detected by monitoring monthly for a 6-month period, monitor quarterly thereafter until a leak is detected.

(B) If a leak is detected, monitor monthly until the leak has been repaired. Upon completion of repair, monitor according to the specifications in paragraph (a)(2)(i) of this section.

(ii) Monitor the cooling water weekly for heat exchange systems at new sources.

(3) Determine the concentration of the monitored substance in the heat

exchange system cooling water using any method listed in 40 CFR part 136. Use the same method for both entrance and exit samples. You may validate 40 CFR part 136 methods for the HAP listed in Table 1 to this subpart according to the procedures in appendix D to this part. Alternative methods may be used upon approval by the Administrator.

(4) Take a minimum of three sets of samples at each entrance and exit.

(5) Calculate the average entrance and exit concentrations, correcting for the addition of make-up water and evaporative losses, if applicable. Using a one-sided statistical procedure at the 0.05 level of significance, if the exit mean concentration is at least 10 percent greater than the entrance mean, or a leak of 3.06 kg/hr or greater of the HAP (total or speciated) in Table 1 to this subpart or other representative substance into the cooling water is detected, you have detected a leak.

(b) *Individual heat exchangers.* Monitor the cooling water at the entrance and exit of each heat exchanger for the HAP in Table 1 to this subpart (either total or speciated) or other representative substances (e.g., total organic carbon or VOC) that indicate the presence of a leak in a heat exchanger according to the requirements in paragraphs (b)(1) through (4) of this section.

(1) Monitoring periods. For existing sources, monitor cooling water as specified in paragraph (b)(1)(i) of this section. Monitor each heat exchanger at new sources according to the specifications in paragraph (b)(1)(ii) of this section.

(i) Monitor monthly for 6 months, both initially and following completion of a leak repair. Then monitor as provided in paragraph (b)(1)(i)(A) or (b)(1)(i)(B) of this section, as appropriate.

(A) If no leaks are detected by monitoring monthly for a 6-month period, monitor quarterly thereafter until a leak is detected.

(B) If a leak is detected, monitor monthly until the leak has been repaired. Upon completion of repair, monitor according to the specifications in paragraph (b)(1)(i) of this section.

(ii) Monitor the cooling water weekly for heat exchangers at new sources.

(2) Determine the concentration of the monitored substance in the cooling water using any method listed in 40 CFR part 136, as long as the method is sensitive to concentrations as low as 10 ppmv. Use the same method for both entrance and exit samples. Validation of 40 CFR part 136 methods for the HAP listed in Table 1 to this subpart may be determined according to the provisions of appendix D to this part. Alternative methods may be used upon approval by the Administrator.

(3) Take a minimum of three sets of samples at each heat exchanger entrance and exit.

(4) Calculate the average entrance and exit concentrations, correcting for the addition of make-up water and evaporative losses, if applicable. Using a one-sided statistical procedure at the 0.05 level of significance, if the exit mean concentration is at least 1 ppmv or 10 percent greater than the entrance mean, whichever is greater, you have detected a leak.

(c) *Surrogate parameters.* You may elect to comply with the requirements of this section by monitoring using a surrogate indicator of leaks, provided that you comply with the requirements of paragraphs (c)(1) through (3) of this section. Surrogate indicators that could be used to develop an acceptable monitoring program are ion specific electrode monitoring, pH, conductivity, or other representative indicators.

(1) You shall prepare and implement a monitoring plan that documents the procedures that will be used to detect leaks of process fluids into cooling waters. The plan shall require monitoring of one or more process parameters or other conditions that indicate a leak. Monitoring that is already being conducted for other purposes may be used to satisfy the requirements of this section. The plan shall include the information specified in paragraphs (c)(1)(i) through (iv) of this section.

(i) A description of the parameter or condition to be monitored and an explanation of how the selected parameter or condition will reliably indicate the presence of a leak.

(ii) The parameter level(s) or condition(s) that shall constitute a leak. This shall be documented by data or calculations showing that the selected levels or conditions will reliably identify leaks. The monitoring must be sufficiently sensitive to determine the range of parameter levels or conditions when the system is not leaking. When the selected parameter level or condition is outside that range, you have detected a leak.

(iii) Monitoring periods. For existing sources, monitor cooling water as specified in paragraph (c)(1)(iii)(A) of this section. Monitor heat exchange systems at new sources according to the specifications in paragraph (c)(1)(iii)(B) of this section.

(A) Monitor monthly for 6 months, both initially and following completion of a leak repair. Then monitor as provided in paragraph (c)(1)(iii)(A)(*1*) or (c)(1)(iii)(A)(*2*) of this section, as appropriate.

(*1*) If no leaks are detected, monitor quarterly thereafter until a leak is detected.

(*2*) If a leak is detected, monitor monthly until the leak has been repaired. Upon completion of repair, monitor according to the specifications in paragraph (c)(1)(iii)(A) of this section.

(B) Monitor the cooling water weekly for heat exchange systems at new sources.

(iv) The records that will be maintained to document compliance with the requirements of this section.

(2) If a leak is identified by audio, visual, or olfactory inspection, a method listed in 40 CFR part 136, or any other means other than those described in the monitoring plan, and the method(s) specified in the plan could not detect the leak, you shall revise the plan and document the basis for the changes. You shall complete the revisions to the plan no later than 180 days after discovery of the leak.

(3) You shall maintain, at all times, the monitoring plan that is currently in use. The current plan shall be maintained on-site, or shall be accessible from a central location by computer or other means that provide access within 2 hours after a request. If the monitoring plan is changed, you must retain the most recent superseded plan for at least 5 years from the date of its creation. The superseded plan shall be retained on-site or accessible from a central location by computer or other means that provide access within 2 hours after a request.

(d) *Simplifying assumptions for entrance mean concentration.* If you are complying with paragraph (a) or (b) of this section, you may elect to determine the entrance mean concentration as specified in paragraph (d)(1) or (2) of this section.

(1) Assume that the entrance mean concentration of the monitored substance is zero; or,

(2) Determine the entrance mean concentration of a monitored substance at a sampling location anywhere upstream of the heat exchanger or heat exchange system, provided that there is not a reasonable opportunity for the concentration to change at the entrance to each heat exchanger or heat exchange system.

Repair Requirements for Heat Exchange Systems

§ 63.1087 What actions must I take if a leak is detected?

If a leak is detected, you must comply with the requirements in paragraphs (a)

and (b) of this section unless repair is delayed according to § 63.1088.

(a) Repair the leak as soon as practical but not later than 45 calender days after you received the results of monitoring tests that indicated a leak. You must repair the leak unless you demonstrate that the results are due to a condition other than a leak.

(b) Once the leak has been repaired, use the monitoring requirements in § 63.1086 within 7 calender days of the repair or startup, whichever is later, to confirm that the heat exchange system has been repaired.

§ 63.1088 In what situations may I delay leak repair, and what actions must I take for delay of repair?

You may delay the repair of heat exchange systems if the leaking equipment is isolated from the process. You may also delay repair if repair is technically infeasible without a shutdown, and you meet one of the conditions in paragraphs (a) through (c) of this section.

(a) If a shutdown is expected within the next 2 months of determining delay of repair is necessary, you are not required to have a special shutdown before that planned shutdown.

(b) If a shutdown is not expected within the next 2 months of determining delay of repair is necessary, you may delay repair if a shutdown for repair would cause greater emissions than the potential emissions from delaying repair until the next shutdown of the process equipment associated with the leaking heat exchanger. You must document the basis for the determination that a shutdown for repair would cause greater emissions than the emissions likely to result from delay of repair. The documentation process must include the activities in paragraphs (b)(1) through (4) of this section.

(1) State the reason(s) for delaying repair.

(2) Specify a schedule for completing the repair as soon as practical.

(3) Calculate the potential emissions from the leaking heat exchanger by multiplying the concentration of HAP listed in Table 1 to this subpart (or other monitored substances) in the cooling water from the leaking heat exchanger by the flow rate of the cooling water from the leaking heat exchanger and by the expected duration of the delay.

(4) Determine emissions of HAP listed in Table 1 to this subpart (or other monitored substances) from purging and depressurizing the equipment that will result from the unscheduled shutdown for the repair.

(c) If repair is delayed because the necessary equipment, parts or personnel are not available, you may delay repair a maximum of 120 calendar days. You must demonstrate that the necessary equipment, parts or personnel were not available.

Recordkeeping and Reporting Requirements for Heat Exchange Systems

§ 63.1089 What records must I keep?

You must keep the records in paragraphs (a) through (e) of this section, according to the requirements of § 63.1109(c).

(a) Monitoring data required by § 63.1086 that indicate a leak, the date the leak was detected, or, if applicable, the basis for determining there is no leak.

(b) The dates of efforts to repair leaks.

(c) The method or procedures used to confirm repair of a leak and the date the repair was confirmed.

(d) Documentation of delay of repair as specified in § 63.1088.

(e) If you validate a 40 CFR part 136 method for the HAP listed in Table 1 to this subpart according to the procedures in appendix D to this part, then you must keep a record of the test data and calculations used in the validation.

§ 63.1090 What reports must I submit?

If you delay repair for your heat exchange system, you must report the delay of repair in the semiannual report required by § 63.1110(e). If the leak remains unrepaired, you must continue to report the delay of repair in semiannual reports until you repair the leak. You must include the information in paragraphs (a) through (e) of this section in the semiannual report.

(a) The fact that a leak was detected, and the date that the leak was detected.

(b) Whether or not the leak has been repaired.

(c) The reasons for delay of repair. If you delayed the repair as provided in § 63.1088(b), documentation of emissions estimates.

(d) If a leak remains unrepaired, the expected date of repair.

(e) If a leak is repaired, the date the leak was successfully repaired.

Background for Waste Requirements

§ 63.1091 What do the waste requirements do?

This subpart requires you to comply with 40 CFR part 61, subpart FF, National Emission Standards for Benzene Waste Operations. There are some differences between the ethylene production waste requirements and those of subpart FF.

§ 63.1092 What are the major differences between the requirements of 40 CFR part 61, subpart FF, and the waste requirements for ethylene production sources?

The major differences between the requirements of 40 CFR part 61, subpart FF, and the requirements for ethylene production sources are listed in paragraphs (a) through (d) of this section.

(a) The requirements for ethylene production sources apply to all ethylene production sources that are part of a major source. The requirements do not include a provision to exempt sources with a total annual benzene quantity less than 10 megagrams per year (Mg/yr) from control requirements.

(b) The requirements for ethylene production sources apply to continuous butadiene waste streams which do not contain benzene quantities that would make them subject to the management and treatment requirements of 40 CFR part 61, subpart FF.

(c) The requirements for ethylene production sources do not include the compliance options at 40 CFR 61.342(c)(3)(ii), (d) and (e) for sources with a total annual benzene quantity less than 10 Mg/yr.

(d) If you transfer waste off-site, you must comply with the requirements in § 63.1096 rather than 40 CFR 61.342(f).

Applicability for Waste Requirements

§ 63.1093 Does this subpart apply to my waste streams?

The waste stream provisions of this subpart apply to your waste streams if you own or operate an ethylene production facility expressly referenced to this subpart XX from subpart YY of this part. The provisions of subpart A (General Provisions) of this part do not apply to this subpart except as specified in a referencing subpart.

§ 63.1094 What waste streams are exempt from the requirements of this subpart?

The types of waste described in paragraphs (a) and (b) of this section are exempt from this subpart.

(a) Waste in the form of gases or vapors that is emitted from process fluids.

(b) Waste that is contained in a segregated storm water sewer system.

Waste Requirements

§ 63.1095 What specific requirements must I comply with?

For waste that is not transferred off-site, you must comply with the requirements in paragraph (a) of this section for continuous butadiene waste streams and paragraph (b) of this section for benzene waste streams. If you

transfer waste off-site, you must comply with the requirements of § 63.1096.

(a) *Continuous butadiene waste streams.* Manage and treat continuous butadiene waste streams that contain greater than or equal to 10 ppmv 1,3-butadiene and have a flow rate greater than or equal to 0.02 liters per minute, according to either paragraph (a)(1) or (2) of this section. If the total annual benzene quantity from waste at your facility is less than 10 Mg/yr, as determined according to 40 CFR 61.342(a), the requirements of paragraph (a)(3) of this section apply also.

(1) Route the continuous butadiene stream to a treatment process or wastewater treatment system used to treat benzene waste streams that complies with the standards specified in 40 CFR 61.348. Comply with the requirements of 40 CFR part 61, subpart FF; with the changes in Table 2 to this subpart, and as specified in paragraphs (a)(1)(i) through (v) of this section.

(i) Determine the butadiene concentration of the waste stream according to 40 CFR 61.355(c)(1) through (3), except substitute "1,3-butadiene" for each occurrence of "benzene." You may validate 40 CFR part 136 methods for 1,3-butadiene according to the procedures in appendix D to this part. You do not need to determine the butadiene concentration of a waste stream if you designate that the stream must be controlled.

(ii) Comply with 40 CFR 61.342(c)(1)(ii) and (iii) for each waste management unit that receives or manages the waste stream prior to and during treatment or recycling of the waste stream.

(iii) Comply with the recordkeeping requirements in 40 CFR 61.356(b), (b)(1) and (b)(2), except substitute "1,3-butadiene" for each occurrence of "benzene" and "continuous butadiene waste stream" for each occurrence of "waste stream."

(iv) Comply with the reporting requirements in 40 CFR 61.357(a), (a)(2), (a)(3), (a)(3)(iii) through (v), and (d)(1) and (2), except substitute "1,3-butadiene" for each occurrence of "benzene" and "continuous butadiene waste stream" for each occurrence of "waste stream."

(v) Include only the information in 40 CFR 61.357(a)(2) and (a)(3)(iii) through (v) in the report required in 40 CFR 61.357(a) and (d)(2).

(2) Comply with the process wastewater requirements of subpart G of this part. Submit the information required in § 63.146(b) in the Notification of Compliance Status required by § 63.1110(d). Submit the information required in § 63.146(c) through (e) in either the Periodic Reports required in § 63.152 or the Periodic Reports required in § 63.1110(e).

(3) If the total annual benzene quantity from waste at your facility is less than 10 Mg/yr, as determined according to 40 CFR 61.342(a), comply with the requirements of this section at all times except during periods of startup, shutdown, and malfunction, if the startup, shutdown, or malfunction precludes the ability of the affected source to comply with the requirements of this section and the owner or operator follows the provisions for periods of startup, shutdown, and malfunction, as specified in § 63.1111.

(b) *Benzene waste streams.* For benzene-containing streams, you must comply with the requirements of 40 CFR part 61, subpart FF, except as specified in Table 2 to this subpart. You must manage and treat waste streams as specified in either paragraph (b)(1) or (2) of this section.

(1) If the total annual benzene quantity from waste at your facility is less than 10 Mg/yr, as determined according to 40 CFR 61.342(a), manage and treat spent caustic waste streams and dilution steam blowdown waste streams according to 40 CFR 61.342(c)(1) through (c)(3)(i). The requirements of this paragraph (b)(1) shall apply at all times except during periods of startup, shutdown, and malfunction, if the startup, shutdown, or malfunction precludes the ability of the affected source to comply with the requirements of this section and the owner or operator follows the provisions for periods of startup, shutdown, and malfunction, as specified in § 63.1111.

(2) If the total annual benzene quantity from waste at your facility is greater than or equal to 10 Mg/yr, as determined according to 40 CFR 61.342(a), you must manage and treat waste streams according to any of the options in 40 CFR 61.342(c)(1) through (e).

§ 63.1096 What requirements must I comply with if I transfer waste off-site?

If you elect to transfer waste off-site, you must comply with the requirements in paragraphs (a) through (d) of this section.

(a) Include a notice with the shipment or transport of each waste stream. The notice shall state that the waste stream contains organic HAP that are to be treated in accordance with the provisions of this subpart. When the transport is continuous or ongoing (for example, discharge to a publicly-owned treatment works), the notice shall be submitted to the treatment operator initially and whenever there is a change in the required treatment.

(b) You may not transfer the waste stream unless the transferee has submitted to the Administrator a written certification that the transferee will manage and treat any waste stream received from a source subject to the requirements of this subpart in accordance with the requirements of this subpart.

(c) By providing this written certification to the Administrator, the certifying entity accepts responsibility for compliance with the regulatory provisions in this subpart with respect to any shipment of waste covered by the written certification. Failure to abide by any of those provisions with respect to such shipments may result in enforcement action by EPA against the certifying entity in accordance with the enforcement provisions applicable to violations of those provisions by owners or operators of sources.

(d) The certifying entity may revoke the written certification by sending a written statement to the Administrator and you. The notice of revocation must provide at least 90 days notice that the certifying entity is rescinding acceptance of responsibility for compliance with the regulatory provisions of this subpart. Upon expiration of the notice period, you may not transfer the waste stream to that off-site treatment operation. Written certifications and revocation statements to the Administrator from the transferees of waste shall be signed by the responsible official of the certifying entity, provide the name and address of the certifying entity, and be sent to the appropriate EPA Regional Office at the addresses listed in 40 CFR 63.13. Such written certifications are not transferable by the treater to other off-site waste treatment operators.

Implementation and Enforcement

§ 63.1097 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. Environmental Protection Agency (EPA), or a delegated authority such as the applicable State, local, or tribal agency. If the EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. Contact the applicable EPA Regional Office to find out if this subpart is delegated.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities

contained in paragraphs (b)(1) through (5) of this section are retained by the EPA Administrator and are not transferred to the State, local, or tribal agency.

(1) Approval of alternatives to the nonopacity emissions standards in §§ 63.1085, 63.1086 and 63.1095, under § 63.6(g). Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart.

(2) [Reserved]

(3) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(4) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(5) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

Tables to Subpart XX of Part 63

TABLE 1 TO SUBPART XX OF PART 63.—HAZARDOUS AIR POLLUTANTS

Hazardous air pollutant	CAS No.
Benzene	71432
1,3-Butadiene	106990
Cumene	98828
Ethyl benzene	100414
Hexane	110543
Naphthalene	91203
Styrene	100425
Toluene	108883
o-Xylene	95476
m-Xylene	108383
p-Xylene	106423

TABLE 2 TO SUBPART XX OF PART 63.—REQUIREMENTS OF 40 CFR PART 61, SUBPART FF, NOT INCLUDED IN THE REQUIREMENTS FOR THIS SUBPART AND ALTERNATE REQUIREMENTS

If the total annual benzene quatity for waste from your facility is * * *	Do not comply with:	Instead, comply with:
1. Less than 10 Mg/yr	40 CFR 61.340	§ 63.1093.
	40 CFR 61.342(c)(3)(ii), (d), and (e)	There is no equivalent requirement.
	40 CFR 61.342(f)	§ 61.1096.
	40 CFR 61.355(j) and (k)	There is no equivalent requirement.
	40 CFR 61.356(b)(2)(ii), (b)(3) through (b)(5)	There is no equivalent requirement.
	The requirement to submit the information required in 40 CFR 61.357(a) to the Administrator within 90 days after January 7, 1993.	The requirement to submit the information required in 40 CFR 61.357(a) as part of the Initial Notification required in 40 CFR 63.1110(c).
	The requirement in 40 CFR 61.357(d) to submit the information in 40 CFR 61.357(d)(1) and (d)(2) if the TAB quantity from your facility is equal to or greater than 10 Mg/yr.	The requirement to submit the information in 40 CFR 61.357(d)(1) and (d)(2) for spent caustic, dilution steam blowdown, and continuous butadiene waste streams.
	The requirement in 40 CFR 61.357(d)(1) to submit the information required in 40 CFR 63.357(d)(1) to the Administrator within 90 days after January 7, 1993.	The requirement to submit the information required in 40 CFR 61.357(d)(1) as part of the Notification of Compliance Status required in 40 CFR 63.1110(d).
	40 CFR 61.357(d)(3) through (d)(5)	There is no equivalent requirement.
2. Greater than or equal to 10 Mg/yr	40 CFR 61.340	§ 61.1093.
	40 CFR 61.342(f)	§ 61.1096.
	The requirement to submit the information required in 40 CFR 61.357(a) to the Administrator within 90 days after January 7, 1993.	The requirement to submit the information required in 40 CFR 61.357(a) as part of the Initial Notification required in 40 CFR 63.1110(c).
	The requirement in 40 CFR 61.357(d) to submit the information in 40 CFR 61.357(d)(1) and (d)(2) if the TAB quantity from your facility is equal to or greater than 10 Mg/yr.	The requirement to submit the information in 40 CFR 61.357(d)(1) and (d)(2) as part of the Notification of Compliance Status required in 40 CFR 63.1110(d).

Subpart SS—[Amended]

3. Section 63.981 is amended by adding in alphabetical order a definition of *Supplemental combustion air* to read as follows:

§ 63.981 Definitions.

* * * * *

Supplemental combustion air means the air that is added to a vent stream after the vent stream leaves the unit operation. Air that is part of the vent stream as a result of the nature of the unit operation is not considered supplemental combustion air. Air required to operate combustion device burner(s) is not considered supplemental combustion air. Air required to ensure the proper operation of catalytic oxidizers, to include the intermittent addition of air upstream of the catalyst bed to maintain a minimum threshold flow rate through the catalyst bed or to avoid excessive temperatures in the catalyst bed, is not considered to be supplemental combustion air.

* * * * *

4. Section 63.983 is amended by:

a. Revising paragraphs (a)(3)(i) and (a)(3)(ii);

b. Revising the heading for paragraph (b); and

c. Adding paragraph (b)(4).

The revisions and additions read as follows:

§ 63.983 Closed vent systems.

(a) * * *

(3) * * *

(i) Properly install, maintain, and operate a flow indicator that is capable of taking periodic readings. Records shall be generated as specified in § 63.998(d)(1)(ii)(A). The flow indicator shall be installed at the entrance to any bypass line.

(ii) Secure the bypass line valve in the non-diverting position with a car-seal or a lock-and-key type configuration. Records shall be generated as specified in § 63.998(d)(1)(ii)(B).

* * * * *

(b) *Closed vent system inspection and monitoring requirements.* * * *

(4) For each bypass line, the owner or operator shall comply with paragraph (b)(4)(i) or (ii) of this section.

(i) If a flow indicator is used, take a reading at least once every 15 minutes.

(ii) If the bypass line valve is secured in the non-diverting position, visually inspect the seal or closure mechanism at least once every month to verify that the valve is maintained in the non-diverting position, and the vent stream is not diverted through the bypass line.

* * * * *

5. Section 63.987 is amended by:

a. Revising the definition of D_j in paragraph (b)(3)(ii); and

b. Revising paragraph (b)(3)(iii).

The revisions read as follows:

§ 63.987 Flare requirements.

* * * * *

(b) * * *

(3) * * *

(ii) * * *

D_j = Concentration of sample component j, in parts per million by volume on a wet basis, as measured for organics by Method 18 of 40 CFR part 60, appendix A, or by American Society for Testing and Materials (ASTM) D6420–99 (available for purchase from at least one of the following addresses: 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959; or University Microfilms International, 300 North Zeeb Road, Ann Arbor, MI 48106) under the conditions specified in § 63.997(e)(2)(iii)(D)(*1*) through (*3*). Hydrogen and carbon monoxide are measured by ASTM D1946–90; and

* * * * *

(iii) The actual exit velocity of a flare shall be determined by dividing the volumetric flow rate (in unit of standard temperature and pressure), as determined by Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A, as appropriate, by the unobstructed (free) cross sectional area of the flare tip.

* * * * *

6. Part 63 is amended by adding § 63.992 to read as follows:

§ 63.992 Implementation and enforcement.

(a) This subpart can be implemented and enforced by the U.S. Environmental Protection Agency (EPA), or a delegated authority such as the applicable State, local, or tribal agency. If the EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. Contact the applicable EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under section 40 CFR part 63, subpart E, the authorities contained in paragraphs (b)(1) through (5) of this section are retained by the EPA Administrator and are not transferred to the State, local, or tribal agency.

(1) Approval of alternatives to the nonopacity emissions standards in §§ 63.983(a) and (d), 63.984, 63.985(a), 63.986(a), 63.987(a), 63.988(a), 63.990(a), 63.993(a), 63.994(a), and 63.995(a) under § 63.6(g). Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart.

(2) [Reserved]

(3) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(4) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(5) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

* * * * *

7. Section 63.997 is amended by:

a. Revising paragraph (e)(2)(ii);

b. Revising paragraph (e)(2)(iii) introductory text;

c. Revising the first sentence of paragraph (e)(2)(iii)(C)(*1*);

d. Revising paragraph (e)(2)(iii)(D);

e. Adding paragraph (e)(2)(iii)(E);

f. Revising paragraph (e)(2)(iv) introductory text;

g. Removing and reserving paragraphs (e)(2)(iv)(B)(*2*) and (*3*); and

h. Adding paragraphs (e)(2)(iv)(F) through (I).

The revisions and additions read as follows:

§ 63.997 Performance test and compliance assessment requirements for control devices.

* * * * *

(e) * * *

(2) * * *

(ii) *Gas volumetric flow rate.* The gas volumetric flow rate shall be determined using Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A, as appropriate.

(iii) *Total organic regulated material or TOC concentration.* To determine compliance with a parts per million by volume total organic regulated material or TOC limit, the owner or operator shall use Method 18 or 25A of 40 CFR part 60, appendix A, as applicable. The ASTM D6420–99 may be used in lieu of Method 18 of 40 CFR part 60, appendix A, under the conditions specified in paragraphs (e)(2)(iii)(D)(1) through (3) of this section. Alternatively, any other method or data that have been validated according to the applicable procedures in Method 301 of appendix A of 40 CFR part 63 may be used. The procedures specified in paragraphs (e)(2)(iii)(A), (B), (D), and (E) of this section shall be used to calculate parts per million by volume concentration. The calculated concentration shall be corrected to 3 percent oxygen using the procedures specified in paragraph (e)(2)(iii)(C) of this section if a combustion device is

the control device and supplemental combustion air is used to combust the emissions.

* * * * *

(C) * * *

(*1*) The emission rate correction factor (or excess air), integrated sampling and analysis procedures of Method 3B of 40 CFR part 60, appendix A, or American Society of Mechanical Engineers (ASME) PTC 19–10–1981—Part 10 (available for purchase from: ASME International, Three Park Avenue, New York, NY 10016–5990, 800–843–2763 or 212–591–7722), shall be used to determine the oxygen concentration.

* * *

* * * * *

(D) To measure the total organic regulated material concentration at the outlet of a control device, use Method 18 of 40 CFR part 60, appendix A, or ASTM D6420–99. If you have a combustion control device, you must first determine which regulated material compounds are present in the inlet gas stream using process knowledge or the screening procedure described in Method 18. In conducting the performance test, analyze samples collected at the outlet of the combustion control device as specified in Method 18 or ASTM D6420–99 for the regulated material compounds present at the inlet of the control device. The method ASTM D6420–99 may be used only under the conditions specified in paragraphs (e)(2)(iii)(D)(*1*) through (*3*) of this section.

(*1*) If the target compound(s) is 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.

(*2*) If the target compound(s) is not listed in Section 1.1 of ASTM D6420–99 but is potentially detected by mass spectrometry, an additional system continuing calibration check after each run, as detailed in Section 10.5.3 of ASTM D6420–99, must be followed, met, documented, and submitted with the performance test report even if you do not use a moisture condenser or the compound is not considered soluble.

(*3*) If a minimum of one sample/analysis cycle is completed at least every 15 minutes.

(E) To measure the TOC concentration, use Method 18 of 40 CFR part 60, appendix A, or use Method 25A of 40 CFR part 60, appendix A, according to the procedures in paragraphs (e)(2)(iii)(E)(*1*) through (*4*) of this section.

(*1*) Calibrate the instrument on the predominant regulated material compound.

(*2*) The test results are acceptable if the response from the high level calibration gas is at least 20 times the standard deviation for the response from the zero calibration gas when the instrument is zeroed on its most sensitive scale.

(*3*) The span value of the analyzer must be less than 100 parts per million by volume.

(*4*) Report the results as carbon, calculated according to Equation 25A–1 of Method 25A of 40 CFR part 60, appendix A.

(iv) *Percent reduction calculation.* To determine compliance with a percent reduction requirement, the owner or operator shall use Method 18, 25, or 25A of 40 CFR part 60, appendix A, as applicable. The method ASTM D6420–99 may be used in lieu of Method 18 of 40 CFR part 60, appendix A, under the conditions specified in paragraphs (e)(2)(iii)(D)(*1*) through (*3*) of this section. Alternatively, any other method or data that have been validated according to the applicable procedures in Method 301 of appendix A of 40 CFR part 63 may be used. The procedures specified in paragraphs (e)(2)(iv)(A) through (I) of this section shall be used to calculate percent reduction efficiency.

* * * * *

(F) To measure inlet and outlet concentrations of total organic regulated material, use Method 18 of 40 CFR part 60, appendix A, or ASTM D6420–99, under the conditions specified in paragraphs (e)(2)(iii)(D)(*1*) through (*3*) of this section. In conducting the performance test, collect and analyze samples as specified in Method 18 or ASTM D6420–99. You must collect samples simultaneously at the inlet and outlet of the control device. If the performance test is for a combustion control device, you must first determine which regulated material compounds are present in the inlet gas stream (i.e., uncontrolled emissions) using process knowledge or the screening procedure described in Method 18. Quantify the emissions for the regulated material compounds present in the inlet gas stream for both the inlet and outlet gas streams for the combustion device.

(G) To determine inlet and outlet concentrations of TOC, use Method 25 of 40 CFR part 60, appendix A. Measure the total gaseous non-methane organic (TGNMO) concentration of the inlet and outlet vent streams using the procedures of Method 25. Use the TGNMO concentration in Equations 4 and 5 of paragraph (e)(2)(iv)(B) of this section.

(H) Method 25A of 40 CFR part 60, appendix A, may be used instead of Method 25 to measure inlet and outlet concentrations of TOC if the condition in either paragraph (e)(2)(iv)(H)(*1*) or (*2*) of this section is met.

(*1*) The concentration at the inlet to the control system and the required level of control would result in exhaust TGNMO concentrations of 50 parts per million by volume or less.

(*2*) Because of the high efficiency of the control device, the anticipated TGNMO concentration of the control device exhaust is 50 parts per million by volume or less, regardless of the inlet concentration.

(I) If the uncontrolled or inlet gas stream to the control device contains formaldehyde, you must conduct emissions testing according to paragraph (e)(2)(iv)(I)(*1*) or (*2*) of this section.

(*1*) If you elect to comply with a percent reduction requirement and formaldehyde is the principal regulated material compound (i.e., greater than 50 percent of the regulated material compounds in the stream by volume), you must use Method 316 or 320 of 40 CFR part 63, appendix A, to measure formaldehyde at the inlet and outlet of the control device. Use the percent reduction in formaldehyde as a surrogate for the percent reduction in total regulated material emissions.

(*2*) If you elect to comply with an outlet total organic regulated material concentration or TOC concentration limit, and the uncontrolled or inlet gas stream to the control device contains greater than 10 percent (by volume) formaldehyde, you must use Method 316 or 320 of 40 CFR part 63, appendix A, to separately determine the formaldehyde concentration. Calculate the total organic regulated material concentration or TOC concentration by totaling the formaldehyde emissions measured using Method 316 or 320 and the other regulated material compound emissions measured using Method 18 or 25/25A.

* * * * *

Subpart TT—[Amended]

8. Section 63.1000 is amended by adding paragraph (b) to read as follows:

§ 63.1000 Applicability.

* * * * *

(b) *Implementation and enforcement.* This subpart can be implemented and enforced by the U.S. Environmental Protection Agency (EPA), or a delegated authority such as the applicable State, local, or tribal agency. If the EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency has the authority to implement

and enforce this subpart. Contact the applicable EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(1) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under section 40 CFR part 63, subpart E, the authorities contained in paragraphs (b)(1)(i) through (v) of this section are retained by the EPA Administrator and are not transferred to the State, local, or tribal agency.

(i) Approval of alternatives to the nonopacity emissions standards in §§ 63.1003 through 63.1015, under § 63.6(g). Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart.

(ii) [Reserved]

(iii) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(iv) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(v) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

* * * * *

Subpart UU—[Amended]

9. Section 63.1019 is amended by adding paragraph (f) to read as follows:

§ 63.1019 Applicability.

* * * * *

(f) *Implementation and enforcement.* This subpart can be implemented and enforced by the U.S. Environmental Protection Agency (EPA), or a delegated authority such as the applicable State, local, or tribal agency. If the EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. Contact the applicable EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(1) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under section 40 CFR part 63, subpart E, the authorities contained in paragraphs (f)(i) through (v) of this section are retained by the EPA Administrator and are not transferred to the State, local, or tribal agency.

(i) Approval of alternatives to the nonopacity emissions standards in §§ 63.1022 through 62.1034, under § 63.6(g), and the standards for quality improvement programs in § 63.1035. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart.

(ii) [Reserved]

(iii) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(iv) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(v) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

* * * * *

Subpart WW—[Amended]

10. Part 63 is amended by adding § 63.1067 to subpart WW to read as follows:

§ 63.1067 Implementation and enforcement.

(a) This subpart can be implemented and enforced by the U.S. Environmental Protection Agency (EPA), or a delegated authority such as the applicable State, local, or tribal agency. If the EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. Contact the applicable EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under section 40 CFR part 63, subpart E, the authorities contained in paragraphs (b)(1) through (5) of this section are retained by the EPA Administrator and are not transferred to the State, local, or tribal agency.

(1) Approval of alternatives to the nonopacity emissions standards in §§ 63.1062 and 63.1063(a) and (b) for alternative means of emission limitation, under § 63.6(g).

(2) [Reserved]

(3) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(4) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(5) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

Subpart YY—[Amended]

11. Section 63.1100 is amended by:

a. Revising the first sentence of paragraph (a);

b. Adding four entries in alphabetical order and footnotes (c) and (d) to Table 1 to § 63.1100(a);

c. Revising the first sentence of the introductory text of paragraph (g);

d. Revising paragraphs (g)(1) through (4);

e. Revising the heading for paragraph (g)(5); and

f. Adding paragraph (g)(6).

The revisions and additions read as follows:

§ 63.1100 Applicability.

(a) *General.* This subpart applies to source categories and affected sources specified in § 63.1103(a) through (h).

* * *

TABLE 1 TO § 63.1100(A)—SOURCE CATEGORY MACT [a] APPLICABILITY

Source category	Storage vessels	Process vents	Transfer racks	Equipment leaks	Wastewater streams	Other	Source category MACT requirements
* * *							
Carbon Black Production	No	Yes	No	No	No	No	§ 63.1103(f).
Cyanide Chemicals Manufacturing	Yes	Yes	Yes	Yes	Yes	No	§ 63.1103(g).
Ethylene Production	Yes	Yes	Yes	Yes	Yes	Yes [c]	§ 63.1103(e).
* * *							
Spandex Production	Yes	Yes	No	No	No	Yes [d]	§ 63.1103(h).
* * *							

[a] Maximum achievable control technology.
[c] Heat exchange systems as defined in § 63.1103(e)(2).
[d] Fiber spinning lines.

* * * * * * *

(g) *Overlap with other regulations.* Paragraphs (g)(1) through (6) of this section specify the applicability of this subpart YY emission point requirements when other rules may apply. * * *

(1) *Overlap of subpart YY with other regulations for storage vessels.* (i) After the compliance dates specified in § 63.1102, a storage vessel that must be controlled according to the requirements of this subpart and subpart G of this part is required to comply only with the storage vessel requirements of this subpart.

(ii) After the compliance dates specified in § 63.1102, a storage vessel that must be controlled according to the requirements of this subpart and subpart Ka or Kb of 40 CFR part 60 is required to comply only with the storage vessel requirements of this subpart.

(2) *Overlap of subpart YY with other regulations for process vents.* (i) After the compliance dates specified in § 63.1102, a process vent that must be controlled according to the requirements of this subpart and subpart G of this part is in compliance with this subpart if it complies with either set of requirements. The owner or operator must specify the rule with which they will comply in the Notification of Compliance Status report required by § 63.1110(a)(4).

(ii) After the compliance dates specified in § 63.1102, a process vent that must be controlled according to the requirements of this subpart and subpart III, RRR or NNN of 40 CFR part 60 is required to comply only with the process vent requirements of this subpart.

(3) *Overlap of subpart YY with other regulations for transfer racks.* After the compliance dates specified in § 63.1102, a transfer rack that must be controlled according to the requirements this subpart and subpart G of this part is required to comply only with the transfer rack requirements of this subpart.

(4) *Overlap of subpart YY with other regulations for equipment leaks.* (i) After the compliance dates specified in § 63.1102, equipment that must be controlled according to this subpart and 40 CFR part 60, subpart VV, or 40 CFR part 61, subpart J or subpart V, is required only to comply with the equipment leak requirements of this subpart.

(ii) After the compliance dates specified in § 63.1102, equipment that must be controlled according to this subpart and subpart H of this part is in compliance with the equipment leak requirements of this subpart if it complies with either set of requirements. The owner or operator must specify the rule with which they will comply in the Notification of Compliance Status report required by § 63.1110(a)(4).

(5) *Overlap of subpart YY with other regulations for wastewater for source categories other than ethylene production.*

* * * * *

(6) *Overlap of subpart YY with other regulations for waste for the ethylene production source category.* (i) After the compliance date specified in § 63.1102, a waste stream that is conveyed, stored, or treated in a wastewater stream management unit, waste management unit, or wastewater treatment system that receives streams subject to both the control requirements of § 63.1103(e)(3) for ethylene production sources and the provisions of §§ 63.133 through 63.147 shall comply as specified in paragraphs (g)(6)(i)(A) through (C) of this section. Compliance with the provisions of this paragraph (g)(6)(i) shall constitute compliance with the requirements of this subpart for that waste stream.

(A) Comply with the provisions in §§ 63.133 through 63.137 and 63.140 for all equipment used in the storage and conveyance of the waste stream.

(B) Comply with the provisions in §§ 63.1103(e), 63.138, and 63.139 for the treatment and control of the waste stream.

(C) Comply with the provisions in §§ 63.143 through 63.148 for monitoring and inspections of equipment and for recordkeeping and reporting requirements. The owner or operator is not required to comply with the monitoring, recordkeeping, and reporting requirements associated with the treatment and control requirements in §§ 61.355 through 61.357.

(ii) After the compliance date specified in § 63.1102, compliance with § 63.1103(e) shall constitute compliance with the Benzene Waste Operations NESHAP (subpart FF of 40 CFR part 61) for waste streams that are subject to both the control requirements of § 63.1103(e)(3) for ethylene production sources and the control requirements of 40 CFR part 61, subpart FF.

12. Section 63.1101 is amended by:

a. Adding a sentence at the end of the introductory text;

b. Adding a sentence at the end of the definition of "process vent'; and

c. Revising the definitions of "Shutdown," "Storage vessel or tank," and "Total organic compounds or TOC."

The revisions and additions read as follows:

§ 63.1101 Definitions.

* * * The definitions in this section do not apply to waste requirements for ethylene production sources.

* * * * *

Process vent * * * This definition does not apply to ethylene production sources. Ethylene process vents are defined in § 63.1103(e)(2).

* * * * *

Shutdown means the cessation of operation of an affected source or equipment that is used to comply with this subpart, or the emptying and degassing of a storage vessel. For the purposes of this subpart, shutdown includes, but is not limited to, periodic maintenance, replacement of equipment, or repair. Shutdown does not include the routine rinsing or washing of equipment in batch operation between batches. Shutdown includes the decoking of ethylene production unit furnaces.

* * * * *

Storage vessel or *tank*, for the purposes of regulation under the storage vessel provisions of this subpart, means a stationary unit that is constructed primarily of nonearthen materials (such as wood, concrete, steel, fiberglass, or plastic) that provides structural support and is designed to hold an accumulation of liquids or other materials. Storage vessel includes surge control vessels and bottoms receiver vessels. For the purposes of regulation under the storage vessel provisions of this subpart, storage vessel does not include vessels permanently attached to motor vehicles such as trucks, railcars, barges, or ships; pressure vessels designed to operate in excess of 204.9 kilopascals and without emissions to the atmosphere; or wastewater storage vessels. Wastewater storage vessels are covered under the wastewater provisions of § 63.1106.

* * * * *

Total organic compounds or (TOC) means the total gaseous organic compounds (minus methane and ethane) in a vent stream, with the concentrations expressed on a carbon basis.

* * * * *

13. Section 63.1102 is amended by revising paragraph (a) adding and reserving paragraph (b), and adding a Table 1 to § 63.1102 to read as follows:

§ 63.1102 Compliance schedule.

(a) *General requirements.* Affected sources, as defined in § 63.1103(a)(1)(i) for acetyl resins production, § 63.1103(b)(1)(i) for acrylic and modacrylic fiber production, § 63.1103(c)(1)(i) for hydrogen fluoride production, § 63.1103(d)(1)(i) for polycarbonate production, § 63.1103(e)(1)(i) for ethylene production, § 63.1103(f)(1)(i) for carbon black production, § 63.1103(g)(1)(i) for cyanide chemicals manufacturing, or § 63.1103(h)(1)(i) for spandex production shall comply with the appropriate provisions of this subpart and the subparts referenced by this subpart according to the schedule in paragraph (a)(1) or (2) of this section, as appropriate. Proposal and effective dates are specified in Table 1 to this section.

(1) *Compliance dates for new and reconstructed sources.* (i) The owner or operator of a new or reconstructed affected source that commences construction or reconstruction after the proposal date, and that has an initial startup before the effective date of standards for an affected source, shall comply with this subpart no later than the applicable effective date in Table 1 to § 63.1102 of this section.

(ii) The owner or operator of a new or reconstructed affected source that has an initial startup after the applicable effective date in Table 1 to § 63.1102 of this section shall comply with this subpart upon startup of the source.

(iii) The owner or operator of an affected source that commences construction or reconstruction after the proposal date, but before the effective date in Table 1 to this section, shall comply with this subpart no later than the date 3 years after the effective date if the conditions in paragraphs (a)(1)(iii)(A) and (B) of this section are met.

(A) The promulgated standards are more stringent than the proposed standards.

(B) The owner or operator complies with this subpart as proposed during the 3-year period immediately after the effective date of standards for the affected source.

(2) *Compliance dates for existing sources.* (i) The owner or operator of an existing affected source shall comply with the requirements of this subpart within 3 years after the effective date of standards for the affected source.

(ii) The owner or operator of an area source that increases its emissions of (or its potential to emit) HAP such that the source becomes a major source shall be subject to the relevant standards for existing sources under this subpart. Such sources shall comply with the relevant standards within 3 years of becoming a major source.

(b) [Reserved].

TABLE 1 TO § 63.1102.—SOURCE CATEGORY PROPOSAL AND EFFECTIVE DATES

Source category	Proposal date	Effective date
(a) Acetal Resins Production	October 14, 1998	June 29, 1999.
(b) Acrylic and Modacrylic Fibers Production	October 14, 1998	June 29, 1999.
(c) Hydrogen Fluoride Production	October 14, 1998	June 29, 1999.
(d) Polycarbonate Production	October 14, 1998	June 29, 1999.
(e) Ethylene Production	December 6, 2000	July 12, 2002.
(f) Carbon Black Production	December 6, 2000	July 12, 2002.
(g) Cyanide Chemicals Manufacturing	December 6, 2000	July 12, 2002.
(h) Spandex Production	December 6, 2000	July 12, 2002.

14. Section 63.1103 is amended by adding paragraphs (e) through (h) to read as follows:

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

* * * * *

(e) *Ethylene production applicability, definitions, and requirements*—(1) *Applicability*—(i) *Affected source.* For the ethylene production (as defined in paragraph (e)(2) of this section) source category, the affected source shall comprise all emission points listed in paragraphs (e)(1)(i)(A) through (G) of this section that are associated with an ethylene production unit that is located at a major source, as defined in section 112(a) of the Act.

(A) All storage vessels (as defined in § 63.1101) that store liquids containing organic HAP.

(B) All ethylene process vents (as defined in paragraph (e)(2) of this section) from continuous unit operations.

(C) All transfer racks (as defined in paragraph (e)(2) of this section) that load HAP-containing material.

(D) Equipment (as defined in § 63.1101) that contains or contacts organic HAP.

(E) All waste streams (as defined in paragraph (e)(2) of this section) associated with an ethylene production unit.

(F) All heat exchange systems (as defined in paragraph (e)(2) of this section) associated with an ethylene production unit.

(G) All ethylene cracking furnaces and associated decoking operations.

(ii) *Exceptions.* The emission points listed in paragraphs (e)(1)(ii)(A) through (L) of this section are in the ethylene production source category but are not subject to the requirements of paragraph (e)(3) of this section.

(A) Equipment that is located within an ethylene production unit that is subject to this subpart but does not contain organic HAP.

(B) Stormwater from segregated sewers.

(C) Water from fire-fighting and deluge systems in segregated sewers.

(D) Spills.

(E) Water from safety showers.

(F) Water from testing of fire-fighting and deluge systems.

(G) Vessels storing organic liquids that contain organic HAP as impurities.

(H) Transfer racks, loading arms, or loading hoses that only transfer liquids containing organic HAP as impurities.

(I) Transfer racks, loading arms, or loading hoses that vapor balance during all transfer operations.

(J) Air emissions from all ethylene cracking furnaces, including furnace stack emissions during decoking operations.

(K) Pressure vessels designed to operate in excess of 204.9 kilopascals and without emissions to the atmosphere.

(L) Vessels permanently attached to motor vehicles such as trucks, railcars, barges, or ships.

(iii) *Exclusions.* The provisions of this subpart do not apply to process units and emission points subject to subparts F, G, H, I and CC of this part.

(iv) *Compliance schedule.* The compliance schedule for the ethylene production source category is specified in § 63.1102.

(2) *Definitions. Ethylene process vent* means a gas stream with a flow rate greater than 0.005 standard cubic meters

per minute containing greater than 20 parts per million by volume HAP that is continuously discharged during operation of an ethylene production unit, as defined in this section. Ethylene process vents are gas streams that are discharged to the atmosphere (or the point of entry into a control device, if any) either directly or after passing through one or more recovery devices. Ethylene process vents do not include relief valve discharges; gaseous streams routed to a fuel gas system; leaks from equipment regulated under this subpart; episodic or nonroutine releases such as those associated with startup, shutdown, and malfunction; and in situ sampling systems (online analyzers).

Ethylene production or production unit means a chemical manufacturing process unit in which ethylene and/or propylene are produced by separation from petroleum refining process streams or by subjecting hydrocarbons to high temperatures in the presence of steam. The ethylene production unit includes the separation of ethylene and/or propylene from associated streams such as a C_4 product, pyrolysis gasoline, and pyrolysis fuel oil. Ethylene production does not include the manufacture of SOCMI chemicals such as the production of butadiene from the C_4 stream and aromatics from pyrolysis gasoline.

Heat exchange system means any cooling tower system or once-through cooling water system (e.g., river or pond water). A heat exchange system can include an entire recirculating or once-through cooling system.

Transfer rack means the collection of loading arms and loading hoses at a single loading rack that is used to fill tank trucks and/or railcars with organic HAP. Transfer rack includes the associated pumps, meters, shutoff valves, relief valves, and other piping and valves. Transfer rack does not include racks, arms, or hoses that contain organic HAP only as impurities; or racks, arms, or hoses that vapor balance during all loading operations.

Waste means any material resulting from industrial, commercial, mining, or agricultural operations, or from community activities, that is discarded or is being accumulated, stored, or physically, chemically, thermally, or biologically treated prior to being discarded, recycled, or discharged.

Waste stream means the waste generated by a particular process unit, product tank, or waste management unit. The characteristics of the waste stream (e.g., flow rate, HAP concentration, water content) are determined at the point of waste generation. Examples of a waste stream include process wastewater, product tank drawdown, sludge and slop oil removed from waste management units, and landfill leachate.

(3) *Requirements.* The owner or operator must control organic HAP emissions from each affected source emission point by meeting the applicable requirements specified in Table 7 to this section. An owner or operator must perform the applicability assessment procedures and methods for process vents specified in § 63.1104, except for paragraphs (d), (g), (h), (i), (j), (l)(1), and (n). An owner or operator must perform the applicability assessment procedures and methods for equipment leaks specified in § 63.1107. General compliance, recordkeeping, and reporting requirements are specified in §§ 63.1108 through 63.1112. Minimization of emissions from startup, shutdown, and malfunctions must be addressed in the startup, shutdown, and malfunction plan required by § 63.1111; the plan must also establish reporting and recordkeeping of such events. Procedures for approval of alternate means of emission limitations are specified in § 63.1113.

TABLE 7 TO § 63.1103(E).—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ETHYLENE PRODUCTION EXISTING OR NEW AFFECTED SOURCE?

If you own or operate . . .	And if . . .	Then you must . . .
(a) A storage vessel (as defined in § 63.1101) that stores liquid containing organic HAP.	(1) The maximum true vapor pressure of total organic HAP is ≥3.4 kilopascals but <76.6 kilopascals; and the capacity of the vessel is ≥4 cubic meters but ≤95 cubic meters.	(i) Fill the vessel through a submerged pipe; or (ii) Comply with the requirements for storage vessels with capacities ≥95 cubic meters.
(b) A storage vessel (as defined in § 63.1101) that stores liquid containing organic HAP.	(1) The maximum true vapor pressure of total organic HAP is ≥3.4 kilopascals but ≥76.6 kilopascals; and the capacity of the vessel is ≥95 cubic meters.	(i) Comply with the requirements of subpart WW of this part; or (ii) Reduce emissions of total organic HAP by 98 weight-percent by venting emissions through a closed vent system to any combination of control devices and meet the requirements of § 63.982(a)(1).
(c) A storage vessel (as defined in § 63.1101) that stores liquid containing organic HAP.	(1) The maximum true vapor pressure of total organic HAP is ≥76.6 kilopascals.	(i) Reduce emissions of total organic HAP by 98 weight-percent by venting emissions through a closed vent system to any combination of control devices and meet the requirements of § 63.982(a)(1).
(d) An ethylene process vent (as defined in paragraph (e)(2) of this section).	(1) The process vent is at an existing source and the vent stream has a flow rate ≥0.011 scmm and a total organic HAP concentration ≥50 parts per million by volume; or the process vent is at a new source and the vent stream has a flow rate ≥0.008 scmm and a total organic HAP concentration ≥30 parts per million by volume.	(i) Reduce emissions of organic HAP by 98 weight-percent; or reduce organic HAP or TOC to a concentration of 20 parts per million by volume; whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices and meet the requirements specified in § 63.982(b) and (c)(2).
(e) A transfer rack (as defined in paragraph (e)(2) of this section).	(1) Materials loaded have a true vapor pressure of total organic HAP ≥3.4 kilopascals and ≥76 cubic meters per day (averaged over any consecutive 30-day period) of HAP-containing material is loaded.	(i) Reduce emissions of organic HAP by 98 weight-percent; or reduce organic HAP or TOC to a concentration of 20 parts per million by volume; whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices as specified in § 63.1105; or

TABLE 7 TO § 63.1103(E).—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ETHYLENE PRODUCTION EXISTING OR NEW AFFECTED SOURCE?—Continued

If you own or operate . . .	And if . . .	Then you must . . .
		(ii) Install process piping designed to collect the HAP-containing vapors displaced from tank trucks or railcars during loading and to route it to a process, a fuel gas system, or a vapor balance system, as specified in § 63.1105.
(f) Equipment (as defined in § 63.1101) that contains or contacts organic HAP.	(1) The equipment contains or contacts ≥5 weight-percent organic HAP; and the equipment is not in vacuum service.	Comply with the requirements of subpart UU of this part.
(g) Processes that generate waste (as defined in paragraph (e)(2) of this section).	(1) The wastewater contains any of the following HAP: benzene, cumene, ethyl benzene, hexane, naphthalene, styrene, toluene, o-xylene, m-xylene, p-xylene, or 1,3-butadiene.	(i) Comply with the waste requirements of subpart XX of this part. For ethylene manufacturing process unit waste stream requirements, terms have the meanings specified in subpart XX.
(h) A heat exchange system (as defined in paragraph (e)(2) of this section).	.....	Comply with the heat exchange system requirements of subpart XX of this part.

(f) *Carbon black production applicability, definitions, and requirements*—(1) *Applicability*—(i) *Affected source.* For the carbon black production source category (as defined in paragraph (f)(2) of this section), the affected source shall comprise each carbon black production process unit located at a major source, as defined in section 112(a) of the Act. The affected source for the carbon black production source category includes all waste management units, maintenance wastewater, and equipment components that contain or contact HAP that are associated with the carbon black production process unit.

(ii) *Compliance schedule.* The compliance schedule for the carbon black production and acetylene decomposition carbon black production affected sources, as defined in paragraph (f)(1)(i) of this section, is specified in § 63.1102.

(2) *Definitions. Carbon black production* means the production of carbon black by either the furnace, thermal, acetylene decomposition, or lampblack processes.

Carbon black production unit means the equipment assembled and connected by hard-piping or duct work to process raw materials to manufacture, store, and transport a carbon black product. For the purposes of this subpart, a carbon black production process unit includes reactors and associated operations; associated recovery devices; and any feed, intermediate and product storage vessels, product transfer racks, and connected ducts and piping. A carbon black production process unit includes pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, instrumentation systems, and control devices or systems.

Dryer means a rotary-kiln dryer that is heated externally and is used to dry wet pellets in the wet pelletization process.

Main unit filter means the filter that separates the carbon black from the tailgas.

Process filter means the filter that separates the carbon black from the conveying air.

Purge filter means the filter that separates the carbon black from the dryer exhaust.

(3) *Requirements.* (i) Table 8 to this section specifies the carbon black production standards applicability for existing and new sources. Applicability assessment procedures and methods are specified in § 63.1104. An owner or operator of an affected source is not required to perform applicability tests or other applicability assessment procedures if they opt to comply with the most stringent requirements for an applicable emission point pursuant to this subpart. General compliance, recordkeeping, and reporting requirements are specified in §§ 63.1108 through 63.1112. Procedures for approval of alternative means of emission limitations are specified in § 63.1113.

(ii) Pressure relief devices used to protect against overpressure in the case of catastrophic failure of your process filter system are exempt from the closed vent system inspection requirements of § 63.983(b) and (c). Exempt pressure relief devices must be designated and identified in your Notification of Compliance Status report.

TABLE 8 TO § 63.1103(F).—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A CARBON BLACK PRODUCTION EXISTING OR NEW AFFECTED SOURCE?

If you own or operate . . .	And if . . .	Then you must . . .
(a) A carbon black production main unit filter process vent.	(1) The HAP concentration of the emission stream is equal to or greater than 260 parts per million by volume[a].	(i) Reduce emissions of HAP by using a flare meeting the requirements of subpart SS of this part; or (ii) Reduce emissions of total HAP by 98 weight-percent or to a concentration of 20 parts per million by volume, whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of § 63.982(a)(2).

[a] The weight-percent organic HAP is determined according to the procedures specified in § 63.1104(e).

(g) *Cyanide chemicals manufacturing applicability, definitions, and requirements*—(1) *Applicability*—(i) *Affected source.* For the cyanide chemicals manufacturing source category, the affected source shall include each cyanide chemicals manufacturing process unit located at a major source, as defined in section 112(a) of the Act. The affected source shall also include all waste management units, maintenance wastewater, and equipment (as defined in § 63.1101) that contain or contact cyanide chemicals that are associated with the cyanide chemicals manufacturing process unit.

(ii) *Compliance schedule.* The compliance schedule for the affected source, as defined in paragraph (f)(1)(i) of this section, is specified in § 63.1102.

(2) *Definitions. Andrussow process unit* means a process unit that produces hydrogen cyanide by reacting methane and ammonia in the presence of oxygen over a platinum/rhodium catalyst. An Andrussow process unit begins at the point at which the raw materials are stored and ends at the point at which refined hydrogen cyanide is reacted as a raw material in a downstream process, burned on-site as fuel in a boiler or industrial furnace, or is shipped offsite. If raw hydrogen cyanide from the reactor is reacted with sodium hydroxide to form sodium cyanide prior to the refining process, the unit operation where sodium cyanide is formed is considered to be part of the Andrussow process unit.

Blausaure Methane Anlage (BMA) process unit means a process unit that produces hydrogen cyanide by reacting methane and ammonia over a platinum catalyst. A BMA process unit begins at the point at which raw materials are stored and ends at the point at which refined hydrogen cyanide is reacted as a raw material in a downstream process, burned on-site as a fuel in a boiler or industrial furnace, or is shipped offsite. If raw hydrogen cyanide from the reactor is reacted with sodium hydroxide to form sodium cyanide prior to the refining process, the unit operation where sodium cyanide is formed is considered to be part of the BMA process unit.

Byproduct means a chemical that is produced coincidentally during the production of another chemical.

Cyanide chemicals manufacturing process unit or *CCMPU* means the equipment assembled and connected by hard-piping or duct work to process raw materials to manufacture, store, and transport a cyanide chemicals product. A cyanide chemicals manufacturing process unit shall be limited to any one of the following: an Andrussow process unit, a BMA process unit, a sodium cyanide process unit, or a Sohio hydrogen cyanide process unit. For the purpose of this subpart, a cyanide chemicals manufacturing process unit includes reactors and associated unit operations; associated recovery devices; and any feed, intermediate and product storage vessels, product transfer racks, and connected ducts and piping. A cyanide chemicals manufacturing process unit includes pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, instrumentation systems, and control devices or systems.

Cyanide chemicals product means either hydrogen cyanide, potassium cyanide, or sodium cyanide which is manufactured as the intended product of a CCMPU or a byproduct of the Sohio process. Other hydrogen cyanide, potassium cyanide, or sodium cyanide byproducts, impurities, wastes, and trace contaminants are not considered to be cyanide chemicals products.

Dry-end process vent means a process vent originating from the drum filter or any other unit operation in the dry end of a sodium cyanide manufacturing process unit. For the purposes of this subpart, the dry end of the sodium cyanide process unit begins in the unit operation where water is removed from the sodium cyanide, usually in the drum filter, and ends when the sodium cyanide is used as a raw material in a downstream process, or is shipped offsite.

Organic HAP means, for purposes of applicability of the requirements of this subpart, all hydrogen cyanide compounds.

Raw hydrogen cyanide means hydrogen cyanide that has not been through the refining process. Raw hydrogen cyanide usually has a hydrogen cyanide concentration less than 10 percent.

Refined hydrogen cyanide means hydrogen cyanide that has been through the refining process. Refined hydrogen cyanide usually has a hydrogen cyanide concentration greater than 99 percent.

Refining process means the collection of equipment in a cyanide chemicals manufacturing processing unit used to concentrate raw hydrogen cyanide from a concentration around 10 percent or less to refined hydrogen cyanide at a concentration greater than 99 percent.

Sodium cyanide process unit means a process unit that produces sodium cyanide by reacting hydrogen cyanide and sodium hydroxide via the neutralization, or wet, process. A sodium cyanide process unit begins at the unit operation where refined hydrogen cyanide is reacted with sodium hydroxide and ends at the point the solid sodium cyanide product is shipped offsite or used as a raw material in a downstream process. If raw hydrogen cyanide is reacted with sodium hydroxide to form sodium cyanide prior to the hydrogen cyanide refining process, the unit operation where sodium cyanide is formed is not considered to be part of the sodium cyanide process unit. For this type of process, the sodium cyanide process unit begins at the point that the aqueous sodium cyanide stream leaves the unit operation where the sodium cyanide is formed. In situations where potassium hydroxide is substituted for sodium hydroxide to produce potassium cyanide, the process unit is still considered a sodium cyanide process unit.

Sohio hydrogen cyanide process unit means a process unit that produces hydrogen cyanide as a byproduct of the acrylonitrile production process when acrylonitrile is manufactured using the Sohio process. A Sohio hydrogen cyanide process unit begins at the point the hydrogen cyanide leaves the unit operation where the hydrogen cyanide is separated from the acrylonitrile (usually referred to as the heads column). The Sohio hydrogen cyanide process unit ends at the point refined hydrogen cyanide is reacted as a raw material in a downstream process, burned on-site as fuel in a boiler or industrial furnace, or is shipped offsite. If raw hydrogen cyanide is reacted with sodium hydroxide to form sodium cyanide prior to the refining process, the unit operation where sodium cyanide is formed is considered to be part of the Sohio hydrogen cyanide process unit.

Wet-end process vent means a process vent originating from the reactor, crystallizer, or any other unit operation in the wet end of the sodium cyanide process unit. For the purposes of this subpart, the wet end of the sodium cyanide process unit begins at the point at which the raw materials are stored and ends just prior to the unit operation where water is removed from the sodium cyanide, usually in the drum filter. Wastewater streams containing discarded wastewater from the sodium cyanide production process are not considered to be part of the wet-end sodium cyanide process. Discarded wastewater that is no longer used in the production process is considered to be process and/or maintenance wastewater. Vents from process and maintenance wastewater operations are not wet-end process vents.

(3) *Requirements.* Table 9 to this section specifies the cyanide chemicals

manufacturing standards applicable to existing and new sources. Applicability assessment procedures and methods are specified in § 63.1104. An owner or operator of an affected source is not required to perform applicability tests or other applicability assessment procedures if they opt to comply with the most stringent requirements for an applicable emission point pursuant to this subpart. General compliance, recordkeeping, and reporting requirements are specified in §§ 63.1108 through 63.1112. Procedures for approval of alternative means of emission limitations are specified in § 63.1113.

(4) *Determination of overall HAP emission reduction for a process unit.* (i) The owner or operator shall determine the overall HAP emission reduction for process vents in a process unit using Equation 1 of this section. The overall organic HAP emission reduction shall be determined for all process vents in the process unit.

$$RED_{CCMPU} = \left(\frac{\sum_{i=1}^{n} \left(E_{unc,i}\right)\left(\frac{R_i}{100}\right)}{\sum_{i=1}^{n} \left(E_{unc,i}\right) + \sum_{j=1}^{m} \left(E_{unc,j}\right)} \right) * 100 \qquad \text{[Equation 1]}$$

Where:

RED_{CCMPU}=Overall HAP emission reduction for the group of process vents in the CCMPU, percent.

$E_{unc,i}$=Uncontrolled HAP emissions from process vent i that is controlled by using a combustion, recovery, or recapture device, kg/yr.

n=Number of process vents in the process unit that are controlled by using a combustion, recovery, or recapture device.

R_i=Control efficiency of the combustion, recovery, or recapture device used to control HAP emissions from vent i, determined in accordance with paragraph (g)(4)(ii) of this section.

$E_{unc,j}$=Uncontrolled HAP emissions from process vent j that is not controlled by using a combustion, recovery, or recapture device, kg/yr.

m=Number of process vents in the process unit that are not controlled by using a combustion, recovery, or recapture device.

(ii) The control efficiency shall be assigned as specified in paragraph (g)(4)(ii) (A) or (B) of this section.

(A) If the process vent is controlled using a flare in accordance with the provisions of § 63.987, or a combustion device in accordance with the provisions of § 63.988(b)(2), for which a performance test has not been conducted, the control efficiency shall be assumed to be 98 weight-percent. For hydrogen-fueled flares, an owner or operator may use a control efficiency greater than 98 weight-percent if they can provide engineering calculations and supporting information demonstrating a greater control efficiency.

(B) If the process vent is controlled using a combustion, recovery, or recapture device for which a performance test has been conducted in accordance with the provisions of § 63.997, the control efficiency shall be the efficiency determined by the performance test.

(5) *Source category specific modifications to testing procedures.* (i) When identifying equipment subject to any equipment leak requirements, an owner or operator is allowed to designate specific components of such equipment as never being safe to monitor with their Notification of Compliance Status report and periodic compliance reports. In order for an owner or operator to designate such equipment as never being safe to monitor, they must certify that monitoring such equipment at any time the CCMPU is operating is never safe (e.g., monitoring this equipment would present an unreasonable hazard or preclude testing personnel from meeting emergency evacuation requirements). If it is demonstrated to the Administrator's satisfaction that equipment designated by the owner or operator as never safe to monitor is appropriately designated, an owner or operator will not be required to monitor such equipment.

(ii) For process vent hydrogen cyanide emissions that are vented to a control device other than a flare during startup, shutdown, and malfunction, the design evaluation must include documentation that the control device being used achieves the required control efficiency during the reasonably expected maximum flow rate and emission rate during startup, shutdown, and malfunction.

(iii) If a facility controls process vent emissions during startup, shutdown, and malfunction by using a flare, an owner or operator is not required to perform flow rate and heat content testing as specified in § 63.987(b)(3)(ii) and (iii). In lieu of performing flow rate and heat content testing, an owner or operator is required to submit engineering calculations that substantiate that a flare meets the applicable heat content or flow rates, or provide data from a compliance assessment that the flare is in compliance under worst case conditions (e.g., maximum operating conditions).

(iv) If flare velocity and net heating value testing, as specified in § 63.11(b)(6)(ii) and (b)(7)(i), would create an unreasonable hazard for testing personnel, an owner or operator is allowed to submit engineering calculations that substantiate vent stream velocity and heat content of a flare in lieu of test data. These calculations are required to be submitted with the facilities' compliance test notification report for approval by the Administrator.

(v) The data from any performance test method used to measure HCN concentrations must be validated using EPA Method 301 (40 CFR part 63, appendix A).

TABLE 9 TO § 63.1103(G).—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A CYANIDE CHEMICALS MANUFACTURING EXISTING OR NEW AFFECTED SOURCE?

If you own or operate . . .	And if . . .	Then you must . . .
(a) A storage vessel	(1) The storage vessel contains refined hydrogen cyanide.	(i) Reduce emissions of hydrogen cyanide by using a flare meeting the requirements of § 63.982(b); or (ii) Reduce emissions of hydrogen cyanide by 98 weight-percent, or to a concentration of 20 parts per million by volume, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of § 63.982(c)(1) or (d).
(b) A process vent from a continuous unit operations in an Andrussow, BMA, or Sohio hydrogen cyanide process unit.		(i) Reduce overall annual emissions of total HAP from the collection of process vents from continuous unit operations in the process by 98 weight-percent in accordance with paragraph (g)(4) of this section. Any control device used to reduce emissions from one or more process vents from continuous unit operations in the process unit must meet the applicable requirements specified in § 63.982(a)(2); or (ii) Reduce emissions of total HAP from each process vent from a continuous unit operation in the process unit by using a flare meeting the requirements specified in § 63.982(b); or (iii) Reduce emissions of total HAP from each process vent from a continuous unit operation in the process unit by 98 weight-percent or to a concentration of 20 parts per million by volume, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of § 63.982(c)(2) or (d).
(c) One or more wet end process vents, as defined in paragraph (g)(2) of this section, in a sodium cyanide process unit.		(i) Reduce overall annual emissions of total HAP from the collection of process vents from continuous unit operations in the process unit by 98 weight-percent in accordance with paragraph (g)(4) of this section. Any control device used to reduce emissions from one or more process vents from continuous unit operations in the process unit must meet the applicable requirements of § 63.982(a)(2); or (ii) Reduce emissions of total HAP from each wet-end process vent in the process unit by using a flare meeting the requirements of § 63.982(b); or (iii) Reduce emissions of total HAP from each wet-end process vent by 98 weight-percent, or to a concentration of 20 parts per million by volume, by venting emissions through a closed vent system and any combination of control devices meeting the requirements of § 63.982(c)(2) or (d).
(d) One or more dry end process vents, as defined in paragraph (g)(2) of this section, in a sodium cyanide process unit.		(i) Reduce overall annual emissions of sodium cyanide from the collection of process vents from continuous unit operations in the process unit by 98 weight-percent in accordance with paragraph (g)(4) of this section. Any control device used to reduce emissions from one or more process vents from continuous unit operations in the process unit must meet the applicable requirements of § 63.982(a)(2); or (ii) Reduce emissions of sodium cyanide from each dry-end process vent in the process unit by 98 weight-percent by venting emissions through a closed vent system to any combination of control devices meeting the requirements of § 63.982(c)(2) or (d).

TABLE 9 TO § 63.1103(G).—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A CYANIDE CHEMICALS MANUFACTURING EXISTING OR NEW AFFECTED SOURCE?—Continued

If you own or operate . . .	And if . . .	Then you must . . .
(e) A transfer rack	(1) The transfer rack is used to load refined hydrogen cyanide into tank trucks and/or rail cars.	(i) Reduce emissions of hydrogen cyanide by using a flare meeting the requirements of § 63.982(b); or (ii) Reduce emissions of hydrogen cyanide by 98 weight-percent, or to a concentration of 20 parts per million by volume, whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements specified in § 63.982(c)(1), (c)(2), or (d).
(f) A new cyanide chemicals manufacturing process unit that generates process wastewater.	(1) The process wastewater is from HCN purification, ammonia purification, or flare blowdown.	(i) Achieve a combined removal and control of HAP from wastewater of 93 weight-percent.
(g) A cyanide chemicals manufacturing process unit that generates maintenance wastewater.	(1) The maintenance wastewater contains hydrogen cyanide or acetonitrile.	(i) Comply with the requirements of § 63.1106(b).
(h) An item of equipment listed in § 63.1106(c)(1) that transports or contains wastewater liquid streams from a cyanide chemicals manufacturing process unit.	(1) The item of equipment meets the criteria specified in § 63.1106(c)(1) through (3) and either (c)(4)(i) or (ii).	(i) Comply with the requirements in Table 35 of subpart G of this part.
(i) Equipment, as defined under § 63.1101	(1) The equipment contains or contacts hydrogen cyanide and operates equal to or greater then 300 hours per year.	(i) Comply with either subpart TT or UU of this part, and paragraph (g)(5) of this section, with the exception that open-ended lines that contain or contact hydrogen cyanide are exempt from any requirements to install a cap, plug, blind flange, or second valve to be capped.

(h) *Spandex production applicability, definitions, and requirements*—(1) *Applicability*—(i) *Affected source.* For the spandex production (as defined in paragraph (h)(2) of this section) source category, the affected source shall comprise all emission points listed in paragraphs (h)(1)(i)(A) through (C) of this section that are associated with a reaction spinning spandex production process unit located at a major source, as defined in section 112(a) of the Act.

(A) All process vents (as defined in § 63.1101).

(B) All storage vessels (as defined in § 63.1101) that store liquids containing organic HAP.

(C) All spandex fiber spinning lines using a spinning solution having organic HAP.

(ii) *Exceptions.* The emission points listed in paragraphs (h)(1)(ii)(A) and (B) of this section are in the spandex production source category but are not subject to the requirements of paragraph (h)(3) of this section.

(A) Equipment that is located within a spandex production process unit that is subject to this subpart but does not contain organic HAP.

(B) Vessels storing organic liquids that contain organic HAP as impurities.

(iii) *Compliance schedule.* The compliance schedule for affected sources, as defined in paragraph (h)(1)(i) of this section, is specified in paragraph (b) of § 63.1102.

(2) *Definitions. Fiber spinning line* means the group of equipment and process vents associated with spandex fiber spinning operations. The fiber spinning line includes the blending and dissolving tanks, spinning solution filters, spinning units, spin bath tanks, and the equipment used downstream of the spin bath to wash, draw, or dry on the wet belt the spun fiber.

Spandex or spandex fiber means a manufactured synthetic fiber in which the fiber-forming substance is a long-chain polymer comprised of at least 85 percent by mass of a segmented polyurethane.

Spandex production means the production of synthetic spandex fibers.

Spandex production process unit means a process unit that is specifically used for the production of synthetic spandex fibers.

(3) *Requirements.* Table 10 to this section specifies the spandex production source category requirements for new and existing sources. An owner or operator must perform the applicability assessment procedures and methods for process vents specified in § 63.1104, excluding paragraphs (b)(1), (d), (g), (h), (i), (j), (l)(1), and (n). General compliance, recordkeeping, and reporting requirements are specified in §§ 63.1108 through 63.1112. Minimization of emissions from startup, shutdown, and malfunctions must be addressed in the startup, shutdown, and malfunction plan required by § 63.1111; the plan must also establish reporting and recordkeeping of such events. Procedures for approval of alternate means of emission limitations are specified in § 63.1113.

TABLE 10 TO § 63.1103(H)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A SPANDEX PRODUCTION PROCESS UNIT AT A NEW OR EXISTING SOURCE?

If you own or operate . . .	And if . . .	Then you must . . .
(a) A storage vessel (as defined in § 63.1101) that stores liquid containing organic HAP.	(1) The maximum true vapor pressure of the organic HAP is ≥ 3.4 kilopascals; and the capacity of the vessel is ≥ 47 cubic meters.	(i) Comply with the requirements of subpart WW of this part; or (ii) Reduce emissions of organic HAP by 95 weight-percent by venting emissions in through a closed vent system to any combination of control devices meeting the requirements of subpart SS of this part, as specified in § 63.982(a)(1).
(b) A process vent		Reduce emissions of organic HAP by 95 weight-percent, or reduce organic HAP or TOC to a concentration of 20 parts per million by volume, whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of § 63.982(a)(2).
(c) A fiber spinning line		Operate the fiber spinning line such that emissions are captured and vented through a line closed vent system to a control device that complies with the requirements of § 63.982(a)(2). If a control device other than a flare is used, HAP emissions must be reduced by 95 weight-percent, or total organic HAP or TOC must be reduced to a concentration of 20 parts per million by volume, whichever is less stringent.

15. Section 63.1104 is amended by:

a. Revising the last sentence of paragraph (a);

b. Revising the first sentence of paragraph (e) introductory text;

c. Revising the first sentence of paragraph (f)(1);

d. Revising the last sentence of paragraph (k) introductory text; and

e. Revising the first sentence of paragraph (m)(2)(i) introductory text.

The revisions are to read as follows:

§ 63.1104 Process vents from continuous unit operations: applicability assessment procedures and methods.

(a) * * * The owner or operator of a process vent is not required to determine the criteria specified for a process vent that is being controlled (including control by flare) in accordance with the applicable weight-percent, TOC concentration, or organic HAP concentration requirement in § 63.1103.

* * * * *

(e) *TOC or Organic HAP concentration.* The TOC or organic HAP concentrations shall be determined based on paragraph (e)(1), (e)(2), or (k) of this section, or any other method or data that have been validated according to the protocol in Method 301 of appendix A of 40 CFR part 63. * * *

* * * * *

(f) * * *

(1) Use Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A, as appropriate. * * *

* * * * *

(k) * * * If a process vent flow rate or process vent organic HAP or TOC concentration is being determined for comparison with the applicable flow rate or concentration value presented in the tables in § 63.1103 to determine control requirement applicability, engineering assessment may be used to determine the flow rate or concentration for the representative operating conditions expected to yield the highest flow rate or concentration.

* * * * *

(m) * * *

(2) *Process change.* (i) Whenever a process vent becomes subject to control requirements under this subpart as a result of a process change, the owner or operator shall submit a report within 60 days after the performance test or applicability assessment, whichever is sooner. * * *

* * * * *

16. Add § 63.1105 to read as follows:

§ 63.1105 Transfer racks.

(a) *Design requirements.* The owner or operator shall equip each transfer rack with one of the control options listed in paragraphs (a)(1) through (4) of this section.

(1) A closed vent system designed to collect HAP-containing vapors displaced from tank trucks or railcars during loading and to route the collected vapors to a flare. The owner or operator must meet the requirements of § 63.982(a)(3).

(2) A closed vent system designed to collect HAP-containing vapors displaced from tank trucks or railcars during loading and to route the collected vapors to a control device other than a flare. The owner or operator must meet the requirements of § 63.982(a)(3).

(3) Process piping designed to collect the HAP vapors displaced from tank trucks or railcars during loading and to route the collected vapors to a process where the HAP vapors shall predominantly meet one of, or a combination of, the ends specified in paragraphs (a)(3)(i) through (iv) of this section or to a fuel gas system. The owner or operator must meet the requirements of § 63.982(a)(3).

(i) Recycled and/or consumed in the same manner as a material that fulfills the same function in that process;

(ii) Transformed by chemical reaction into materials that are not HAP;

(iii) Incorporated into a product; and/or

(iv) Recovered.

(4) Process piping designed to collect the HAP vapors displaced from tank trucks or railcars during loading and to route the collected vapors to a vapor balance system. The vapor balance system must be designed to route the

collected HAP vapors to the storage vessel from which the liquid being loaded originated, or to another storage vessel connected to a common header, or to compress and route collected HAP vapors to a process.

(b) *Operating requirements.* An owner or operator of a transfer rack shall operate it in such a manner that emissions are routed through the equipment specified in paragraph (a) of this section.

(c) *Control device operation.* Whenever HAP emissions are vented to a control device used to comply with the provisions of this subpart, such control device shall be operating.

(d) *Tank trucks and railcars.* The owner or operator shall load HAP-containing materials only into tank trucks and railcars that meet the requirement in paragraph (d)(1) or (2) of this section and shall maintain the records specified in paragraph (i) of this section.

(1) Have a current certification in accordance with the U.S. Department of Transportation (DOT) pressure test requirements of 49 CFR part 180 for tank trucks and 49 CFR 173.31 for railcars; or

(2) Have been demonstrated to be vapor-tight within the preceding 12 months as determined by the procedures in paragraph (h) of this section. Vapor-tight means that the pressure in a truck or railcar tank will not drop more than 750 pascals within 5 minutes after it is pressurized to a minimum of 4,500 pascals.

(e) *Pressure relief device.* The owner or operator of a transfer rack subject to the provisions of this subpart shall ensure that no pressure relief device in the loading equipment of each tank truck or railcar shall begin to open to the atmosphere during loading. Pressure relief devices needed for safety purposes are not subject to the requirements of this paragraph.

(f) *Compatible system.* The owner or operator of a transfer rack subject to the provisions of this subpart shall load HAP-containing materials only to tank trucks or railcars equipped with a vapor collection system that is compatible with the transfer rack's closed vent system or process piping.

(g) *Loading while systems connected.* The owner or operator of a transfer rack subject to this subpart shall load HAP-containing material only to tank trucks or railcars whose collection systems are connected to the transfer rack's closed vent system or process piping.

(h) *Vapor tightness procedures.* For the purposes of demonstrating vapor tightness to determine compliance with paragraph (d)(2) of this section, the procedures and equipment specified in paragraphs (h)(1) and (2) shall be used.

(1) The pressure test procedures specified in Method 27 of appendix A to 40 CFR part 60.

(2) A pressure measurement device that has a precision of ± 2.5 millimeters of mercury or better and that is capable of measuring above the pressure at which the tank truck or railcar is to be tested for vapor tightness.

(i) *Recordkeeping.* The owner or operator of a transfer rack shall record that the verification of DOT tank certification or Method 27 of appendix A to 40 CFR part 60 testing required in § 63.84(c) has been performed. Various methods for the record of verification can be used, such as a check-off on a log sheet, a list of DOT serial numbers or Method 27 data, or a position description for gate security showing that the security guard will not allow any trucks on-site that do not have the appropriate documentation.

17. Subpart YY is amended by adding § 63.1114 to read as follows:

§ 63.1114 Implementation and enforcement.

(a) This subpart can be implemented and enforced by the U.S. Environmental Protection Agency (EPA), or a delegated authority such as the applicable State, local, or tribal agency. If the EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. Contact the applicable EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraphs (b)(1) through (5) of this section are retained by the EPA Administrator and are not transferred to the State, local, or tribal agency.

(1) Approval of alternatives to the nonopacity emissions standards in § 63.1103(a)(3), (b)(3) through (5), (c)(3), (d)(3), (e)(3), (f)(3), (g)(3) and (4), and (h)(3) under § 63.6(g). Follow the requirements in § 63.1113 to request permission to use an alternative means of emission limitation. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart.

(2) [Reserved]

(3) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(4) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(5) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[FR Doc. 02–12841 Filed 7–11–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7215–8]

RIN 2060–AH68

National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments.

SUMMARY: The EPA is taking direct final action to amend the "generic" maximum achievable control technology (MACT) standards to clarify the agency's intent concerning dry spinning spandex production processes. The national emission standards for hazardous air pollutants (NESHAP) for the Spandex Production source category, along with the NESHAP for three other source categories, are being included in the Generic MACT rule in this issue of the **Federal Register**.

DATES: The direct final rule will be effective on September 25, 2002 without further notice, unless significant adverse comments are received by August 12, 2002, or by August 26, 2002 if a public hearing is requested. See the proposed rule in this issue of the **Federal Register** for information on the hearing. If we receive timely adverse comments, we will withdraw this direct final rule and take final action pursuant to the proposed rule.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–98–25, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–98–25, U.S. EPA, 401 M Street, SW., Washington DC 20460. The EPA requests that a separate copy of each public comment be sent to the contact person listed below (*see* **FOR FURTHER INFORMATION CONTACT**). Comments may

collected HAP vapors to the storage vessel from which the liquid being loaded originated, or to another storage vessel connected to a common header, or to compress and route collected HAP vapors to a process.

(b) *Operating requirements.* An owner or operator of a transfer rack shall operate it in such a manner that emissions are routed through the equipment specified in paragraph (a) of this section.

(c) *Control device operation.* Whenever HAP emissions are vented to a control device used to comply with the provisions of this subpart, such control device shall be operating.

(d) *Tank trucks and railcars.* The owner or operator shall load HAP-containing materials only into tank trucks and railcars that meet the requirement in paragraph (d)(1) or (2) of this section and shall maintain the records specified in paragraph (i) of this section.

(1) Have a current certification in accordance with the U.S. Department of Transportation (DOT) pressure test requirements of 49 CFR part 180 for tank trucks and 49 CFR 173.31 for railcars; or

(2) Have been demonstrated to be vapor-tight within the preceding 12 months as determined by the procedures in paragraph (h) of this section. Vapor-tight means that the pressure in a truck or railcar tank will not drop more than 750 pascals within 5 minutes after it is pressurized to a minimum of 4,500 pascals.

(e) *Pressure relief device.* The owner or operator of a transfer rack subject to the provisions of this subpart shall ensure that no pressure relief device in the loading equipment of each tank truck or railcar shall begin to open to the atmosphere during loading. Pressure relief devices needed for safety purposes are not subject to the requirements of this paragraph.

(f) *Compatible system.* The owner or operator of a transfer rack subject to the provisions of this subpart shall load HAP-containing materials only to tank trucks or railcars equipped with a vapor collection system that is compatible with the transfer rack's closed vent system or process piping.

(g) *Loading while systems connected.* The owner or operator of a transfer rack subject to this subpart shall load HAP-containing material only to tank trucks or railcars whose collection systems are connected to the transfer rack's closed vent system or process piping.

(h) *Vapor tightness procedures.* For the purposes of demonstrating vapor tightness to determine compliance with paragraph (d)(2) of this section, the procedures and equipment specified in paragraphs (h)(1) and (2) shall be used.

(1) The pressure test procedures specified in Method 27 of appendix A to 40 CFR part 60.

(2) A pressure measurement device that has a precision of ± 2.5 millimeters of mercury or better and that is capable of measuring above the pressure at which the tank truck or railcar is to be tested for vapor tightness.

(i) *Recordkeeping.* The owner or operator of a transfer rack shall record that the verification of DOT tank certification or Method 27 of appendix A to 40 CFR part 60 testing required in § 63.84(c) has been performed. Various methods for the record of verification can be used, such as a check-off on a log sheet, a list of DOT serial numbers or Method 27 data, or a position description for gate security showing that the security guard will not allow any trucks on-site that do not have the appropriate documentation.

17. Subpart YY is amended by adding § 63.1114 to read as follows:

§ 63.1114 Implementation and enforcement.

(a) This subpart can be implemented and enforced by the U.S. Environmental Protection Agency (EPA), or a delegated authority such as the applicable State, local, or tribal agency. If the EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. Contact the applicable EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraphs (b)(1) through (5) of this section are retained by the EPA Administrator and are not transferred to the State, local, or tribal agency.

(1) Approval of alternatives to the nonopacity emissions standards in § 63.1103(a)(3), (b)(3) through (5), (c)(3), (d)(3), (e)(3), (f)(3), (g)(3) and (4), and (h)(3) under § 63.6(g). Follow the requirements in § 63.1113 to request permission to use an alternative means of emission limitation. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart.

(2) [Reserved]

(3) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(4) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(5) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7215–8]

RIN 2060–AH68

National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments.

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DATES: The direct final rule will be effective on September 25, 2002 without further notice, unless significant adverse comments are received by August 12, 2002, or by August 26, 2002 if a public hearing is requested. See the proposed rule in this issue of the **Federal Register** for information on the hearing. If we receive timely adverse comments, we will withdraw this direct final rule and take final action pursuant to the proposed rule.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–98–25, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–98–25, U.S. EPA, 401 M Street, SW., Washington DC 20460. The EPA requests that a separate copy of each public comment be sent to the contact person listed below (*see* **FOR FURTHER INFORMATION CONTACT**). Comments may

also be submitted electronically by following the instructions provided in **SUPPLEMENTARY INFORMATION.**

Docket. Docket No. A–98–25 contains supporting information used in developing the NESHAP. The docket is located at the U.S. EPA, 401 M Street, SW., Washington, DC 20460 in Room M–1500, Waterside Mall (ground floor), and may be inspected from 8 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Elaine Manning, Waste and Chemical Processes Group, Emission Standards Division (Mailcode C43903), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5499, electronic mail (e-mail) address: *manning.elaine@epa.gov.*

SUPPLEMENTARY INFORMATION:

Comments. Comments and data may be submitted by e-mail to: a-and-r-docket@epa.gov. Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect file format. All comments and data submitted in electronic form must note the docket number A–98–25. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Ms. Elaine Manning, c/o OAQPS Document Control Officer (Mailcode C404–02), U.S. EPA, Research Triangle Park, NC 27711. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, the information may be made available to the public without further notice to the commenter.

Docket. The docket is an organized and complete file of the administrative record compiled by EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the Clean Air Act (CAA).) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this action will also be available through the WWW. Following signature, a copy of this action will be posted on the EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules: *http://www.epa.gov/ttn/oarpg.* The TTN at EPA's web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. The regulated category and entities affected by this action include:

Category	NAICS codes	SIC codes	Examples of regulated entities
Industry	325222	2824	Producers of spandex.

This table is not intended to be exhaustive, but rather provides a guide for readers likely to be interested in the revisions to the regulation affected by this action. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine all of the applicability criteria in § 63.1104 of the rule. If you have questions regarding the applicability of these amendments to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of this direct final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia by September 10, 2002. Under section 307(d)(7)(B) of the CAA, only an objection to this direct final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review.

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

I. Why are we publishing these amendments as a direct final rule?
II. What amendments are we making to the NESHAP for spandex production?
III. What are the administrative requirements?
A. Executive Order 12866, Regulatory Planning and Review
B. Executive Order 13132, Federalism
C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
D. Executive Order 13045, Protection of Children for Environmental Health Risks and Safety Risks
E. Unfunded Mandates Reform Act of 1995
F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
G. Paperwork Reduction Act
H. National Technology Transfer and Advancement Act
I. Congressional Review Act
J. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

I. Why Are We Publishing These Amendments as a Direct Final Rule?

The EPA received several comments on the proposed standards for spandex production. One commenter was concerned that because the dry spinning spandex production process was not mentioned in the proposal, an interpretation could be made that EPA failed to make any decision concerning a MACT standard for this group of sources, and as a result these facilities would be subject to a case-by-case MACT determination under CAA section 112(j). Prior to proposal, we evaluated HAP emissions from dry spinning spandex production and determined that adoption of MACT standards requiring additional emissions reductions for these facilities is not necessary or appropriate. Our

silence concerning these facilities in the proposal was intended to reflect this conclusion.

However, we agree with the commenter that our silence in the proposal regarding the dry spinning production process might be interpreted as a failure to specifically address the need for standards governing emissions of hazardous air pollutants (HAP) from these facilities and, thereby, trigger the case-by-case determinations required by the "hammer" provision in CAA section 112(j). Since we did not explicitly state our decision not to adopt any standards for these sources or describe our rationale for that decision in the proposed rule, we have determined that we should supplement our proposal. However, since we do not expect our decision that no MACT standards are necessary for spandex dry spinning facilities to be controversial, and we do not anticipate any adverse comments concerning our decision, we have determined that it is appropriate to effectuate this decision through a direct final rule. This assures that any ambiguity which might otherwise exist concerning our intention to adopt MACT requirements for these facilities will be resolved in a timely manner.

If any adverse comment is received concerning our decision not to adopt MACT standards for spandex dry spinning facilities, we will withdraw this direct final rule. In the "Proposed Rules" section of this issue of the **Federal Register**, we are publishing a separate document that will serve as the proposal for our decision not to adopt MACT standards for these facilities in the event we receive any adverse comment. In that case, EPA will publish a timely withdrawal notice before the effective date of this direct final rule and will take final action concerning the proposal after considering the comments received.

II. What Amendments Are We Making to the NESHAP for Spandex Production?

During the rule development, we investigated emissions from dry spinning spandex production processes (comparing the emissions to the reaction spinning process) and made the following findings.

While dry and reaction spinning processes have many similarities, there are significant differences in HAP emissions and controls between the processes. The dry and reaction spinning processes are similar in their use of reactants and process chemistry. Both processes involve the same basic process steps, including production of prepolymer, production of polymer, extrusion of fibers, and drying of fibers. However, a major process difference that affects the amount of HAP emissions from the dry spinning process is the type of solvent used in the production. In the dry spinning production process, non-HAP solvents are used as opposed to HAP-containing solvents used in the reaction spinning process. The estimated total HAP from the three dry spinning production facilities is approximately 4.1 megagrams per year (mg/yr) (4.5 tons per year (tpy)) whereas the two reaction spinning processes emit 303 mg/yr (334 tpy).

Although the dry spinning production process does not use HAP solvents, small amounts of organic HAP are used and generated. The HAP that is produced in the dry spinning process is formaldehyde. Formaldehyde is generated as a byproduct of heating the dimethyl acetamide in the spin cells and is emitted from the process vent along with the non-HAP solvent. None of the existing dry spinning production facilities have controls in place for formaldehyde emissions. Therefore, the floor for dry spinning production process vents is no control. A beyond-the-floor analysis (development of a regulatory option and analysis of the costs associated with the option) was performed on the HAP emissions from the dry spinning production process. The flow rates for process vent streams from the dry spinning production process are large and the concentration of formaldehyde is low. The total annual cost to control these emissions would be approximately $49 million per year, or $12 million per ton of formaldehyde controlled. This is an unreasonable cost to go beyond the floor. Controlling this stream would also use significant amounts of energy. We do not know of a way to change the process or the feeds to reduce the HAP emissions. We have, therefore, decided not to select the beyond-the-floor regulatory option.

The other source of HAP emissions from dry spinning production sources is methylene diphenyl diisocyanate (MDI) storage. The MDI is one of the raw materials used in the spandex production process and has a very low volatility. Thus, we would expect emissions of MDI from the storage tanks to also be very low, perhaps even undetectable. All MDI storage tanks at dry spinning spandex production facilities are fixed-roof tanks. Additionally, one facility has carbon canisters on the vents from the MDI storage tanks (although the control efficiency of the canisters cannot be determined). We estimate that the combined annual MDI emissions from the storage tanks at all three dry spinning facilities do not exceed 500 pounds. We do not believe that requiring additional controls on these storage tanks would yield any meaningful emission reductions. This conclusion is corroborated by our determination that all of the MDI storage tanks at dry spinning production facilities are below the size and vapor pressure requirements for control under all existing MACT standards.

Based on the above analysis, we have concluded that the MACT floor for spandex dry spinning facilities is no control and that adoption of additional emission controls is not warranted. Therefore, we determined that it is not necessary or appropriate to promulgate any MACT requirements for these facilities.

III. What Are the Administrative Requirements?

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and, therefore, subject to OMB review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that these amendments do not constitute a "significant regulatory action" because they do not meet any of the above criteria. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. 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" 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 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, because State and local governments do not own or operate any sources that would be subject to these amendments. Thus, the requirements of section 6 of the Executive Order do not apply.

C. 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 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officals in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" are defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

These rule amendments do not have tribal implications. They will not have substantial direct effects on tribal governments, or 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. No tribal governments own or operate spandex production facilities. Thus, Executive Order 13175 does not apply to these rule amendments.

D. 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 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 EPA.

The 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 rule amendments are not subject to Executive Order 13045 because they are based on technology performance, not health or safety risks. Furthermore, these rule amendments have been determined not to be "economically significant" as defined under Executive Order 12866.

E. 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 aggregate, or by 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.

The EPA has determined that these rule amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or the private sector in any 1 year. Today's amendments do not add new requirements that would increase the costs of the rule. Thus, these rule amendments are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that these rule amendments contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no requirements that apply to such governments or impose obligations upon them. Therefore, these rule amendments are not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The 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 this proposed rule on small entities, a small entity is defined as: (1) A small business in the North American Industrial Classification System (NAICS) code 325411 or 325412 that has as many as 750 employees; (2) a small business in NAICS code 325199 that has as many as 1,000 employees; (3) 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 (4) 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 the rule amendments on small entities, the EPA has determined

that this action will not have a significant economic impact on a substantial number of small entities. The EPA has determined that none of the small entities will experience a significant impact because the amendments impose no additional regulatory requirements on owners or operators of affected sources.

G. Paperwork Reduction Act

This action does not impose any new information collection burden. However, an information collection request (ICR) has been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, for the rule which is amended by today's direct final rule. An ICR document has been prepared by EPA (ICR No. 1983.02) and a copy may be obtained from Sandy Farmer by mail at the U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Avenue NW, Washington, DC 20460, by e-mail at farmer.sandy@epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at *http://www.epa.gov/icr.*

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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA), Public Law 104–113 (March 7, 1996), directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, material specifications, test methods, sampling and analytical procedures, and business practices) that are developed or adopted by one or more voluntary consensus bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like EPA to provide Congress, through OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

This direct final rule does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

I. Congressional Review Act

The Congressional Review Act (CRA), 5 U.S.C. 801, *et seq.*, as added by the SBREFA of 1996, generally provides that before a rule may take effect, the agency adopting 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. The 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 rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This direct final rule is not a "major rule" as defined by 5 U.S.C. 804(2). This direct final rule will be effective on September 25, 2002.

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

This rule 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 it is not a significant regulatory action under Executive Order 12866.

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: May 15, 2002.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, part 63 of title 40, chapter I of the Code of Federal Regulations are 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 YY—[Amended]

2. Section 63.1103 is amended by:

a. Revising paragraph (h)(1)(i) introductory text;

b. Adding paragraph (h)(1)(ii)(C); and

c. Adding, in alphabetical order, definitions of *dry spinning* and *reaction spinning* to paragraph (h)(2).

The revision and additions are to read as follows:

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

* * * * *

(h) * * *

(1) * * *

(i) *Affected source.* For the spandex production (as defined in paragraph (h)(2) of this section) source category, the affected source shall comprise all emission points listed in paragraphs (h)(1)(i)(A) through (C) of this section that are associated with a spandex production process unit located at a major source, as defined in section 112(a) of the Act.

* * * * *

(ii) * * *

(C) Emission points listed in paragraphs (h)(1)(i)(A) through (C) of this section that are associated with a dry spinning spandex production process unit.

* * * * *

(2) *Definitions.*

Dry spinning means a fiber-forming process where prepolymer is reacted with a chain-extender to generate polymer prior to spinning; the polymer is dissolved in a solvent and is extruded into a cell of hot gases for fiber formation.

* * * * *

Reaction spinning means a fiber-forming process where prepolymer is extruded into a spin bath that contains a chain-extender; the chemical reaction to make polymer occurs simultaneously with extrusion/fiber formation.

* * * * *

[FR Doc. 02–12842 Filed 7–11–02; 8:45 am]

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Federal Register

Tuesday,
July 23, 2002

Part II

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–7244–1]

National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for existing and new facilities that apply surface coatings to large appliances. These final standards implement section 112(d) of the Clean Air Act (CAA) which requires the Administrator to regulate emissions of hazardous air pollutants (HAP) listed in section 112(b) of the CAA. The intent of the standards is to protect the public by requiring new and existing major sources to control emissions to the level attainable by implementing the maximum achievable control technology (MACT).

Sources typically emit the following HAP: glycol ethers, methylene diphenyl diisocyanate, methyl ethyl ketone, toluene, and xylene. These compounds account for over 80 percent of the nationwide HAP emissions from this source category. These pollutants can cause reversible or irreversible toxic effects to people following exposure.

EFFECTIVE DATE: This rule is effective July 23, 2002. The incorporation by reference of certain publications listed in today's final rule is approved by the Director of the Federal Register as of July 23, 2002.

ADDRESSES: *Docket.* Docket No. A–97–41 contains supporting information used in developing the standards for the Large Appliances Coating source category. The docket is located at the U.S. EPA, 401 M Street, SW, Washington, DC 20460 in Room M–1500, Waterside Mall (ground floor), telephone (202) 260–7548. The docket may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

Background Information Document. A background information document (BID) for the promulgated NESHAP may be obtained from the docket; the U.S. EPA Library (C267–01), Research Triangle Park, North Carolina 27711, telephone (919) 541–2777; or from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, telephone (703) 487–4650. Refer to "Large Appliances Surface Coating Operations—Background Information for Promulgated Standards" (EPA–453/R–02–004). The promulgation BID contains a summary of changes made to the standards since proposal, public comments made on the proposed standards, and the EPA responses to the comments.

FOR FURTHER INFORMATION CONTACT: For information concerning applicability and rule determinations, contact your State or local air pollution control agency representative or the appropriate EPA Regional Office representative. For information concerning the analyses performed in developing these standards, contact Mr. H. Lynn Dail, Coatings and Consumer Products Group, Emission Standards Division (C539–03), U.S. EPA, Research Triangle Park, NC 27711, telephone (919) 541–2363; e-mail address: *dail.lynn@epa.gov.*

SUPPLEMENTARY INFORMATION:

Docket. The docket is an organized and complete file of all the information considered by EPA in the development of rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. The contents of the docket, including the BID for the proposed and promulgated standards and the EPA responses to significant comments will serve as the record in case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to today's final rule are available for review in the docket, or copies may be mailed on request from the Air and Radiation Docket and Information Center by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials. *Worldwide Web (WWW).* In addition to being available in the docket, an electronic copy of today's final rule will also be available on the WWW through the Technology Transfer Network (TTN). Following signature by the EPA Administrator, a copy of the final rule will be posted 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. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. If your facility applies surface coatings to large appliance parts or products, you may be a regulated entity. Categories and entities potentially regulated by the final standards are shown in the following table. This table is slightly different from the table contained in the proposal preamble at 65 FR 81135. The changes made to the table between proposal and promulgation are the result of public comments. These changes clarify the types of facilities that will be affected by the promulgated standards.

CATEGORIES AND ENTITIES POTENTIALLY REGULATED BY THE FINAL STANDARDS

Category	NAICS Code [a]	Regulated Entities [b]
Industry	335221	Household cooking equipment.
	335222	Household refrigerators and freezers.
	335224	Household laundry equipment.
	335228	Other major household appliances.
	333312	Commercial laundry, drycleaning, and pressing equipment.
	333415	Air-conditioners (except motor vehicle), comfort furnaces, and industrial refrigeration units and freezers (except heat transfer coils and large commercial and industrial chillers).
	[c]333319	Other commercial/service industry machinery, e.g., commercial dishwashers, ovens, and ranges, etc.
Federal Government	.....	Not affected.
State/Local/Tribal Government	.....	Not affected.

[a] North American Industry Classification System
[b] Regulated entities means major source facilities that apply surface coatings to these parts or products.
[c] Excluding special industry machinery, industrial and commercial machinery and equipment, and electrical machinery equipment and supplies not elsewhere classified.

As in the proposal, major sources classified under other NAICS codes will be subject to the standards if they perform large appliance surface coating operations and meet the other applicability criteria. Conversely, some facilities listed under these codes may not be affected because some of the codes in the table cover products that are not defined as large appliances for the purposes of the rule.

This table is not intended to be exhaustive, but rather provides a guide for entities likely to be regulated by this action. To determine whether your facility is subject to the rule, you should carefully examine the applicability criteria in § 63.4081 of the rule. If you have questions regarding how this action applies to a particular entity, consult the appropriate EPA Regional Office representative.

Judicial Review. The NESHAP for large appliance surface coating operations was proposed on December 22, 2000 (65 FR 81134). Under section 307(b)(1) of the CAA, judicial review of NESHAP is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by September 23, 2002. Only those objections to the rule which were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2) of the CAA, the requirements that are the subject of today's final rule may not be challenged later in civil or criminal proceedings brought by EPA to enforce the requirements.

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

I. Background
A. What is the source of authority for development of NESHAP?
B. What criteria do we use in the development of NESHAP?
II. What changes and clarifications have we made to the proposed standards?
A. Scope of Source Category
B. Definitions
C. Overlap with Other NESHAP Categories
D. Other Changes and Clarifications
III. What are the final standards?
A. What is the source category?
B. What is the affected source?
C. What are the emission limits?
D. What are the testing and initial and continuous compliance requirements?
E. What are the notification, recordkeeping, and reporting requirements?
IV. What are the environmental, energy, cost, and economic impacts?
A. What are the air impacts?
B. What are the non-air health, environmental, and energy impacts?
C. What are the cost and economic impacts?
V. What are the administrative requirements?
A. Executive Order 12866, Regulatory Planning and Review
B. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
C. Executive Order 13132, Federalism
D. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
E. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
F. Unfunded Mandates Reform Act of 1995
G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
H. Paperwork Reduction Act
I. National Technology Transfer and Advancement Act
J. Congressional Review Act

I. Background

A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. The category of major sources covered by the final NESHAP was listed on July 16, 1992 (57 FR 31576) under the Surface Coating Processes industry group. Major sources of HAP are those that have the potential to emit considering controls, in the aggregate, 10 tons per year (tpy) or more of any HAP or 25 tpy or more of any combination of HAP.

B. What Criteria Do We Use in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both existing and new major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than the standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best performing five sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on consideration of the cost of achieving the emission reductions, any health and environmental impacts, and energy requirements.

II. What Changes and Clarifications Have We Made to the Proposed Standards?

In response to public comments received on the proposed standards, we made several changes in developing the final rule. While some of the changes were designed to make our intentions clearer, other changes had a direct effect on the degree of coverage of the standards. The substantive comments and our responses and rule changes are summarized in the following sections. A more detailed summary can be found in the BID for the final rule which is available from several sources (see **ADDRESSES**).

A. Scope of Source Category

In the proposal, we defined the regulated community for the standards to be facilities that apply surface coatings to large appliances or components of large appliances. In the proposal BID and the table of regulated entities in the proposal preamble (65 FR 81135, December 22, 2000), we stated that the facilities are generally included under the following NAICS codes (and their SIC code equivalents): 335221 (3631) household cooking appliances, 335222 (3632) household refrigerator and home freezer, 335224 (3633) householdlaundry equipment manufacturing, 335228 (3639) other major household appliances, 333415 (3585) air-conditioning and warm air heating equipment and commercial and industrial refrigeration equipment, and 333319 (3589) service appliance. We cautioned that some facilities and products with these codes do not fit under the large appliance category, and similarly, there may be facilities under other codes that do in fact coat large appliances. Thus, these industrial codes were given as a guide but were not intended to be used as the only basis for determining applicability of the rule.

The codes listed above are associated with household cooking equipment, refrigerators/freezers, laundry equipment, and floor vacuums and polishers, and various types of

commercial and industrial heating, ventilation, and refrigeration equipment. Table 2–1 in the proposal BID listed examples of large appliances that are produced by facilities in these categories.

Several commenters stated that the scope of the category as proposed was overly broad and confusing. They felt that we had included several products not normally considered to be large appliances, and that these products should be regulated under the miscellaneous metal parts and products NESHAP currently under development. As an alternative, if EPA decided not to change the mix of products defined to be large appliances, one commenter suggested that we change the name of the source category to better match the product mix being represented.

In addition, commenters asked for clarification on the applicability of the rule to certain coatings such as porcelain enamel, powder coatings, and asphalt interior soundproofing. The final rule clarifies that the aforementioned coatings are considered coatings for the purposes of the rule and will be subject to subpart NNNN. We also clarified that phosphating (a form of pretreatment) and metal plating are excluded as coatings in subpart NNNN.

Our proposed definition of the large appliances source category was formed using the six SIC/NAICS codes as a foundation, and then including the products under those codes that we believed should be included as large appliances. Some commenters expressed confusion when comparing the preamble table to BID Table 2–1. We have clarified the scope of the source category by including definitions for *large appliance product* and *large appliance part* in the final rule. The definitions list the parts and products intended to be regulated under the final rule, and they supercede the listing in Table 2–1 of the proposal BID. We also modified the proposal preamble table and are including it in the BID for the final rule. We have added Commercial Laundry Equipment and have deleted Floor Waxing/Polishing and Motor Vehicle Air-Conditioning, in keeping with our intent at proposal. In addition, we have also deleted heat transfer coils and large commercial and industrial chillers from the table and from coverage by the large appliances NESHAP.

A few commenters stated that the heat transfer coils used to cool fluids in refrigeration and air-conditioning systems typically have unique coating formulation requirements, and suitable coatings are not available in a low-HAP formulation. The need for special coatings arises from the complex geometry of heat transfer coils, as well as exposure requirements in food processing and other special environments. The coating information we collected and used to determine the MACT floor did not contain coatings used specifically for heat transfer coils. The commenters asked that this large appliance component be removed from the large appliances category and regulated under the miscellaneous metal parts and products NESHAP.

We have examined the submitted data and arguments and have concluded that the data analyzed since proposal offer sufficient justification to revise the scope of the source category. Therefore, we have excluded heat transfer coils from coverage under the large appliances NESHAP.

A trade organization and one manufacturer of large commercial and industrial chillers (equipment that produces chilled water for use in a number of industrial processes including heating, ventilating, and air conditioning (HVAC) applications) commented that large chillers are very different from other products included as large appliances. They said that large HVAC products are produced in much lower volumes than white goods and are often custom designed. Furthermore, they are often subjected to outdoor environments requiring that they meet strict performance criteria, and they have a longer expected life. Commercial and industrial chillers are much larger than most other large appliances and are painted after assembly. Therefore, they cannot be put through a baking oven to cure the coatings, which restricts the coatings available for use.

We requested additional supporting data on large chiller equipment coating operations and the available coatings. We also visited one of the few facilities that manufactures that equipment. Our evaluation of the chiller coating operations led us to determine that large commercial and industrial chillers should be excluded from the Large Appliances category for the reasons described by the commenter.

B. Definitions

We have added definitions for *large appliance product* and *large appliance part* to the final rule. These definitions include "white goods" appliances, as well as certain HVAC equipment used in commercial and industrial applications. However, specifically excluded from the definition of *large appliance product* are heat transfer coils, large commercial and industrial chillers, and motor vehicle air-conditioning units.

We added several other new definitions in response to comments and to increase the clarity of the rule. Newly defined terms include *adhesive, facility maintenance, heat transfer coil, large commercial and industrial chillers*, and *month*. Clarifying changes were also made to the proposed definitions for *coating operation, manufacturer's formulation data*, and *surface preparation*.

C. Overlap With Other NESHAP Categories

Several commenters requested that the final rule provide compliance flexibility for facilities that coat a variety of items in addition to large appliances or large appliance components. Such facilities may be affected by several coating NESHAP, such as the standards for large appliances, miscellaneous metal parts and products, and plastic parts and products. They sought a regulatory approach that would allow facilities to opt specific coating operations or product lines, that are collateral to large appliance coating operations, out of the rule and into either the miscellaneous metal parts and products rule under development or the plastic parts and products rule that is also under development. Commenters also believed that plants coating types of items with a wider use beyond large appliances (such as motors, handles, hinges, etc.) should have the choice of those operations being covered by either the miscellaneous metal or plastic parts rule, even if the specific items are designed to be used on large appliances.

We understand that many facilities may find it beneficial to consolidate their regulatory coverage for a number of different types of coating operations (such as large appliances, miscellaneous metal parts, and plastic parts) into a single NESHAP. Consolidation may reduce the amount of records, reports, or compliance calculations that the facility would have to maintain. To address the issue of multiple regulatory coverage, we are including a new provision in the final rule that allows the consolidation sought by the commenters. Under this approach, as an alternative to complying separately with multiple coating NESHAP, a facility may choose to be subject to the requirements of only one applicable NESHAP, provided it is the most stringent of the applicable subparts. The test for stringency is a demonstration that the facilitywide HAP emissions from all surface coating operations will be less than or equal to the emissions achieved by complying separately with

all applicable subparts of 40 CFR part 63.

There are many facilities that apply surface coatings to a variety of items that may be used on large appliances, but which also have application to other types of products. We agree that such multi-purpose items are not exclusively large appliance parts and may be considered more appropriately miscellaneous metal parts or plastic parts. Therefore, we are excluding these items from coverage under the final rule. However, if a large appliance source prefers to have all its coating operations subject to only one coating NESHAP to consolidate recordkeeping and reporting requirements, the source would have the option described above of complying with only the most stringent applicable NESHAP.

D. Other Changes and Clarifications

A number of commenters found the proposed compliance options confusing and some suggested variations on the way these options should be applied.

One of the commenters believed that the calculations, monthly compliance determinations, and recordkeeping required under the compliant material option should not apply to coating operations that use only powder coatings that contain no HAP. The commenter suggested relevant portions of the proposed requirements that he believed should not be applicable to these powder coating operations.

We have reviewed the proposed calculations, compliance determinations, and recordkeeping requirements for the compliant material option and believe the commenter identified a need to clarify the rule language. The proposed language would have required an affected source choosing the compliant material option and using only powder coatings and non-HAP cleaning materials to determine the mass fraction of organic HAP, the volume fraction of solids, and the density for each coating, and then to determine the ratio of organic HAP to coating solids. Records and certain reports would have had to include such calculations. We did not intend to require this unnecessary calculation for non-HAP coatings at proposal. Clearly, if a coating contains no organic HAP, it is not useful to record and report such calculations since the result is obviously zero kilogram (kg) organic HAP per liter of coating solids. Therefore, we have added a provision in § 63.4141(a) and (d) of the final rule specifying that if the mass fraction of organic HAP in a coating is zero, as determined according to § 63.4141(a) (through test results or manufacturer's formulation data), then the source is not required to determine the volume fraction of coating solids and density or to calculate the organic HAP content. This new provision applies to all types of coatings that contain no organic HAP, not just powder coatings. For such a coating, § 63.4141(d) of the final rule specifies that the organic HAP content equals zero and no calculation is required. The following notification, reporting, and recordkeeping sections of the rule were also revised to fully incorporate this provision: §§ 63.4110(b)(8) and (b)(8)(i), 63.4120(d)(2), and 63.4130(c), (c)(1), (f), and (g). We believe that these changes are responsive to the commenter's concerns, and that they retain only the requirements that are essential for compliance and enforcement purposes.

Some commenters asked whether different compliance options could be combined for the same coating operation in order for sources to gain more flexibility in the way coatings and other materials are used in an operation. We proposed three compliance options: Option 1 when using compliant materials, Option 2 when determining emission rate without add-on controls, and Option 3 when using emission controls. The three proposed compliance options address different situations and were intended to be applied on a one-at-a-time basis (see § 63.4091 introductory language). Both Options 1 and 2 cannot logically be used on one coating operation at the same time. If all coatings meet the limit and all thinners and cleaners are HAP-free, then Option 1 could be used and, thus, there would be no need to combine data elements for multiple coatings, thinners, and cleaning materials to derive an emission rate (required for Option 2). If the coatings, thinners, and cleaning materials do not meet the Option 1 criteria, or if the source owner or operator chooses not to use Option 1, then Option 2 must be used (or Option 3 if an add-on control device is in use). In no case may coatings, thinners, and cleaning materials accounted for under one option be included in the accounting under another option. Because the compliance options are designed to accommodate different situations and, due to the lack of compelling information or justification for the commenter's suggested rule change, the final compliance option provisions are the same as proposed.

Additionally, one commenter believed that a clarification was needed for proposed § 63.4081(a)(3), which excluded certain categories of surface coating from coverage by the rule, such as facility maintenance operations. The commenter wanted the rule to make specific mention of the paint booths that are used for maintaining manufacturing equipment. We agree with the commenter that the rule should not apply to paint booths or to other surface coating equipment used exclusively to coat something other than large appliances. If, however, the paint booth or equipment is sometimes used for large appliance surface coating, it would be subject to the standards during those times and would need to be considered part of the affected source. It also is subject to the standards if it is used for cleaning of equipment used in coating operations, e.g., application equipment, hangers, and racks (see § 63.4081(c)(6) and the definition of coating operation in § 63.4181). To clarify our intent, we have included the following definition of facility maintenance in the final rule: *Facility maintenance* means the routine repair or refurbishing (including surface coating) of the tools, equipment, machinery, and structures that comprise the infrastructure of a facility or that are necessary for the facility to function in its intended capacity. It does not mean cleaning of equipment that is part of a large appliances coating operation.

One commenter suggested that EPA establish a low-use exemption threshold for military installations where military members could apply coatings at on-base hobby shops and housing areas to repair personally owned appliances. Generally, in hobby shops, the prevailing coating application would involve hand-held, non-refillable aerosol containers. However, individuals using hobby shop facilities may also apply the coatings by methods other than hand-held aerosol cans. In the proposal, we excluded hand-held aerosol container coatings from the rule but did not exclude other coating application methods, specifically those related to hobby shops. However, in considering this comment, we concluded that coating application by individuals who repair, refurbish, or recoat large appliances or other types of products at military hobby shops or base housing areas does not compare to the coating operations conducted at facilities that apply coatings as a step in the production of large appliances. Therefore, these coating activities are not subject to the standards. We believe that expanding the exclusion in § 63.4081(d)(4) to include hobby shops is a more appropriate way to address this issue than creating a low-use exemption that would necessitate coating usage recordkeeping at the hobby shop. Therefore, § 63.4081(d)(4) of the final rule excludes research or

laboratory facilities; janitorial, building, and facility maintenance operations; hobby shops operated for non-commercial purposes; and the use of hand-held, non-refillable aerosol containers.

In addition to the changes described above, we noted several areas of the proposed rule that warrant revision even though commenters did not object to them. The changes are necessary so that the provisions properly reflect our intent and are consistent with other surface coating NESHAP under development. As proposed, § 63.4100(a)(2) indicated that affected sources using the emission rate with add-on controls options would not have to comply with the standards during periods of startup, shutdown, and malfunction. This provision is often found in NESHAP in which compliance with the standards is based solely on the results of a short-term initial performance test and short-term averaging of continuous monitoring results thereafter. After proposal of the large applicances NESHAP, we realized that this provision is not appropriate for the surface coating NESHAP when these short-term test and monitoring results are only one component of a compliance determination that determines emissions over a long period of time, which in this case is a month. For the large appliances NESHAP, the source owner or operator will use the performance test and continuous monitoring results in combination with data on coatings and other materials used over a month's period of time. These components will be combined to calculate a monthly organic HAP emission rate. Since there may be many startups and shutdowns of a coating operation over the course of a month as part of normal operation, it is not appropriate to exempt such periods from compliance with the standards. The rule does require in § 63.4100(d) that you develop and operate according to a startup, shutdown, and malfunction plan, and § 63.6163(h) provides the following: "Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction of the emission capture system, add-on control device, or coating operation that may affect emission capture or control device efficiency are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the startup, shutdown, and malfunction plan. The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations according to the provisions in § 63.6(e)." We believe that this provision along with a month-long compliance period that will accommodate potential short-term higher emission rates that might occur due to startup, shutdown, or malfunction are adequate and that the proposed exemption is not necessary or appropriate. Therefore, it is not included in the final standards.

Another change we made to the rule is intended to simplify the compliance provisions for the emission rate with add-on controls option. We removed § 63.4162, which was proposed to provide explicit instructions for determining compliance with the emission rate with add-on controls option when the coating operation is operated under several different operating conditions. We found after proposal, however, that this section as proposed added unnecessary complexity to the standards, and that the compliance provisions are adequate without it. Therefore, we removed it from the final standards.

To provide consistency with other surface coating NESHAP, we added provisions in § 63.4167(b)(3) and (4) to allow sources an alternative to the proposed operating limits for catalytic oxidizers that require monitoring of inlet and outlet temperature before and after the catalyst bed and the temperature difference across the bed. This alternative allows you to monitor only the temperature before the catalyst bed if you develop and follow an onsite inspection and maintenance plan for the catalytic oxidizer. For some sources, this would be a preferable alternative. Another addition we made to provide consistency is a description of continuous monitoring requirements for concentrators in § 63.4167(e) and (f) and in Table 1 to the subpart. As proposed, a source using a concentrator would have had to seek and obtain approval from the permitting authority for the continuous monitoring it wanted to use to comply with the operating limits since we did not include such monitoring provisions in the proposed standards. Because we have included these provisions in the final standards, a source can comply with them and, therefore, avoid having to apply for and obtain specific approval unless it wishes to monitor something different than what is specified in the new provisions. The concentrator monitoring requirements are the same as those in other surface coating NESHAP under development.

In addition to the revisions described above, we have made clarifying editorial changes throughout the rule to ensure it accurately expresses our intent and to promote consistency with other surface coating NESHAP currently under development. These changes do not affect the stringency of the requirements since they are only clarifications of the proposed provisions.

III. What Are the Final Standards?

A. What Is the Source Category?

The large appliances source category includes facilities that apply coatings to large appliance parts or products. The rule applies to facilities that are a major source, are located at a major source, or are part of a major source of HAP emissions. Large appliances include "white goods" such as ovens, refrigerators, freezers, dishwashers, laundry equipment, trash compactors, water heaters, comfort furnaces, and electric heat pumps. Large appliances also include most HVAC equipment intended for any application. However, not included in the source category are motor vehicle air-conditioning units, heat transfer coils, and large commercial and industrial chillers. Other coating operations not included in the source category are: the coating of large appliance parts that have a wider use beyond large appliances (such as handles or fasteners), repair or maintenance painting of large appliance parts or products used by a facility, the surface coating of heat transfer coils or large commercial and industrial chillers, research or laboratory facilities and facility maintenance operations, and hobby shops operated for non-commercial purposes.

B. What Is the Affected Source?

The affected source includes all of the activities that involve coatings, thinners, and cleaning materials used in large appliance coating operations. These activities include: (1) Surface preparation of the large appliance parts or products; (2) preparation of coatings for application; (3) applying the coatings; (4) flash-off, drying, or curing of the coatings; (5) cleaning of coating equipment; (6) storage of coatings, thinners, and cleaning materials; (7) conveying of these materials; and (8) handling and conveying of waste materials generated by the coating operations.

C. What Are the Emission Limits?

The emission limits are different for existing and new sources and have not changed since proposal. For an existing source, you must limit organic HAP emissions to no more than 0.13 kg/liter (1.1 pound (lb)/gallon (gal)) of coating solids used during each compliance

(monthly) period. For a new or reconstructed source, you must limit emissions to no more than 0.022 kg/liter (0.18 lb/gal) of coating solids. These limits apply to the total of all coatings, thinners, and cleaning materials used in coating operations at the affected source.

There are three compliance options available for meeting the emission limits. The compliant material option requires that each coating used in the operation meet the limit, and each thinner and cleaning material must contain no organic HAP. Under the emission rate without add-on controls option, you may average all of the coatings, thinners, and cleaning materials together and demonstrate that the overall emission rate is in compliance with the applicable limit. The emission rate with add-on controls option applies to coating operations for which add-on controls are used to meet the limit. Under this option, you must meet certain operating limits for the capture systems and control devices and follow a work practice plan for your material storage, mixing, conveying, and spills.

D. What Are the Testing and Initial and Continuous Compliance Requirements?

Existing sources will have to be in compliance no later than July 25, 2005. New and reconstructed sources will have to be in compliance by this same date or upon startup, whichever is later. The initial compliance period begins on the compliance date and ends on the last day of the first full month following this date, except that for new or reconstructed sources required to conduct performance tests the initial compliance period ends on the last day of the first full month following the test. Note that "month" means a calendar month or a similar pre-specified period in order to accommodate facility accounting periods. The performance test may be conducted up to 180 days after the compliance date.

As discussed earlier, the owner or operator must select one of three compliance options for each coating operation, but may change the approach used for any operation at any time. For the compliant material and emission rate without add-on controls option, you will determine the mass of organic HAP in coatings, thinners, and cleaning materials and the volume fraction of coating solids either from manufacturer's formulation data or from test results using the methods in the final rule. Alternative test methods may be used with EPA's approval, and the test method results will prevail over manufacturer's formulation data for compliance purposes. If you use the emission rate with add-on controls option, you need to determine the mass of organic HAP and volume fraction of coating solids as in the other two options and also the capture and control efficiencies of the add-on controls by means of a performance test. As part of this test, you must establish operating limits that can be used on a continuous basis to demonstrate compliance with the emission limit. The final rule specifies the parameters to monitor for the types of emission control systems commonly used in the industry. If the monitoring results indicate no deviations from the operating limits, you would assume the control system is continuing to provide the same control efficiency as demonstrated in the test. If the combination of this efficiency and the total mass of organic HAP in materials used in controlled coating operations continues to be within the applicable emission limit, then continuous compliance is shown for those operations.

E. What Are the Notification, Recordkeeping, and Reporting Requirements?

If you are subject to the standards, you must comply with the applicable requirements in the NESHAP General Provisions, subpart A of 40 CFR part 63. The General Provisions notification requirements include: initial notifications, notification of performance test if you are complying using a capture system and control device, Notification of Compliance Status, and additional notifications for affected sources with continuous monitoring systems. The General Provisions also require certain records and periodic reports. Records must be kept for at least 5 years with 2 years of that time being at the facility, and they may be kept in electronic form as long as they are readily available for review.

IV. What Are the Environmental, Energy, Cost, and Economic Impacts?

A. What Are the Air Impacts?

We estimate that nationwide organic HAP emissions will be reduced by approximately 1,080 megagrams/year (Mg/yr) (1,191 tpy) from existing sources. This represents a 45 percent reduction from the emissions baseline of 2,394 Mg/yr (2,639 tpy).

For new sources, we are assuming that most will use state-of-the-art coatings (predominantly powder coatings) even in the absence of the standards. These coatings will produce emission levels at or below the requirements of the final standards. Therefore, we are not attributing any emissions reductions from new sources to the final standards.

B. What Are the Non-Air Health, Environmental, and Energy Impacts?

As at proposal, we have found that there are no significant expected non-air health, environmental, or energy impacts associated with the final standards. We reached this conclusion by considering the likely control approaches that will be used by existing and new sources. The use of low-HAP coating technologies will not produce any significant impacts on health, energy requirements, or the environment.

C. What Are the Cost and Economic Impacts?

The costs for facilities to comply with the final standards result from the switch to reformulated (lower-HAP) coatings, thinners, and cleaning materials. There will also be annual costs for meeting the monitoring, recordkeeping, and reporting (MRR) requirements of the rule.

For existing sources, the total nationwide annual cost in the 5th year of the standards is estimated to be $1.63 million. This includes approximately $0.48 million of direct costs associated with materials usage and $1.15 million for recordkeeping and reporting.

For new sources, only the costs of MRR apply. We estimate the annual cost in the 5th year for all new sources to be $341,000.

Our economic impact analysis showed the economic impacts of the promulgated standards to generally be minimal, with projected price increases and production decreases of less than 0.01 percent. Social costs are estimated at approximately $1.62 million in the 5th year for existing sources, with the burden being shared fairly equally between consumers and producers. No firms or facilities are expected to become at risk of closure due to the final standards. For more information, consult the "Economic Impact Analysis of the Proposed NESHAP: Surface Coating of Large Appliances" (Docket No. A–97–41).

V. What Are the Administrative Requirements?

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and therefore subject to the Office of Management and Budget (OMB) review and the requirements of

the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligation of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a "significant regulatory action" because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. 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 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 rule is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The 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 rule. These final standards are not subject to Executive Order 13045 because they do not establish an environmental standard based on an assessment of health or safety risks. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, this rule has been determined not to be "economically significant" as defined under Executive Order 12866.

C. 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. Pursuant to the terms of Executive Order 13132, it has been determined that this rule does not have "federalism implications" because it does not meet the necessary criteria. Thus, Executive Order 13132 does not apply to this rule.

D. 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. No tribal governments own or operate large appliance surface coating facilities. Thus, Executive Order 13175 does not apply to this rule.

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

This rule 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 it is not a significant regulatory action under Executive Order 12866.

F. 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 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.

The EPA has determined that this 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 1 year. The maximum total annual cost of this rule for any year has been estimated to be slightly less than $2 million. 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 these standards contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no requirements that apply to such

governments or impose obligations upon them. Therefore, today's final rule is not subject to the requirements of section 203 of the UMRA.

G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601, et seq.

The 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 today's final rule on small entities, small entity is defined as: (1) A small business ranging from 100–1,000 employees or less than $3.5 million in annual sales; (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.

In accordance with the RFA and SBREFA, EPA conducted an assessment of these standards on small businesses within the large appliance coating industry. Based on Small Business Administration size definitions and reported sales and employment data, EPA's survey identified 221 facilities that apply surface coatings to large appliances. These facilities, which include major and area sources, are owned by 84 companies. Of these companies, 34 are small businesses. Although small businesses represent about 40 percent of the companies within the source category, they are expected to incur only 10 percent of the total industry compliance costs. Under the final standards, the average annual compliance cost share of sales for small businesses is only 0.20 percent, with 26 of the 34 small businesses not expected to incur any additional costs because they are area sources or are permitted as synthetic minor HAP emission sources. After reviewing the range of costs to be borne by small businesses, EPA has determined the costs are typically small and that this action will not have a significant impact on a substantial number of small entities.

Although this final rule will not have a significant economic impact on a substantial number of small entities, EPA has nonetheless worked aggressively to minimize the impact of these standards on small entities, consistent with our obligations under the CAA. We solicited input from small entities during the data-gathering phase of the proposed rulemaking. We are including compliance options that give small entities flexibility in choosing the most cost-effective and least burdensome alternative for their operation. For example, a facility could purchase and use low-HAP coatings (i.e., pollution prevention) that meet the final standards instead of using add-on capture and control systems. This method of compliance can be demonstrated with minimum burden by using purchase and usage records. No testing of materials will typically be required as the facility owner will be allowed to show that their coatings meet the emission limits by providing formulation data supplied by the manufacturer.

H. Paperwork Reduction Act

The information collection requirements for these final standards will be submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1954.01) and a copy may be obtained from Susan Auby by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822T), 1200 Pennsylvania Avenue, NW, Washington, DC 20460, by e-mail at auby.susan@epa.gov, or by calling (202) 566–1672. A copy may also be downloaded off the internet at *http://www.epa.gov/icr*. The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. 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 Agency policies set forth in 40 CFR part 2, subpart B.

The final standards require maintaining records of all coatings, thinners, and cleaning materials data and calculations used to determine compliance. This information includes the volume used during each monthly compliance period, mass fraction organic HAP, density, and, for coatings only, volume fraction of coating solids.

If an add-on control device is used, records must be kept of the capture efficiency of the capture system, destruction or removal efficiency of the add-on control device, and the monitored operating parameters. In addition, records must be kept of each calculation of the affected sourcewide emissions for each monthly compliance period and all data, calculations, test results, and other supporting information used to determine this value.

The MRR burden in the 5th year after the effective date of the promulgated rule is estimated to be 32,000 labor hours at a cost of $1.50 million for new and existing sources.

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 rules are listed in 40 CFR part 9 and 48 CFR chapter 15. The OMB control number(s) for the information collection requirements in this rule will be listed in an amendment to 40 CFR part 9 or 48 CFR chapter 15 in a subsequent **Federal Register**.

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 104–113 (15 U.S.C. 272 note), directs the 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 one or

more 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 standards in this rule: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 24, 25, 25A, 204, 204A–F, and 311. Consistent with the NTTAA, EPA conducted searches to identify VCS in addition to these EPA methods. No applicable VCS were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 204, 204A-F, and 311. The search and review results have been documented and are placed in the docket (Docket No. A–97–41) for this rule.

The four VCS described below were identified as acceptable alternatives to EPA test methods for the purposes of this rule.

The VCS, ASME PTC 19–10–1981–Part 10, "Flue and Exhaust Gas Analyses," is cited in this rule for its manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas. This part of ASME PTC 19–10–1981–Part 10 is an acceptable alternative to Method 3B.

The VCS, ASTM 1475–98, "Standard Test Method for Density of Liquid Coatings, Inks, and Related Products," is cited in this rule for determining the density of coatings and the volatile matter in coatings.

The two VCS, ASTM D2697–86 (Reapproved 1998), "Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings," and ASTM D6093–97, "Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer," are cited in this rule as acceptable alternatives to EPA Method 24 to determine the volume solids content of coatings. Currently, EPA Method 24 does not have a procedure for determining the volume of solids in coatings. These standards augment the procedures in Method 24, which currently states that volume solids content be calculated from the coating manufacturer's formulation.

Six VCS: ASTM D1475–90, ASTM D2369–95, ASTM D3792–91, ASTM D4017–96a, ASTM D4457–85 (Reapproved 91), and ASTM D5403–93 are already incorporated by reference (IBR) in EPA Method 24. Five VCS: ASTM D1979–91, ASTM D3432–89, ASTM D4747–87, ASTM D4827–93, and ASTM PS9–94 are IBR in EPA Method 311.

In addition to the VCS EPA uses in this rule, the search for emissions measurement procedures identified eleven other VCS. The EPA determined that nine of these eleven 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. For further information on the determination of the eleven methods, see the docket for this rulemaking (Docket A–97–41).

Sections 63.4130, 63.4141, 63.4161, 63.4165, and 63.4166, and Table 1 of subpart NNNN list the EPA testing methods included in the final standards. Under § 63.7(f) of Subpart A of the General Provisions, a source may apply to EPA for permission to use alternative test methods in place of any of the EPA testing methods.

J. 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. The EPA will submit a report containing this 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 not a major rule as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

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

Dated: July 3, 2002.

Christine Todd Whitman,

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, *et seq.*

2. Section 63.14 is amended by revising paragraphs (b)(24), (25), and (i) and adding a new paragraph (b)(26) to read as follows:

§ 63.14 Incorporations by reference

* * * * *

(b) * * *

(24) ASTM D2697–86 (Reapproved 1998), Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings, IBR approved for §§ 63.4141(b)(1) and 63.5160(c).

(25) ASTM D6093–97, Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer, IBR approved for §§ 63.4141(b)(1) and 63.5160(c).

(26) ASTM D1475–98, Standard Test Method for Density of Liquid Coatings, Inks, and Related Products, IBR approved for §§ 63.4141(b)(3) and 63.4141(c).

* * * * *

(i) The following material is available for purchase from at least one of the following addresses: ASME International, Orders/Inquiries, P.O. Box 2300, Fairfield, NJ 07007–2300; or Global Engineering Documents, Sales Department, 15 Inverness Way East, Englewood, CO 80112: ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses, IBR approved for §§ 63.3360(d)(1)(iii), 63.4166(a)(3), and 63.5160(d)(1)(iii).

* * * * *

3. Part 63 is amended by adding subpart NNNN to read as follows:

Subpart NNNN—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances

Sec.

What This Subpart Covers

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Compliance Requirements for the Emission Rate With Add-On Controls Option

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63.4161 How do I demonstrate initial compliance?
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63.4166 How do I determine the add-on control device emission destruction or removal efficiency?
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Other Requirements and Information

63.4180 Who implements and enforces this subpart?
63.4181 What definitions apply to this subpart?

Tables to Subpart NNNN of Part 63

Table 1 to Subpart NNNN of Part 63—Operating Limits if Using the Emission Rate with Add-on Controls Option
Table 2 to Subpart NNNN of Part 63—Applicability of General Provisions to Subpart NNNN
Table 3 to Subpart NNNN of Part 63—Default Organic HAP Mass Fraction for Solvents and Solvent Blends
Table 4 to Subpart NNNN of Part 63—Default Organic Mass Fraction for Petroleum Solvent Groups

Subpart NNNN—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances

What This Subpart Covers

§ 63.4080 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants for large appliance surface coating facilities. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations.

§ 63.4081 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a facility that applies coatings to large appliance parts or products, and is a major source, is located at a major source, or is part of a major source of emissions of hazardous air pollutants (HAP), except as provided in paragraph (d) of this section. A major source of HAP emissions is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (Mg) (10 tons) or more per year or any combination of HAP at a rate of 22.68 Mg (25 tons) or more per year. You are not subject to this subpart if your large appliance surface coating facility is located at, or is part of, an area source of HAP emissions. An area source of HAP emissions is any stationary source or group of stationary sources located within a contiguous area and under common control that is not a major source.

(b) The large appliance surface coating source category includes any facility engaged in the surface coating of a large appliance part or product. Large appliance parts and products include but are not limited to cooking equipment; refrigerators, freezers, and refrigerated cabinets and cases; laundry equipment; dishwashers, trash compactors, and water heaters; and heating, ventilation, and air-conditioning (HVAC) units, air-conditioning (except motor vehicle) units, air-conditioning and heating combination units, comfort furnaces, and electric heat pumps. Specifically excluded are heat transfer coils and large commercial and industrial chillers.

(c) The large appliance surface coating activities and equipment to which this subpart applies are listed in paragraphs (c)(1) through (9) of this section:

(1) Surface preparation of large appliance parts and products;

(2) Preparation of a coating for application (e.g., mixing in thinners and other components);

(3) Application of a coating to large appliance parts and products using, for example, spray guns or dip tanks;

(4) Application of porcelain enamel, powder coating, and asphalt interior soundproofing coating;

(5) Flash-off, drying, or curing following the coating application operation;

(6) Cleaning of equipment used in coating operations (e.g., application equipment, hangers, racks);

(7) Storage of coatings, thinners, and cleaning materials;

(8) Conveying of coatings, thinners, and cleaning materials from storage areas to mixing areas or coating application areas, either manually (e.g., in buckets) or by automated means (e.g., transfer through pipes using pumps); and

(9) Handling and conveying of waste materials generated by coating operations.

(d) This subpart does not apply to surface coating that meets any of the criteria of paragraphs (d)(1) through (5) of this section.

(1) The surface coating of large appliance parts such as metal or plastic handles, hinges, or fasteners that have a wider use beyond large appliances is not subject to this subpart.

(2) The surface coating of large appliances conducted for the purpose of repairing or maintaining large appliances used by a facility and not for commerce is not subject to this subpart unless organic HAP emissions from the surface coating itself are as high as the rates specified in paragraph (a) of this section.

(3) The surface coating of heat transfer coils or large commercial and industrial chillers.

(4) The provisions of this subpart do not apply to research or laboratory facilities; janitorial, building, and facility maintenance operations; hobby shops operated for noncommercial purposes or coating applications using hand-held non-refillable aerosol containers.

(5) The provisions of this subpart do not apply to processes involving metal plating or phosphating of a substrate.

(e) If you own or operate an affected source that is subject to this subpart and at the same affected source you also perform surface coating subject to any other subparts in this part, you may choose for the affected source to comply with only one subpart. In order to choose this alternative, the total mass of organic HAP emissions from all surface coating operations in the affected source

must be less than or equal to the total mass of organic HAP emissions that would result if it complied separately with all applicable subparts. You must make this comparison for the initial compliance period and report it in the Notification of Compliance Status as required in § 63.4110(b)(10) and in the Notification of Compliance Status required by the other subparts. If you choose this alternative, your demonstration of compliance with the other subpart constitutes compliance with this subpart.

§ 63.4082 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, and existing affected source.

(b) The affected source is the collection of all of the items listed in paragraphs (b)(1) through (4) of this section that are part of the large appliance surface coating facility:

(1) All coating operations as defined in § 63.4181;

(2) All storage containers and mixing vessels in which coatings, thinners, and cleaning materials are stored or mixed;

(3) All manual and automated equipment and containers used for conveying coatings, thinners, and cleaning materials; and

(4) All storage containers and all manual and automated equipment and containers used for conveying waste materials generated by a coating operation.

(c) An affected source is a new affected source if you commenced its construction after July 23, 2002, and the construction is of a completely new large appliance surface coating facility where previously no large appliance surface coating facility had existed.

(d) An affected source is reconstructed if you meet the criteria as defined in § 63.2.

(e) An affected source is existing if it is not new or reconstructed.

§ 63.4083 When do I have to comply with this subpart?

The date by which you must comply with this subpart is called the compliance date. The compliance date for each type of affected source is specified in paragraphs (a) through (c) of this section. The compliance date begins the initial compliance period during which you conduct the initial compliance demonstration described in §§ 63.4140, 63.4150, and 63.4160.

(a) For a new or reconstructed affected source, the compliance date is the applicable date in paragraph (a)(1) or (2) of this section.

(1) If the initial startup of your new or reconstructed affected source is before July 23, 2002, the compliance date is July 23, 2002.

(2) If the initial startup of your new or reconstructed affected source occurs after July 23, 2002, the compliance date is the date of initial startup of your affected source.

(b) For an existing affected source, the compliance date is July 25, 2005.

(c) For an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP emissions, the compliance date is specified in paragraphs (c)(1) and (2) of this section.

(1) For any portion of the source that becomes a new or reconstructed affected source subject to this subpart, the compliance date is the date of initial startup of the affected source, or the date the area source becomes a major source, or July 23, 2002, whichever is latest.

(2) For any portion of the source that becomes an existing affected source subject to this subpart, the compliance date is the date 1 year after the area source becomes a major source or July 25, 2005, whichever is later.

(d) You must meet the notification requirements in § 63.4110 according to the dates specified in that section and in subpart A of this part. Some of the notifications must be submitted before the compliance dates described in paragraphs (a) through (c) of this section.

Emission Limitations

§ 63.4090 What emission limits must I meet?

(a) For an existing affected source, you must limit organic HAP emissions to the atmosphere to no more than 0.13 kilogram per liter (kg/liter) (1.1 pound per gallon (lb/gal)) of coating solids used during each compliance period.

(b) For a new or reconstructed affected source, you must limit organic HAP emissions to the atmosphere to no more than 0.022 kg/liter (0.18 lb/gal) of coating solids used during each compliance period.

§ 63.4091 What are my options for meeting the emission limits?

You must include all coatings, thinners, and cleaning materials used in the affected source when determining whether the organic HAP emission rate is equal to or less than the applicable emission limit in § 63.4090. To make this determination, you must use at least one of the three compliance options listed in paragraphs (a) through (c) of this section. You may apply any of the compliance options to an individual coating operation or to multiple coating operations as a group or to the entire affected source. You may use different compliance options for different coating operations or at different times on the same coating operation. However, you may not use different compliance options at the same time on the same coating operation. If you switch between compliance options for any coating operation or group of coating operations, you must document this switch as required by § 63.4130(c), and you must report it in the next semiannual compliance report required in § 63.4120.

(a) *Compliant material option.* Demonstrate that the organic HAP content of each coating used in the coating operation(s) is less than or equal to the applicable emission limit in § 63.4090, and that each thinner and each cleaning material used contains no organic HAP. You must meet all the requirements of §§ 63.4140, 63.4141, and 63.4142 to demonstrate compliance with the emission limit using this option.

(b) *Emission rate without add-on controls option.* Demonstrate that, based on data on the coatings, thinners, and cleaning materials used in the coating operation(s), the organic HAP emission rate for the coating operation(s) is less than or equal to the applicable emission limit in § 63.4090. You must meet all the requirements of §§ 63.4150, 63.4151, and 63.4152 to demonstrate compliance with the emission limit using this option.

(c) *Emission rate with add-on controls option.* Demonstrate that, based on data on the coatings, thinners, and cleaning materials used in the coating operation(s) and the emission reductions achieved by emission capture and add-on controls, the organic HAP emission rate for the coating operation(s) is less than or equal to the applicable emission limit in § 63.4090. If you use this compliance option, you must also demonstrate that all emission capture systems and add-on control devices for the coating operation(s) meet the operating limits required in § 63.4092, except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4161(h), and that you meet the work practice standards required in § 63.4093. You must meet all the requirements of §§ 63.4160 through 63.4168 to demonstrate compliance with the emission limits, operating limits, and work practice standards using this option.

§ 63.4092 What operating limits must I meet?

(a) For any coating operation(s) on which you use the compliant material

option or the emission rate without add-on controls option, you are not required to meet any operating limits.

(b) For any controlled coating operation(s) on which you use the emission rate with add-on controls option, except those for which you use a solvent recovery system and conduct a liquid-liquid material balance according to § 63.4161(h), you must meet the operating limits specified in Table 1 to this subpart. These operating limits apply to the emission capture and control systems on the coating operation(s) for which you use this option, and you must establish the operating limits during the performance test according to the requirements in § 63.4167. You must meet the operating limits at all times after you establish them.

(c) If you use an add-on control device other than those listed in Table 1 to this subpart or wish to monitor an alternative parameter and comply with a different operating limit, you must apply to the U.S. Environmental Protection Agency (EPA) Administrator for approval of alternative monitoring under § 63.8(f).

§ 63.4093 What work practice standards must I meet?

(a) For any coating operation(s) on which you use the compliant material option or the emission rate without add-on controls option, you are not required to meet any work practice standards.

(b) If you use the emission rate with add-on controls option, you must develop and implement a work practice plan to minimize organic HAP emissions from the storage, mixing, and conveying of coatings, thinners, and cleaning materials used in, and waste materials generated by, the coating operation(s) for which you use this option; or you must meet an alternative standard as provided in paragraph (c) of this section. The plan must specify practices and procedures to ensure that, at a minimum, the elements specified in paragraphs (b)(1) through (5) of this section are implemented.

(1) All organic-HAP-containing coatings, thinners, cleaning materials, and waste materials must be stored in closed containers.

(2) Spills of organic-HAP-containing coatings, thinners, cleaning materials, and waste materials must be minimized.

(3) Organic-HAP-containing coatings, thinners, cleaning materials, and waste materials must be conveyed from one location to another in closed containers or pipes.

(4) Mixing vessels which contain organic-HAP-containing coatings and other materials must be closed except when adding to, removing, or mixing the contents.

(5) Emissions of organic HAP must be minimized during cleaning of storage, mixing, and conveying equipment.

(c) As provided in § 63.6(g), we, the EPA, may choose to grant you permission to use an alternative to the work practice standards in this section.

General Compliance Requirements

§ 63.4100 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations in this subpart as specified in paragraphs (a)(1) and (2) of this section.

(1) Any coating operation(s) for which you use the compliant material option or the emission rate without add-on controls option, as specified in § 63.4091(a) and (b), must be in compliance with the applicable emission limit in § 63.4090 at all times.

(2) Any coating operation(s) for which you use the emission rate with add-on controls option, as specified in § 63.4091(c), must be in compliance with the applicable emission limit in § 63.4090 and work practice standards in § 63.4093 at all times. Each controlled coating operation must be in compliance with the operating limits for emission capture systems and add-on control devices required by § 63.4092 at all times, except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4161(h).

(b) You must always operate and maintain your affected source, including all air pollution control and monitoring equipment you use for purposes of complying with this subpart, according to the provisions in § 63.6(e)(1)(i).

(c) If your affected source uses an emission capture system and add-on control device, you must maintain a log detailing the operation and maintenance of the emission capture system, add-on control device, and continuous parameter monitors during the period between the compliance date specified for your affected source in § 63.4083 and the date when the initial emission capture system and add-on control device performance tests have been completed as specified in § 63.4160. This requirement does not apply to a solvent recovery system for which you conduct a liquid-liquid material balance according to § 63.4161(h) in lieu of conducting performance tests.

(d) If your affected source uses an emission capture system and add-on control device, you must develop and implement a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3). The plan must address the startup, shutdown, and corrective actions in the event of a malfunction of the emission capture system or the add-on control device. The plan must also address any coating operation equipment that may cause increased emissions or that would affect capture efficiency if the process equipment malfunctions, such as conveyors that move parts among enclosures.

§ 63.4101 What parts of the General Provisions apply to me?

Table 2 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

Notifications, Reports, and Records

§ 63.4110 What notifications must I submit?

(a) You must submit the notifications in §§ 63.7(b) and (c), 63.8(f)(4), and 63.9(b) through (e) and (h) that apply to you by the dates specified in those sections, except as provided in paragraphs (a)(1) and (2) of this section.

(1) You must submit the Initial Notification required by § 63.9(b) for an existing affected source no later than July 23, 2003. For a new or reconstructed affected source, you must submit the Initial Notification no later than 120 days after initial startup or November 20, 2002, whichever is later.

(2) You must submit the Notification of Compliance Status required by § 63.9(h) no later than 30 calendar days following the end of the initial compliance period described in § 63.4140, § 63.4150, or § 63.4160 that applies to your affected source.

(b) The Notification of Compliance Status must contain the information specified in paragraphs (b)(1) through (10) of this section and the applicable information specified in § 63.9(h).

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of the report and beginning and ending dates of the reporting period. The reporting period is the initial compliance period described in § 63.4140, § 63.4150, or § 63.4160 that applies to your affected source.

(4) Identification of the compliance option or options specified in § 63.4091 that you used on each coating operation in the affected source during the initial compliance period.

(5) Statement of whether or not the affected source achieved the emission limitations for the initial compliance period.

(6) If you had a deviation, include the information in paragraphs (b)(6)(i) and (ii) of this section.

(i) A description of and statement of the cause of the deviation.

(ii) If you failed to meet the applicable emission limit in § 63.4090, include all the calculations you used to determine the kg organic HAP emitted per liter of coating solids used. You do not need to submit information provided by the materials suppliers or manufacturers or test reports.

(7) For each of the data items listed in paragraphs (b)(7)(i) through (iv) of this section that is required by the compliance option(s) you used to demonstrate compliance with the emission limit, include an example of how you determined the value, including calculations and supporting data. Supporting data can include a copy of the information provided by the supplier or manufacturer of the example coating or material or a summary of the results of testing conducted according to § 63.4141(a), (b), or (c). You do not need to submit copies of any test reports.

(i) Mass fraction of organic HAP for one coating, for one thinner, and for one cleaning material.

(ii) Volume fraction of coating solids for one coating.

(iii) Density for one coating, one thinner, and one cleaning material, except that if you use the compliant material option, only the example coating density is required.

(iv) The amount of waste materials and the mass of organic HAP contained in the waste materials for which you are claiming an allowance in Equation 1 of § 63.4151.

(8) The determination of kg organic HAP emitted per liter of coating solids used for the compliance option(s) you use, as specified in paragraphs (b)(8)(i) through (iii) of this section.

(i) For the compliant material option, provide an example determination of the organic HAP content for one coating, according to § 63.4141(d).

(ii) For the emission rate without add-on controls option, provide the calculation of the total mass of organic HAP emissions; the calculation of the total volume of coating solids used; and the calculation of the organic HAP emission rate, using Equations 1, 1A through 1C, 2, and 3, respectively, of § 63.4151.

(iii) For the emission rate with add-on controls option, provide the calculation of the total mass of organic HAP emissions for the coatings, thinners, and cleaning materials used, using Equations 1 and 1A through 1C of § 63.4151; the calculation of the total volume of coating solids used, using Equation 2 of § 63.4151; the calculation of the mass of organic HAP emission reduction by emission capture systems and add-on control devices, using Equations 1, 1A through 1C, 2, 3, and 3A through 3C of § 63.4161, as applicable; and the calculation of the organic HAP emission rate, using Equation 4 of § 63.4161.

(9) For the emission rate with add-on controls option, you must include the information specified in paragraphs (b)(9)(i) through (v) of this section, except that the requirements in paragraphs (b)(9)(i) through (iii) of this section do not apply to solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4161(h).

(i) For each emission capture system, a summary of the data and copies of the calculations supporting the determination that the emission capture system is a permanent total enclosure (PTE) or a measurement of the emission capture system efficiency. Include a description of the protocol followed for measuring capture efficiency, summaries of any capture efficiency tests conducted, and any calculations supporting the capture efficiency determination. If you use the data quality objective (DQO) or lower confidence limit (LCL) approach, you must also include the statistical calculations to show you meet the DQO or LCL criteria in appendix A to subpart KK of this part. You do not need to submit complete test reports.

(ii) A summary of the results of each add-on control device performance test. You do not need to submit complete test reports.

(iii) A list of each emission capture system's and add-on control device's operating limits and a summary of the data used to calculate those limits.

(iv) A statement of whether or not you developed and implemented the work practice plan required by § 63.4093.

(v) A statement of whether or not you developed and implemented the startup, shutdown, and malfunction plan required by § 63.4100(d).

(10) If you have chosen for your affected source to comply with the requirements of another subpart in lieu of the requirements of this subpart, as allowed in § 63.4081(d), your Notification of Compliance Status must include a statement certifying your intent, as well as documentation and supporting materials showing that, during the initial compliance period, your affected source's total organic HAP emissions were equal to or less than the organic HAP emissions that would have resulted from complying separately with each applicable subpart.

§ 63.4120 What reports must I submit?

You must submit semiannual compliance reports for each affected source according to the requirements of this section. The semiannual compliance reporting requirements of this section may be satisfied by reports required under other parts of the Clean Air Act (CAA), as specified in paragraph (a)(5) of this section.

(a) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must prepare and submit each semiannual compliance report according to the dates specified in paragraphs (a)(1) through (4) of this section.

(1) The first semiannual compliance report must cover the first semiannual reporting period which begins the day after the end of the initial compliance period described in § 63.4140, § 63.4150, or § 63.4160 that applies to your affected source and ends on June 30 or December 31, whichever date is the first date following the end of the initial compliance period.

(2) Each subsequent semiannual compliance report must cover the subsequent semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(3) Each semiannual compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(4) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent semiannual compliance reports according to the dates the permitting authority has established instead of the date specified in paragraph (a)(3) of this section.

(5) Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 40 CFR part 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If an affected source submits a semiannual compliance report pursuant to this section along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the semiannual compliance report includes all required information concerning deviations from

any emission limitation in this subpart, its submission shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a semiannual compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permitting authority.

(b) The semiannual compliance report must contain the information specified in paragraphs (b)(1) through (4) of this section and the information specified in paragraphs (c) through (j) of this section that is applicable to your affected source.

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period. The reporting period is the 6-month period ending on June 30 or December 31.

(4) Identification of the compliance option or options specified in § 63.4091 that you used on each coating operation during the reporting period. If you switched between compliance options during the reporting period, you must report the beginning and ending dates you used each option.

(c) If there were no deviations from the emission limitations in §§ 63.4090, 63.4092, and 63.4093 that apply to you, the semiannual compliance report must include a statement that there were no deviations from the emission limitations during the reporting period.

(d) If you use the compliant material option and there was a deviation from the applicable emission limit in § 63.4090, the semiannual compliance report must contain the information in paragraphs (d)(1) through (4) of this section.

(1) Identification of each coating used that deviated from the emission limit, each thinner and cleaning material used that contained organic HAP, and the dates and time periods each was used.

(2) The determination of the organic HAP content, according to § 63.4141(d), for each coating identified in paragraph (d)(1) of this section. You do not need to submit background data supporting this calculation, for example, information provided by coating suppliers or manufacturers or test reports.

(3) The determination of mass fraction of organic HAP for each thinner and cleaning material identified in paragraph (d)(1) of this section. You do not need to submit background data supporting this calculation, for example, information provided by material suppliers or manufacturers or test reports.

(4) A statement of the cause of each deviation.

(e) If you use the emission rate without add-on controls option and there was a deviation from the applicable emission limit in § 63.4090, the semiannual compliance report must contain the information in paragraphs (e)(1) through (3) of this section.

(1) The beginning and ending dates of each compliance period during which the organic HAP emission rate exceeded the emission limit.

(2) The calculations used to determine the organic HAP emission rate for the compliance period in which the deviation occurred. You must provide the calculations for Equations 1, 1A through 1C, 2, and 3 in § 63.4151; and, if applicable, the calculation used to determine the organic HAP in waste materials according to § 63.4151(e)(4). You do not need to submit background data supporting these calculations, for example, information provided by materials suppliers or manufacturers or test reports.

(3) A statement of the cause of each deviation.

(f) If you use the emission rate with add-on controls option and there were no periods during which the continuous parameter monitoring systems (CPMS) were out-of-control as specified in § 63.8(c)(7), the semiannual compliance report must include a statement that there were no periods during which the CPMS were out-of-control during the reporting period.

(g) If you use the emission rate with add-on controls option and there was a deviation from an emission limitation (including any periods when emissions bypassed the add-on control device and were diverted to the atmosphere), the semiannual compliance report must contain the information in paragraphs (g)(1) through (14) of this section. This includes periods of startup, shutdown, and malfunction during which deviations occurred.

(1) The beginning and ending dates of each compliance period during which the organic HAP emission rate exceeded the applicable emission limit in § 63.4090.

(2) The calculations used to determine the organic HAP emission rate for each compliance period in which a deviation occurred. You must provide the calculation of the total mass of organic HAP emissions for the coatings, thinners, and cleaning materials used during the compliance period, using Equations 1, 1A through 1C, and 2 of § 63.4151 and, if applicable, the calculation used to determine the mass of organic HAP in waste materials according to § 63.4151(e)(4); the calculation of the total volume of coating solids used during the compliance period, using Equation 2 of § 63.4151; the calculation of the mass of organic HAP emission reduction during the compliance period by emission capture systems and add-on control devices, using Equations 1, 1A through 1C, 2, 3, and 3A through 3C of § 63.4161; and the calculation of the organic HAP emission rate, using Equation 4 of § 63.4161. You do not need to submit the background data supporting these calculations, for example, information provided by materials suppliers or manufacturers or test reports.

(3) The date and time that each malfunction started and stopped.

(4) A brief description of the CPMS.

(5) The date of the latest CPMS certification or audit.

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

(7) The date, time, and duration that each CPMS was out-of-control, including the information in § 63.8(c)(8).

(8) The date and time period of each deviation from an operating limit in Table 1 to this subpart; date and time period of any bypass of the add-on control device; and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(9) A summary of the total duration of each deviation from an operating limit in Table 1 to this subpart and bypass of the add-on control device during the semiannual reporting period and the total duration as a percent of the total source operating time during that semiannual reporting period.

(10) A breakdown of the total duration of the deviations from the operating limits in Table 1 to this subpart and bypasses of the add-on control device during the semiannual reporting period into those that were due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(11) A summary of the total duration of CPMS downtime during the semiannual reporting period and the total duration of CPMS downtime as a percent of the total source operating time during that semiannual reporting period.

(12) A description of any changes in the CPMS, coating operation, emission capture system, or add-on control

device since the last semiannual reporting period.

(13) For each deviation from the work practice standards, a description of the deviation, the date and time period of the deviation, and the actions you took to correct the deviation.

(14) A statement of the cause of each deviation.

(h) If you use the emission rate with add-on controls option, you must submit reports of performance test results for emission capture systems and add-on control devices no later than 60 days after completing the tests as specified in § 63.10(d)(2).

(i) [Reserved]

(j) If you use the emission rate with add-on controls option and you have a startup, shutdown, or malfunction during the semiannual reporting period, you must submit the reports specified in paragraphs (j)(1) and (2) of this section.

(1) If your actions were consistent with your startup, shutdown, and malfunction plan (SSMP), you must include the information specified in § 63.10(d)(5) in the semiannual compliance report required by paragraph (a) of this section.

(2) If your actions were not consistent with your SSMP, you must submit an immediate startup, shutdown, and malfunction report as described in paragraphs (j)(2)(i) and (ii) of this section.

(i) You must describe the actions taken during the event in a report delivered by facsimile (fax), telephone, or other means to the Administrator within 2 working days after starting actions that are inconsistent with the plan.

(ii) You must submit a letter to the Administrator within 7 working days after the end of the event, unless you have made alternative arrangements with the Administrator as specified in § 63.10(d)(5)(ii). The letter must contain the information specified in § 63.10(d)(5)(ii).

§ 63.4130 What records must I keep?

You must collect and keep records of the data and information specified in this section. Failure to collect and keep these records is a deviation from the applicable standard.

(a) A copy of each notification and report that you submitted to comply with this subpart and the documentation supporting each notification and report.

(b) A current copy of information provided by materials suppliers or manufacturers such as manufacturer's formulation data or test data used to determine the mass fraction of organic HAP and density for each coating, thinner, and cleaning material and the volume fraction of coating solids for each coating. If you conducted testing to determine mass fraction of organic HAP, density, or volume fraction of coating solids, you must keep a copy of the complete test report. If you use information provided to you by the manufacturer or supplier of the material that was based on testing, you must keep the summary sheet of results provided to you by the manufacturer or supplier. You are not required to obtain the test report or other supporting documentation from the manufacturer or supplier.

(c) For each compliance period, a record of the time periods (beginning and ending dates and times) and the coating operations at which each compliance option was used and a record of all determinations of kg organic HAP per liter of coating solids for the compliance option(s) you used, as specified in paragraphs (c)(1) through (3) of this section.

(1) For the compliant material option, a record of the determination of the organic HAP content for each coating, according to § 63.4141(d).

(2) For the emission rate without add-on controls option, a record of the calculation of the total mass of organic HAP emissions for the coatings, thinners, and cleaning materials used each month, using Equations 1 and 1A through 1C of § 63.4151 and, if applicable, the calculations used to determine the mass of organic HAP in waste materials according to § 63.4151(e)(4); the calculation of the total volume of coating solids used each month, using Equation 2 of § 63.4151; and the calculation of the organic HAP emission rate, using Equation 3 of § 63.4151.

(3) For the emission rate with add-on controls option, a record of the calculation of the total mass of organic HAP emissions for the coatings, thinners, and cleaning materials used each month, using Equations 1 and 1A through 1C of § 63.4151 and, if applicable, the calculation used to determine mass of organic HAP in waste materials according to § 63.4151(e)(4); the calculation of the total volume of coating solids used each month, using Equation 2 of § 63.4151; the calculation of the mass of organic HAP emission reduction by emission capture systems and add-on control devices, using Equations 1, 1A through 1C, 2, 3, and 3A through 3C of § 63.4161, as applicable; and the calculation of the organic HAP emission rate, using Equation 4 of § 63.4161.

(d) A record of the name and volume of each coating, thinner, and cleaning material used during each compliance period.

(e) A record of the mass fraction of organic HAP for each coating, thinner, and cleaning material used during each compliance period.

(f) A record of the volume fraction of coating solids for each coating used during each compliance period except for zero-HAP coatings for which volume solids determination is not required as allowed in § 63.4141(a).

(g) A record of the density for each coating used during each compliance period except for zero-HAP coatings for which volume solids determination is not required as allowed in § 63.4141(a) and, if you use either the emission rate without add-on controls or the emission rate with add-on controls compliance option, a record of the density for each thinner and cleaning material used during each compliance period.

(h) If you use an allowance in Equation 1 of § 63.4151 for organic HAP contained in waste materials sent to or designated for shipment to a treatment, storage, and disposal facility (TSDF) according to § 63.4151(e)(4), you must keep records of the information specified in paragraphs (h)(1) through (3) of this section.

(1) The name and address of each TSDF to which you sent waste materials for which you use an allowance in Equation 1 of § 63.4151, a statement of which subparts under 40 CFR parts 262, 264, 265, and 266 apply to the facility, and the date of each shipment.

(2) Identification of the coating operations producing waste materials included in each shipment and the month or months in which you used the allowance for these materials in Equation 1 of § 63.4151.

(3) The methodology used in accordance with § 63.4151(e)(4) to determine the total amount of waste materials sent to or the amount collected, stored, and designated for transport to a TSDF each month; and the methodology to determine the mass of organic HAP contained in these waste materials. This must include the sources for all data used in the determination, methods used to generate the data, frequency of testing or monitoring, and supporting calculations and documentation, including the waste manifest for each shipment.

(i) [Reserved]

(j) You must keep records of the date, time, and duration of each deviation.

(k) If you use the emission rate with add-on controls option, you must keep the records specified in paragraphs (k)(1) through (8) of this section.

(1) For each deviation, a record of whether the deviation occurred during a

period of startup, shutdown, or malfunction.

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(3) The records required to show continuous compliance with each operating limit specified in Table 1 to this subpart that applies to you.

(4) For each capture system that is a PTE, the data and documentation you used to support a determination that the capture system meets the criteria in Method 204 of appendix M to 40 CFR part 51 for a PTE and has a capture efficiency of 100 percent, as specified in § 63.4165(a).

(5) For each capture system that is not a PTE, the data and documentation you used to determine capture efficiency according to the requirements specified in §§ 63.4164 and 63.4165(b) through (e) including the records specified in paragraphs (k)(5)(i) through (iii) of this section that apply to you.

(i) *Records for a liquid-to-uncaptured-gas protocol using a temporary total enclosure or building enclosure.* Records of the mass of total volatile hydrocarbon (TVH) as measured by Method 204A or F of appendix M to 40 CFR part 51 for each material used in the coating operation, and the total TVH for all materials used during each capture efficiency test run, including a copy of the test report. Records of the mass of TVH emissions not captured by the capture system that exited the temporary total enclosure or building enclosure during each capture efficiency test run, as measured by Method 204D or E of appendix M to 40 CFR part 51, including a copy of the test report. Records documenting that the enclosure used for the capture efficiency test met the criteria in Method 204 of appendix M to 40 CFR part 51 for either a temporary total enclosure or a building enclosure.

(ii) *Records for a gas-to-gas protocol using a temporary total enclosure or a building enclosure.* Records of the mass of TVH emissions captured by the emission capture system as measured by Method 204B or C of appendix M to 40 CFR part 51 at the inlet to the add-on control device, including a copy of the test report. Records of the mass of TVH emissions not captured by the capture system that exited the temporary total enclosure or building enclosure during each capture efficiency test run, as measured by Method 204D or E of appendix M to 40 CFR part 51, including a copy of the test report. Records documenting that the enclosure used for the capture efficiency test met the criteria in Method 204 of appendix M to 40 CFR part 51 for either a temporary total enclosure or a building enclosure.

(iii) *Records for an alternative protocol.* Records needed to document a capture efficiency determination using an alternative method or protocol as specified in § 63.4165(e), if applicable.

(6) The records specified in paragraphs (k)(6)(i) and (ii) of this section for each add-on control device organic HAP destruction or removal efficiency determination as specified in § 63.4166.

(i) Records of each add-on control device performance test conducted according to §§ 63.4164 and 63.4166.

(ii) Records of the coating operation conditions during the add-on control device performance test showing that the performance test was conducted under representative operating conditions.

(8) Records of the data and calculations you used to establish the emission capture and add-on control device operating limits as specified in § 63.4167 and to document compliance with the operating limits as specified in Table 1 of this subpart.

(9) A record of the work practice plan required by § 63.4093, and documentation that you are implementing the plan on a continuous basis.

§ 63.4131 In what form and for how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1). Where appropriate, the records may be maintained as electronic spreadsheets or as a data base.

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You may keep the records off site for the remaining 3 years.

Compliance Requirements for the Compliant Material Option

§ 63.4140 By what date must I conduct the initial compliance demonstration?

You must complete the initial compliance demonstration for the initial compliance period according to the requirements in § 63.4141. The initial compliance period begins on the applicable compliance date specified in § 63.4083 and ends on the last day of the first full month after the compliance date. If the compliance date occurs on any day other than the first day of a month, then the initial compliance period extends through the end of that month plus the next month. The initial compliance demonstration includes the determination according to § 63.4141 and supporting documentation showing that, during the initial compliance period, you used no coating with an organic HAP content that exceeded the applicable emission limit in § 63.4090, and that you used no thinners or cleaning materials that contained organic HAP.

§ 63.4141 How do I demonstrate initial compliance with the emission limitations?

You may use the compliant material option for any individual coating operation, for any group of coating operations in the affected source, or for all the coating operations in the affected source. You must use either the emission rate without add-on controls option or the emission rate with add-on controls option for any coating operation(s) in the affected source for which you do not use this option. To demonstrate initial compliance using the compliant material option, the coating operation or group of coating operations must use no coating with an organic HAP content that exceeds the applicable emission limit in § 63.4090 and must use no thinner or cleaning material that contains organic HAP, as determined according to this section during the initial compliance period. Any coating operation(s) for which you use the compliant material option is not required to meet the operating limits or work practice standards required in §§ 63.4092 and 63.4093, respectively. To demonstrate initial compliance with the emission limitations using the compliant material option, you must meet all the requirements of this section for the coating operation(s) using this option. Use the procedures in this section on each coating, thinner, and cleaning material in the condition it is in when it is received from its manufacturer or supplier and prior to any alteration. You do not need to redetermine the HAP content of coatings, thinners, or cleaning materials that have been reclaimed onsite and reused in the coating operation(s) for which you use the compliant material option, provided these materials in their condition as received were demonstrated to comply with the compliant material option. If the mass fraction of organic HAP of a coating equals zero, determined according to paragraph (a) of this section, and you use the compliant material option, you are not required to comply with

paragraphs (b) and (c) of this section for that coating.

(a) *Determine the mass fraction of organic HAP for each material used.* You must determine the mass fraction of organic HAP for each coating, thinner, and cleaning material used during the compliance period by using one of the options in paragraphs (a)(1) through (5) of this section.

(1) *Method 311 (appendix A to 40 CFR part 63).* You may use Method 311 for determining the mass fraction of organic HAP. Use the procedures specified in paragraphs (a)(1)(i) and (ii) of this section when performing a Method 311 test.

(i) Count each organic HAP that is measured to be present at 0.1 percent by mass or more for Occupational Safety and Health Administration (OSHA)-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and at 1.0 percent by mass or more for other organic HAP compounds. For example, if toluene (not an OSHA carcinogen) is measured to be 0.5 percent of the material by mass, you do not have to count it. Express the mass fraction of each organic HAP you count as a value truncated to four places after the decimal point (for example, 0.3791).

(ii) Calculate the total mass fraction of organic HAP in the test material by adding up the individual organic HAP mass fractions and truncating the result to three places after the decimal point (for example, 0.763).

(2) *Method 24 (appendix A to 40 CFR part 60).* For coatings, you may use Method 24 to determine the mass fraction of nonaqueous volatile matter and use that value as a substitute for mass fraction of organic HAP.

(3) *Alternative method.* You may use an alternative test method for determining the mass fraction of organic HAP once the Administrator has approved it. You must follow the procedure in § 63.7(f) to submit an alternative test method for approval.

(4) *Information from the supplier or manufacturer of the material.* You may rely on information other than that generated by the test methods specified in paragraphs (a)(1) through (3) of this section, such as manufacturer's formulation data if they represent each organic HAP that is present at 0.1 percent by mass or more for OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and at 1.0 percent by mass or more for other organic HAP compounds. For example, if toluene (not an OSHA carcinogen) is 0.5 percent of the material by mass, you do not have to count it. If there is a disagreement between such information and results of a test conducted according to paragraphs (a)(1) through (3) of this section, then the test method results will take precedence.

(5) *Solvent blends.* Solvent blends may be listed as single components for some materials in data provided by manufacturers or suppliers. Solvent blends may contain organic HAP which must be counted toward the total organic HAP mass fraction of the materials. When test data and manufacturer's data for solvent blends are not available, you may use the default values for mass fraction of organic HAP in these solvent blends listed in Table 3 or 4 of this subpart. If you use the tables, you must use the values in Table 3 for all solvent blends that match Table 3 entries, and you may only use Table 4 if the solvent blends in the materials you use do not match any of the solvent blends in Table 3, and you only know whether the blend is aliphatic or aromatic. However, if the results of a Method 311 test indicate higher values than those listed on Table 3 or 4 of this subpart, the Method 311 results will take precedence.

(b) *Determine the volume fraction of coating solids for each coating.* You must determine the volume fraction of coating solids (liters of coating solids per liter of coating) for each coating used during the compliance period by a test, by information provided by the supplier or the manufacturer of the material, or by calculation as specified in paragraphs (b)(1) through (3) of this section.

(1) *ASTM Method D2697–86 (Reapproved 1998) or D6093–97.* You may use ASTM Method D2697–86 (Reapproved 1998), "Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings," or D6093–97, "Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer" (incorporated by reference, see § 63.14) to determine the volume fraction of coating solids for each coating. Divide the nonvolatile volume percent obtained with the methods by 100 to calculate volume fraction of coating solids.

(2) *Information from the supplier or manufacturer of the material.* You may obtain the volume fraction of coating solids for each coating from the supplier or manufacturer.

(3) *Calculation of volume fraction of coating solids.* If the volume fraction of coating solids cannot be determined using the options in paragraphs (b)(1) and (2) of this section, you must determine it using Equation 1 of this section:

$$V_s = 1 - \frac{m_{volatiles}}{D_{avg}} \qquad \text{(Eq. 1)}$$

Where:

V_s = volume fraction of coating solids, liters coating solids per liter coating.

$m_{volatiles}$ = total volatile matter content of the coating, including HAP, volatile organic compounds (VOC), water, and exempt compounds, determined according to Method 24 in appendix A of 40 CFR part 60, grams volatile matter per liter coating.

D_{avg} = average density of volatile matter in the coating, grams volatile matter per liter volatile matter, determined from test results using ASTM Method D1475–98, "Standard Test Method for Density of Liquid Coatings, Inks, and Related Products" (incorporated by reference, see § 63.14) information from the supplier or manufacturer of the material, or reference sources providing density or specific gravity data for pure materials. If there is disagreement between ASTM Method D1475–98 test results and other information sources, the test results will take precedence.

(c) *Determine the density of each coating.* Determine the density of each coating used during the compliance period from test results using ASTM Method D1475–98, "Standard Test Method for Density of Liquid Coatings, Inks, and Related Products" (incorporated by reference, see § 63.14), information from the supplier or manufacturer of the material, or reference sources providing density or specific gravity data for pure materials. If there is disagreement between ASTM Method D1475–98 test results and other information sources, the test results will take precedence.

(d) Determine the organic HAP content of each coating. Determine the organic HAP content, kg organic HAP per liter coating solids, of each coating used during the compliance period, using Equation 2 of this section, except that if the mass fraction of organic HAP equals zero, then the organic HAP content also equals zero and you are not required to use Equation 2 to calculate the organic HAP content:

$$H_c = (D_c)(W_c) / V_s \qquad \text{(Eq. 2)}$$

Where:

H_c = organic HAP content of the coating, kg organic HAP per liter coating solids.

D_c = density of coating, kg coating per liter coating, determined according to paragraph (c) of this section.

W_c = mass fraction of organic HAP in the coating, kg organic HAP per kg coating, determined according to paragraph (a) of this section.

V_s = volume fraction of coating solids, liters coating solids per liter coating, determined according to paragraph (b) of this section.

(e) The organic HAP content for each coating used during the initial compliance period must be less than or equal to the applicable emission limit in § 63.4090; and each thinner and cleaning material used during the initial compliance period must contain no organic HAP, determined according to paragraph (a) of this section. You must keep all records required by §§ 63.4130 and 63.4131. As part of the Notification of Compliance Status required in § 63.4110, you must identify the coating operation(s) for which you used the compliant material option and submit a statement that the coating operation(s) was (were) in compliance with the emission limitations during the initial compliance period because you used no coatings for which the organic HAP content exceeds the applicable emission limit in § 63.4090, and you used no thinners or cleaning materials that contain organic HAP, determined according to paragraph (a) of this section.

§ 63.4142 How do I demonstrate continuous compliance with the emission limitations?

(a) For each compliance period, to demonstrate continuous compliance, you must use no coating for which the organic HAP content, determined according to § 63.4141(d), exceeds the applicable emission limit in § 63.4090, and use no thinner or cleaning material that contains organic HAP, determined according to § 63.4141(a). Each month following the initial compliance period described in § 63.4140 is a compliance period.

(b) If you choose to comply with the emission limitations by using the compliant material option, the use of any coating, thinner, or cleaning material that does not meet the criteria specified in paragraph (a) of this section is a deviation from the emission limitations that must be reported as specified in §§ 63.4110(b)(6) and 63.4120(d).

(c) As part of each semiannual compliance report required by § 63.4120, you must submit a statement that you were in compliance with the emission limitations during the reporting period because you used no thinners or cleaning materials that contained organic HAP, and you used no coatings for which the organic HAP content exceeded the applicable emission limit in § 63.4090.

(d) You must maintain records as specified in §§ 63.4130 and 63.4131.

Compliance Requirements for the Emission Rate Without Add-On Controls Option

§ 63.4150 By what date must I conduct the initial compliance demonstration?

You must complete the initial compliance demonstration for the initial compliance period according to the requirements of § 63.4151. The initial compliance period begins on the applicable compliance date specified in § 63.4083 and ends on the last day of the first full month after the compliance date. If the compliance date occurs on any day other than the first day of a month, then the initial compliance period extends through the end of that month plus the next month. The initial compliance demonstration includes the calculations according to § 63.4151 and supporting documentation showing that the organic HAP emission rate for the initial compliance period was equal to or less than the applicable emission limit in § 63.4090.

§ 63.4151 How do I demonstrate initial compliance with the emission limitations?

You may use the emission rate without add-on controls option for any individual coating operation, for any group of coating operations in the affected source, or for all of the coating operations in the affected source. You must use either the compliant material option or the emission rate with add-on controls option for any coating operation(s) in the affected source for which you do not use this option. To demonstrate initial compliance using the emission rate without add-on controls option, the coating operation(s) must meet the applicable emission limit in § 63.4090 but not the operating limits or work practice standards in §§ 63.4092 and 63.4093, respectively, during the initial compliance period. You must meet all of the requirements of this section to demonstrate initial compliance with the applicable emission limit in § 63.4090 for the coating operation(s). When calculating the organic HAP emission rate according to this section, do not include any coatings, thinners, or cleaning materials used on coating operations for which you use the compliant material option or the emission rate with add-on controls option. You do not need to redetermine the mass of organic HAP in coatings, thinners, or cleaning materials that have been reclaimed onsite and reused in the coating operation(s) for which you use the emission rate without add-on controls option.

(a) *Determine the mass fraction of organic HAP for each material.* Determine the mass fraction of organic HAP for each coating, thinner, and cleaning material used during the compliance period according to the requirements in § 63.4141(a).

(b) *Determine the volume fraction of coating solids for each coating.* Determine the volume fraction of coating solids for each coating used during the compliance period according to the requirements in § 63.4141(b).

(c) *Determine the density of each material.* Determine the density of each coating, thinner, and cleaning material used during the compliance period according to the requirements in § 63.4141(c).

(d) *Determine the volume of each material used during the compliance period.* Determine the volume (liters) of each coating, thinner, and cleaning material used during the compliance period by measurement or usage records.

(e) *Calculate the mass of organic HAP emissions during the compliance period.* The mass of organic HAP emissions is the combined mass of organic HAP contained in all coatings, thinners, and cleaning materials used during the compliance period minus the organic HAP in certain waste materials. Calculate it using Equation 1 of this section.

$$H_e = A + B + C - R_w \quad \text{(Eq. 1)}$$

Where:

H_e = total mass of organic HAP emissions during the compliance period, kg.

A = total mass of organic HAP in the coatings used during the compliance period, kg, as calculated in Equation 1A of this section.

B = total mass of organic HAP in the thinners used during the compliance period, kg, as calculated in Equation 1B of this section.

C = total mass of organic HAP in the cleaning materials used during the compliance period, kg, as calculated in Equation 1C of this section.

R_w = total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste TSDF for treatment or disposal during the compliance period, kg, determined according to paragraph (e)(4) of this section. (You may assign a value of zero to R_w if you do not wish to use this allowance.)

(1) Calculate the kg organic HAP in the coatings used during the compliance period, using Equation 1A of this section:

$$A = \sum_{i=1}^{m} (Vol_{c,i})(D_{c,i})(W_{c,i}) \qquad \text{(Eq. 1A)}$$

Where:

A = total mass of organic HAP in the coatings used during the compliance period, kg.

$Vol_{c,i}$ = total volume of coating, i, used during the compliance period, liters.

$D_{c,i}$ = density of coating, i, kg coating per liter coating.

$W_{c,i}$ = mass fraction of organic HAP in coating, i, kg organic HAP per kg coating.

m = number of different coatings used during the compliance period.

(2) Calculate the kg of organic HAP in the thinners used during the compliance period, using Equation 1B of this section:

$$B = \sum_{j=i}^{n} (Vol_{t,j})(D_{t,j})(W_{t,j}) \qquad \text{(Eq. 1B)}$$

Where:

B = total mass or organic HAP in the thinners used during the compliance period, kg.

$Vol_{t,j}$ = total volume of thinner, j, used during the compliance period, liters.

$D_{t,j}$ = density of thinner, j, kg thinner per liter thinner.

$W_{t,j}$ = mass fraction of organic HAP in thinner, j, kg organic HAP per kg thinner.

n = number of different thinners used during the compliance period.

(3) Calculate the kg organic HAP in the cleaning materials used during the compliance period, using Equation 1C of this section:

$$C = \sum_{k=1}^{P} (Vol_{s,k})(D_{s,k})(W_{s,k}) \qquad \text{(Eq. 1C)}$$

Where:

C = total mass of organic HAP in the cleaning materials used during the compliance period, kg.

$Vol_{s,k}$ = total volume of cleaning material, k, used during the compliance period, liters.

$D_{s,k}$ = density of cleaning material, k, kg cleaning material per liter cleaning material.

$W_{s,k}$ = mass fraction of organic HAP in cleaning material, k, kg organic HAP per kg material.

p = number of different cleaning materials used during the compliance period.

(4) Determine the mass of organic HAP contained in waste materials sent to a TSDF. If you choose to account for the mass of organic HAP contained in waste materials sent or designated for shipment to a hazardous waste TSDF in the calculation of the mass of organic HAP emissions (Equation 1 of this section), then you must determine it according to paragraphs (e)(4)(i) through (v) of this section.

(i) You may include in the determination of organic HAP in waste materials only the waste materials that are generated by coating operations for which you use Equation 1 of this section and that will be treated or disposed of by a facility that is regulated as a TSDF under 40 CFR part 262, 264, 265, or 266. The TSDF may be either off-site or on-site. You may not include in the determination the organic HAP contained in wastewater.

(ii) You must determine either the amount of waste materials sent to a TSDF during the compliance period or the amount collected and stored during the compliance period and designated for future transport to a TSDF. Do not include in your determination any waste materials sent to a TSDF during a compliance period if you have already included them in the amount collected and stored during that compliance period or a previous compliance period.

(iii) Determine the total mass of organic HAP contained in the waste materials specified in paragraph (e)(4)(ii) of this section.

(iv) You must document your methodology to determine the amount of waste materials and the total mass of organic HAP they contain, as required in § 63.4130(h).

(v) To the extent that waste manifests include this information, they may be used as part of the documentation of the amount of waste materials and mass of organic HAP contained in them.

(f) *Calculate the total volume of coating solids used during the compliance period.* Determine the total volume of coating solids used, liters, which is the combined volume of coating solids for all of the coatings used during the compliance period, using Equation 2 of this section.

$$V_{st} = \sum_{i=1}^{m} (Vol_{c,i})(V_{s,i}) \qquad \text{(Eq. 2)}$$

Where:

V_{st} = total volume of coating solids used during the compliance period, liters.

$Vol_{c,i}$ = total volume of coating, i, used during the compliance period, liters.

$V_{s,i}$ = volume fraction of coating solids for coating, i, liters solids per liter coating, determined according to § 63.4141(b).

m = number of coatings used during the compliance period.

(g) Calculate the organic HAP emission rate, kg organic HAP per liter coating solids used, using Equation 3 of this section:

$$H_{avg} = \frac{H_e}{V_{st}} \qquad \text{(Eq. 3)}$$

Where:

H_{avg} = organic HAP emission rate for the compliance period, kg organic HAP per liter coating solids.

H_e = total mass organic HAP emissions from all materials used during the compliance period, kg, as calculated by Equation 1 of this section.

V_{st} = total volume coating solids used during the compliance period, liters, as calculated by Equation 2 of this section.

(h) The organic HAP emission rate for the initial compliance period must be less than or equal to the applicable emission limit in § 63.4090. You must keep all records as required by §§ 63.4130 and 63.4131. As part of the Notification of Compliance Status required by § 63.4110, you must identify the coating operation(s) for which you used the emission rate without add-on controls option and submit a statement that the coating operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the organic HAP emission rate was less than or equal to the applicable emission limit in § 63.4090.

§ 63.4152 How do I demonstrate continuous compliance with the emission limitations?

(a) To demonstrate continuous compliance, the organic HAP emission rate for each compliance period, determined according to § 63.4151(a) through (g), must be less than or equal to the applicable emission limit in § 63.4090. Each month following the initial compliance period described in § 63.4150 is a compliance period.

(b) If the organic HAP emission rate for any compliance period exceeded the applicable emission limit in § 63.4090, this is a deviation from the emission limitations for that compliance period and must be reported as specified in §§ 63.4110(b)(6) and 63.4120(e).

(c) As part of each semiannual compliance report required by § 63.4120, you must submit a statement that you were in compliance with the emission limitations during the reporting period because the organic HAP emission rate for each compliance period was less than or equal to the applicable emission limit in § 63.4090.

(d) You must maintain records as specified in §§ 63.4130 and 63.4131.

Compliance Requirements for the Emission Rate With Add-On Controls Option

§ 63.4160 By what date must I conduct performance tests and other initial compliance demonstrations?

(a) *Existing affected sources.* For an existing affected source, you must meet the requirements of paragraphs (a)(1) through (3) of this section.

(1) All emission capture systems, add-on control devices, and CPMS you use to demonstrate compliance must be installed and operating no later than the applicable compliance date specified in § 63.4183. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4161(h), you must conduct a performance test of each capture system and add-on control device according to the procedures in §§ 63.4164, 63.4165, and 63.4166, and establish the operating limits required by § 63.4092 no later than the compliance date specified in § 63.4083. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4161(h), you must initiate the first material balance no later than the compliance date specified in § 63.4083.

(2) You must develop and begin implementing the work practice plan required by § 63.4093 no later than the compliance date specified in § 63.4083.

(3) You must complete the compliance demonstration for the initial compliance period according to the requirements of § 63.4161. The initial compliance period begins on the applicable compliance date specified in § 63.4083 and ends on the last day of the first full month after the compliance date. If the compliance date occurs on any day other than the first day of a month, then the initial compliance period extends through the end of that month plus the next month. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 63.4164, 63.4165, and 63.4166; results of liquid-liquid material balances conducted according to § 63.4161(h); calculations according to § 63.4161 and supporting documentation showing that, during the initial compliance period, the organic HAP emission rate was equal to or less than the emission limit in § 63.4090(a); the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 63.4168; and documentation of whether you developed and implemented the work practice plan required by § 63.4093.

(b) *New and reconstructed affected sources.* For a new or reconstructed affected source, you must meet the requirements of paragraphs (b)(1) through (4) this section.

(1) All emission capture systems, add-on control devices, and CPMS you use to demonstrate compliance must be installed and operating no later than the applicable compliance date specified in § 63.4183. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4161(h), you must conduct a performance test of each capture system and add-on control device according to the procedures in §§ 63.4164, 63.4165, and 63.4166, and establish the operating limits required by § 63.4092 no later than 180 days after the applicable compliance date specified in § 63.4183. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4161(h), you must initiate the first material balance no later than 180 days after the applicable compliance date specified in § 63.4183.

(2) You must develop and begin implementing the work practice plan required by § 63.4093 no later than the compliance date specified in § 63.4083.

(3) You must complete the compliance demonstration for the initial compliance period according to the requirements of § 63.4161. The initial compliance period begins on the applicable compliance date specified in § 63.4083 and ends on the last day of the first full month after the compliance date, or the date you conduct the performance tests of the emission capture systems and add-on control devices, or initiate the first liquid-liquid material balance for a solvent recovery system; whichever is later. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 63.4164, 63.4165, and 63.4166; results of liquid-liquid material balances conducted according to § 63.4161(h); calculations according to § 63.4161 and supporting documentation showing that, during the initial compliance period, the organic HAP emission rate was equal to or less than the emission limit in § 63.4090(b); the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 63.4168; and documentation of whether you developed and implemented the work practice plan required by § 63.4093.

(4) You do not need to comply with the operating limits for the emission capture system and add-on control device required by § 63.4092 until after you have completed the performance tests specified in paragraph (b)(1) of this section. Instead, you must maintain a log detailing the operation and maintenance of the emission capture system, add-on control device, and continuous parameter monitors during the period between the compliance date and the performance test. You must begin complying with the operating limits for your affected source on the date you complete the performance tests specified in paragraph (b)(1) of this section. This requirement does not apply to solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4161(h).

§ 63.4161 How do I demonstrate initial compliance?

You may use the emission rate with add-on controls option for any coating operation, for any group of coating operations in the affected source, or for all of the coating operations in the affected source. You may include both controlled and uncontrolled coating operations in a group for which you use this option. You must use either the compliant material option or the emission rate without add-on controls option for any coating operation(s) in the affected source for which you do not use this option. To demonstrate initial compliance, the coating operation(s) for which you use the emission rate with add-on controls option must meet the applicable emission limit in § 63.4090 and the work practice standards required in § 63.4093; and each controlled coating operation must meet the operating limits required in § 63.4092. You must meet all the requirements of this section to demonstrate initial compliance with the emission limitations. When calculating the organic HAP emission rate according to this section, do not include any coatings, thinners, or cleaning materials used on coating operations for which you use the compliant material option or the emission rate without add-on controls option. You do not need to redetermine the mass of organic HAP in coatings, thinners, or cleaning materials that have been reclaimed onsite and reused in the coating operation(s) for which you use the emission rate with add-on controls option.

(a) Except as provided in § 63.4160(b)(4) and except for solvent recovery systems for which you conduct liquid-liquid material balances according to the requirements of § 63.4161(h), you must establish and demonstrate continuous compliance

during the initial compliance period with the operating limits required by § 63.4092, using the procedures specified in §§ 63.4167 and 63.4168.

(b) You must develop, implement, and document your implementation of the work practice plan required by § 63.4093 during the initial compliance period as specified in § 63.4130.

(c) You must follow the procedures in paragraphs (d) through (l) of this section to demonstrate compliance with the applicable emission limit in § 63.4090.

(d) *Determine the mass fraction of organic HAP, density, volume used, and volume fraction of coating solids.* Follow the procedures specified in § 63.4151(a) through (d) to determine the mass fraction of organic HAP, density, and volume of each coating, thinner, and cleaning material used during the compliance period, and the volume fraction of coating solids for each coating used during the compliance period.

(e) *Calculate the total mass of organic HAP emissions before add-on controls.* Using Equation 1 of § 63.4151, calculate the total mass of organic HAP emissions before add-on controls from all coatings, thinners, and cleaning materials used during the compliance period in the coating operation or group of coating operations for which you use the emission rate with add-on controls option.

(f) *Calculate the organic HAP emission reduction for each controlled coating operation.* Determine the mass of organic HAP emissions reduced for each controlled coating operation during the compliance period. The emissions reduction determination quantifies the total organic HAP emissions that pass through the emission capture system and are destroyed or removed by the add-on control device. Use the procedures in paragraph (g) of this section to calculate the mass of organic HAP emissions reduction for each controlled coating operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances. For each controlled coating operation using a solvent recovery system for which you conduct a liquid-liquid material balance, use the procedures in paragraph (h) of this section to calculate the organic HAP emissions reduction.

(g) *Calculate the organic HAP emissions reduction for controlled coating operations not using liquid-liquid material balance.* For each controlled coating operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances, calculate organic HAP emissions reduction, using Equation 1 of this section, by applying the emission capture system efficiency and add-on control device efficiency to the mass of organic HAP contained in the coatings, thinners, and cleaning materials that are used in the coating operation served by the emission capture system and add-on control device during the compliance period. For any period of time a deviation specified in § 63.4163(c) or (d) occurs in the controlled coating operation, including a deviation during a period of startup, shutdown, or malfunction, you must assume zero efficiency for the emission capture system and add-on control device. For the purposes of completing the compliance calculations, you must treat the materials used during a deviation on a controlled coating operation as if they were used on an uncontrolled coating operation for the time period of the deviation. You must not include those materials in the calculations of organic HAP emissions reduction in Equation 1 of this section.

$$H_C = (A_I + B_I + C_I)\left(\frac{CE}{100} \times \frac{DRE}{100}\right) \qquad \text{(Eq. 1)}$$

Where:

H_C = mass of organic HAP emissions reduction for the controlled coating operation during the compliance period, kg.

A_I = total mass of organic HAP in the coatings used in the controlled coating operation, kg, as calculated in Equation 1A of this section.

B_I = total mass of organic HAP in the thinners used in the controlled coating operation, kg, as calculated in Equation 1B of this section.

C_I = total mass of organic HAP in the cleaning materials used in the controlled coating operation during the compliance period, kg, as calculated in Equation 1C of this section.

CE = capture efficiency of the emission capture system vented to the add-on control device, percent. Use the test methods and procedures specified in §§ 63.4164 and 63.4165 to measure and record capture efficiency.

DRE = organic HAP destruction or removal efficiency of the add-on control device, percent. Use the test methods and procedures in §§ 63.4164 and 63.4166 to measure and record the organic HAP destruction or removal efficiency.

(1) Calculate the kg of organic HAP in the coatings used in the controlled coating operation, using Equation 1A of this section:

$$A_I = \sum_{i=1}^{m} (Vol_{c,i})(D_{c,i})(W_{c,i}) \qquad \text{(Eq. 1A)}$$

Where:

A_I = mass of organic HAP in the coatings used in the controlled coating operation, kg.

$Vol_{c,i}$ = total volume of coating, i, used, liters.

$D_{c,i}$ = density of coating, i, kg per liter.

$W_{c,i}$ = mass fraction of organic HAP in coating, i, kg per kg.

m = number of different coatings used.

(2) Calculate the kg of organic HAP in the thinners used in the controlled coating operation, using Equation 1B of this section:

$$B_I = \sum_{j=1}^{n} (Vol_{t,j})(D_{t,j})(W_{t,j}) \qquad \text{(Eq. 1B)}$$

Where:

B_I = mass of organic HAP in the thinners used in the controlled coating operation, kg.

$Vol_{t,j}$ = total volume of thinner, j, used, liters.

$D_{t,j}$ = density of thinner, j, kg per liter.

$W_{t,j}$ = mass fraction of organic HAP in thinner, j, kg per kg.

n = number of different thinners used.

(3) Calculate the kg of organic HAP in the cleaning materials used in the controlled coating operation during the compliance period, using Equation 1C of this section:

$$C_I = \sum_{k=1}^{p} (Vol_{s,k})(D_{s,k})(W_{s,k}) \qquad \text{(Eq. 1C)}$$

Where:

C_I = mass of organic HAP in the cleaning materials used in the controlled coating operation, kg.

$Vol_{s,k}$ = total volume of cleaning material, k, used, liters.

$D_{s,k}$ = density of cleaning material, k, kg per liter.
$W_{s,k}$ = mass fraction of organic HAP in cleaning material, k, kg per kg.
p = number of different cleaning materials used.

(h) *Calculate the organic HAP emissions reduction for controlled coating operations using liquid-liquid material balance.* For each controlled coating operation using a solvent recovery system for which you conduct liquid-liquid material balances, calculate the organic HAP emissions reduction by applying the volatile organic matter collection and recovery efficiency to the mass of organic HAP contained in the coatings, thinners, and cleaning materials that are used in the coating operation controlled by the solvent recovery system during the compliance period. Perform a liquid-liquid material balance for each compliance period as specified in paragraphs (h)(1) through (6) of this section. Calculate the mass of organic HAP emission reduction by the solvent recovery system as specified in paragraph (h)(7) of this section.

(1) For each solvent recovery system, install, calibrate, maintain, and operate according to the manufacturer's specifications, a device that indicates the cumulative amount of volatile organic matter recovered by the solvent recovery system each compliance period. The device must be initially certified by the manufacturer to be accurate to within ±2.0 percent of the mass of volatile organic matter recovered.

(2) For each solvent recovery system, determine the mass of volatile organic matter recovered for the compliance period, kg, based on measurement with the device required in paragraph (h)(1) of this section.

(3) Determine the mass fraction of volatile organic matter for each coating used in the coating operation controlled by the solvent recovery system during the compliance period, kg volatile organic matter per kg coating. You may determine the volatile organic matter mass fraction using Method 24 of 40 CFR part 60, appendix A, or an EPA approved alternative method, or you may use information provided by the manufacturer or supplier of the coating. In the event of any inconsistency between information provided by the manufacturer or supplier and the results of Method 24 of 40 CFR part 60, appendix A, or an approved alternative method, the test method results will govern.

(4) Determine the density of each coating, thinner, and cleaning material used in the coating operation controlled by the solvent recovery system during the compliance period, kg per liter, according to § 63.4151(c).

(5) Measure the volume of each coating, thinner, and cleaning material used in the coating operation controlled by the solvent recovery system during the compliance period, liters.

(6) Calculate the solvent recovery system's volatile organic matter collection and recovery efficiency, using Equation 2 of this section:

$$R_v = 100 \frac{M_{VR}}{\sum_{i=1}^{m} Vol_i D_i C_{Vi} + \sum_{j=1}^{n} Vol_j D_j + \sum_{k=1}^{p} Vol_k D_k} \quad \text{(Eq. 2)}$$

Where:
R_V = volatile organic matter collection and recovery efficiency of the solvent recovery system during the compliance period, percent.
M_{VR} = mass of volatile organic matter recovered by the solvent recovery system during the compliance period, kg.
Vol_i = volume of coating, i, used in the coating operation controlled by the solvent recovery system during the compliance period, liters.
D_i = density of coating, i, kg coating per liter coating.
C_{Vi} = mass fraction of volatile organic matter for coating, i, kg volatile organic matter per kg coating.
Vol_j = volume of thinner, j, used in the coating operation controlled by the solvent recovery system during the compliance period, liters.
D_j = density of thinner, j, kg thinner per liter thinner.
Vol_k = volume of cleaning material, k, used in the coating operation controlled by the solvent recovery system during the compliance period, liters.
D_k = density of cleaning material, k, kg cleaning material per liter cleaning material
m = number of different coatings used in the coating operation controlled by the solvent recovery system during the compliance period.
n = number of different thinners used in the coating operation controlled by the solvent recovery system during the compliance period.
p = number of different cleaning materials used in the coating operation controlled by the solvent recovery system during the compliance period.

(7) Calculate the mass of organic HAP emissions reduction for the coating operation controlled by the solvent recovery system during the compliance period, using Equation 3 of this section:

$$H_{CSR} = (A_I + B_I + C_I)\left(\frac{R_V}{100}\right) \quad \text{(Eq. 3)}$$

Where:
H_{CSR} = mass of organic HAP emissions reduction for the coating operation controlled by the solvent recovery system using a liquid-liquid material balance during the compliance period, kg.
A_I = total mass of organic HAP in the coatings used in the coating operation controlled by the solvent recovery system, kg, calculated using Equation 1A of this section.
B_I = total mass of organic HAP in the thinners used in the coating operation controlled by the solvent recovery system, kg, calculated using Equation 1B of this section.
C_I = total mass of organic HAP in the cleaning materials used in the coating operation controlled by the solvent recovery system, kg, calculated using Equation 1C of this section.
R_V = volatile organic matter collection and recovery efficiency of the solvent recovery system, percent, from Equation 2 of this section.

(i) [Reserved]

(j) *Calculate the total volume of coating solids used.* Determine the total volume of coating solids used, liters, which is the combined volume of coating solids for all the coatings used during the compliance period, using Equation 2 of § 63.4151.

(k) *Calculate the organic HAP emission rate.* Determine the organic HAP emission rate to the atmosphere, kg organic HAP per liter coating solids used during the compliance period, using Equation 4 of this section.

$$H_{HAP} = \frac{H_e - \sum_{i=1}^{q}(H_{C,i}) - \sum_{j=1}^{r}(H_{CSR,j})}{V_{st}} \quad \text{(Eq. 4)}$$

Where:

H_{HAP} = organic HAP emission rate to the atmosphere during the compliance period, kg organic HAP per liter coating solids used.

H_e = total mass of organic HAP emissions before add-on controls from all the coatings, thinners, and cleaning materials used during the compliance period, kg, determined according to paragraph (e) of this section.

$H_{C,i}$ = total mass of organic HAP emissions reduction for controlled coating operation, i, during the compliance period, kg, from Equation 1 of this section.

$H_{CSR,j}$ = total mass of organic HAP emissions reduction for controlled coating operation, j, during the compliance period, kg, from Equation 3 of this section.

V_{st} = total volume of coating solids used during the compliance period, liters, from Equation 2 of § 63.4151.

q = number of controlled coating operations except those controlled with a solvent recovery system.

r = number of coating operations controlled with a solvent recovery system.

(l) To demonstrate initial compliance with the emission limit, calculated using Equation 4 of this section, must be less than or equal to the applicable emission limit in § 63.4090. You must keep all records as required by §§ 63.4130 and 63.4131. As part of the Notification of Compliance Status required by § 63.4110, you must identify the coating operation(s) for which you used the emission rate with add-on controls option and submit a statement that the coating operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the organic HAP emission rate was less than or equal to the applicable emission limit in § 63.4090, and you achieved the operating limits required by § 63.4092 and the work practice standards required by § 63.4093.

§ 63.4162 [Reserved]

§ 63.4163 How do I demonstrate continuous compliance with the emission limitations?

(a) To demonstrate continuous compliance with the applicable emission limit in § 63.4090, the organic HAP emission rate for each compliance period determined according to the procedures in § 63.4161 must be equal to or less than the applicable emission limit in § 63.4090. Each month following the initial compliance period described in § 63.4160 is a compliance period.

(b) If the organic HAP emission rate for any compliance period exceeded the applicable emission limit in § 63.4090, this is a deviation from the emission limitation for that compliance period and must be reported as specified in §§ 63.4110(b)(6) and 63.4120(g).

(c) You must demonstrate continuous compliance with each operating limit required by § 63.4092 that applies to you as specified in Table 1 to this subpart.

(1) If an operating parameter is out of the allowed range specified in Table 1 to this subpart, this is a deviation from the operating limit that must be reported as specified in §§ 63.4110(b)(6) and 63.4120(g).

(2) If an operating parameter deviates from the operating limit specified in Table 1 to this subpart, then you must assume that the emission capture system and add-on control device were achieving zero efficiency during the time period of the deviation. For the purposes of completing the compliance calculations specified in § 63.4161, you must treat the materials used during a deviation on a controlled coating operation as if they were used on an uncontrolled coating operation for the time period of the deviation. You must not include those materials in the calculation of organic HAP emissions reductions in Equation 1 of § 63.4161.

(d) You must meet the requirements for bypass lines in § 63.4168(b). If any bypass line is opened and emissions are diverted to the atmosphere when the coating operation is running, this is a deviation that must be reported as specified in §§ 63.4110(b)(6) and 63.4120(g). For the purposes of completing the compliance calculations specified in § 63.4161, you must treat the materials used during a deviation on a controlled coating operation as if they were used on an uncontrolled coating operation for the time period of the deviation. You must not include those materials in the calculation of organic HAP emissions reductions in Equation 1 of § 63.4161.

(e) You must demonstrate continuous compliance with the work practice standards in § 63.4093. If you did not develop a work practice plan, or you did not implement the plan, or you did not keep the records required by § 63.4130(k)(9), this is a deviation from the work practice standards that must be reported as specified in §§ 63.4110(b)(6) and 63.4120(g).

(f) As part of each semiannual compliance report required in § 63.4120, you must submit a statement that you were in compliance with the emission limitations during the reporting period because the organic HAP emission rate for each compliance period was less than or equal to the applicable emission limit in § 63.4090, and you achieved the operating limits required by § 63.4092 and the work practice standards required by § 63.4093 during each compliance period.

(g) During periods of startup, shutdown, and malfunction of the emission capture system, add-on control device, or coating operation that may affect emission capture or control device efficiency, you must operate in accordance with the SSMP required by § 63.4100(d).

(h) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction of the emission capture system, add-on control device, or coating operation that may affect emission capture or control device efficiency are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the SSMP. The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations according to the provisions in § 63.6(e).

(i) [Reserved]

(j) You must maintain records as specified in §§ 63.4130 and 63.4131.

§§ 63.4130 and 63.4131.

§ 63.4164 What are the general requirements for performance tests?

(a) You must conduct each performance test required by § 63.4160 according to the requirements in § 63.7(e)(1) and under the conditions in this section unless you obtain a waiver of the performance test according to the provisions in § 63.7(h).

(1) *Representative coating operation operating conditions.* You must conduct the performance test under

representative operating conditions for the coating operation. Operations during periods of startup, shutdown, or malfunction and periods of nonoperation do not constitute representative conditions. You must record the process information that is necessary to document operating conditions during the test and explain why the conditions represent normal operation.

(2) *Representative emission capture system and add-on control device operating conditions.* You must conduct the performance test when the emission capture system and add-on control device are operating at a representative flow rate, and the add-on control device is operating at a representative inlet concentration. You must record information that is necessary to document emission capture system and add-on control device operating conditions during the test and explain why the conditions represent normal operation.

(b) You must conduct each performance test of an emission capture system according to the requirements in § 63.4165 and of an add-on control device according to the requirements in § 63.4166.

(c) The performance test to determine add-on control device organic HAP destruction or removal efficiency must consist of three runs as specified in § 63.7(e)(3) and each run must last at least 1 hour.

§ 63.4165 How do I determine the emission capture system efficiency?

You must use the procedures and test methods in this section to determine capture efficiency as part of the performance test required by § 63.4160.

(a) You may assume the capture system efficiency is 100 percent if both of the conditions in paragraphs (a)(1) and (2) of this section are met:

(1) The capture system meets the criteria in Method 204 of appendix M to 40 CFR part 51 for a PTE and directs all the exhaust gases from the enclosure to an add-on control device.

(2) All coatings, thinners, and cleaning materials used in the coating operation are applied within the capture system; coating solvent flash-off and coating, curing, and drying occurs within the capture system and the removal or evaporation of cleaning materials from the surfaces they are applied to occurs within the capture system. For example, this criterion is not met if parts enter the open shop environment when being moved between a spray booth and a curing oven.

(b) If the capture system does not meet both of the criteria in paragraphs (a)(1) and (2) of this section, then you must use one of the three protocols described in paragraphs (c), (d), and (e) of this section to measure capture efficiency. The capture efficiency measurements use TVH capture efficiency as a surrogate for organic HAP capture efficiency. For the protocols in paragraphs (c) and (d) of this section, the capture efficiency measurement must consist of three test runs. Each test run must be at least 3 hours duration or the length of a production run, whichever is longer, up to 8 hours. For the purposes of this test, a production run means the time required for a single part to go from the beginning to the end of production which includes surface preparation activities and drying or curing time.

(c) *Liquid-to-uncaptured-gas protocol using a temporary total enclosure or building enclosure.* The liquid-to-uncaptured-gas protocol compares the mass of liquid TVH in materials used in the coating operation, to the mass of TVH emissions not captured by the emission capture system. Use a temporary total enclosure or a building enclosure and the procedures in paragraphs (c)(1) through (6) of this section to measure emission capture system efficiency using the liquid-to-uncaptured-gas protocol.

(1) Either use a building enclosure or construct an enclosure around the coating operation where coatings, thinners, and cleaning materials are applied, and all areas where emissions from these applied coatings and materials subsequently occur, such as flash-off, curing, and drying areas. The areas of the coating operation where capture devices collect emissions for routing to an add-on control device, such as the entrance and exit areas of an oven or spray booth, must also be inside the enclosure. The enclosure must meet the applicable definition of a temporary total enclosure or building enclosure in Method 204 of appendix M to 40 CFR part 51.

(2) Use Method 204A or 204F of appendix M to 40 CFR part 51 to determine the mass fraction of TVH liquid input from each coating, thinner, and cleaning material used in the coating operation during each capture efficiency test run. To make the determination, substitute TVH for each occurrence of the term VOC in the methods.

(3) Use Equation 1 of this section to calculate the total mass of TVH liquid input from all the coatings, thinners, and cleaning materials used in the coating operation during each capture efficiency test run.

$$TVH_{used} = \sum_{i=1}^{n} (TVH_i)(Vol_i)(D_i) \qquad \text{(Eq. 1)}$$

Where:

TVH_{used} = total mass of TVH liquid input from all coatings, thinners, and cleaning materials used in the coating operation during the capture efficiency test run, kg.

TVH_i = mass fraction of TVH in coating, thinner, or cleaning material, i, that is used in the coating operation during the capture efficiency test run, kg TVH per kg material.

Vol_i = total volume of coating, thinner, or cleaning material, i, used in the coating operation during the capture efficiency test run, liters.

D_i = density of coating, thinner, or cleaning material, i, kg material per liter material.

n = number of different coatings, thinners, and cleaning materials used in the coating operation during the capture efficiency test run.

(4) Use Method 204D or E of appendix M to 40 CFR part 51 to measure the total mass, kg, of TVH emissions that are not captured by the emission capture system; they are measured as they exit the temporary total enclosure or building enclosure during each capture efficiency test run. To make the measurement substitute TVH for each occurrence of the term VOC in the methods.

(i) Use Method 204D if the enclosure is a temporary total enclosure.

(ii) Use Method 204E if the enclosure is a building enclosure. During the capture efficiency measurement, all organic compound emitting operations inside the building enclosure, other than the coating operation for which capture efficiency is being determined must be shut down, but all fans and blowers must be operating normally.

(5) For each capture efficiency test run, determine the percent capture efficiency of the emission capture system, using Equation 2 of this section:

$$CE = \frac{(TVH_{used} - TVH_{uncaptured})}{TVH_{used}} \times 100 \qquad \text{(Eq. 2)}$$

Where:

CE = capture efficiency of the emission capture system vented to the add-on control device, percent.

TVH_{used} = total mass of TVH liquid input used in the coating operation during the capture efficiency test run, kg.

$TVH_{uncaptured}$ = total mass of TVH that is not captured by the emission capture system and that exits from the temporary total enclosure or building enclosure during the capture efficiency test run, kg.

(6) Determine the capture efficiency of the emission capture system as the average of the capture efficiencies measured in the three test runs.

(d) *Gas-to-gas protocol using a temporary total enclosure or a building enclosure.* The gas-to-gas protocol compares the mass of TVH emissions captured by the emission capture system to the mass of TVH emissions not captured. Use a temporary total enclosure or a building enclosure and the procedures in paragraphs (d)(1) through (5) of this section to measure emission capture system efficiency using the gas-to-gas protocol.

(1) Either use a building enclosure or construct an enclosure around the coating operation where coatings, thinners, and cleaning materials are applied and all areas where emissions from these applied coatings and materials subsequently occur such as flash-off, curing, and drying areas. The areas of the coating operation where capture devices collect emissions generated by the coating operation for routing to an add-on control device, such as the entrance and exit areas of an oven or a spray booth, must also be inside the enclosure. The enclosure must meet the applicable definition of a temporary total enclosure or building enclosure in Method 204 of appendix M to 40 CFR part 51.

(2) Use Method 204B or 204C of appendix M to 40 CFR part 51 to measure the total mass, kg, of TVH emissions captured by the emission capture system during each capture efficiency test run as measured at the inlet to the add-on control device. To make the measurement, substitute TVH for each occurrence of the term VOC in the methods.

(i) The sampling points for the Method 204B or 204C measurement must be upstream from the add-on control device and must represent total emissions routed from the capture system and entering the add-on control device.

(ii) If multiple emission streams from the capture system enter the add-on control device without a single common duct, then the emissions entering the add-on control device must be simultaneously measured in each duct, and the total emissions entering the add-on control device must be determined.

(3) Use Method 204D or 204E of appendix M to 40 CFR part 51 to measure the total mass, kg, of TVH emissions that are not captured by the emission capture system; they are measured as they exit the temporary total enclosure or building enclosure during each capture efficiency test run. To make the measurement, substitute TVH for each occurrence of the term VOC in the methods.

(i) Use Method 204D if the enclosure is a temporary total enclosure.

(ii) Use Method 204E if the enclosure is a building enclosure. During the capture efficiency measurement, all organic compound emitting operations inside the building enclosure other than the coating operation for which capture efficiency is being determined must be shut down, but all fans and blowers must be operating normally.

(4) For each capture efficiency test run, determine the percent capture efficiency of the emission capture system, using Equation 3 of this section:

$$CE = \frac{TVH_{captured}}{(TVH_{captured} + TVH_{uncaptured})} \times 100 \qquad \text{(Eq. 3)}$$

Where:

CE = capture efficiency of the emission capture system vented to the add-on control device, percent.

$TVH_{captured}$ = total mass of TVH captured by the emission capture system as measured at the inlet to the add-on control device during the emission capture efficiency test run, kg.

$TVH_{uncaptured}$ = total mass of TVH that is not captured by the emission capture system and that exits from the temporary total enclosure or building enclosure during the capture efficiency test run, kg.

(5) Determine the capture efficiency of the emission capture system as the average of the capture efficiencies measured in the three test runs.

(e) *Alternative capture efficiency protocol.* As an alternative to the procedures specified in paragraphs (c) and (d) of this section, you may determine capture efficiency using any other capture efficiency protocol and test methods that satisfy the criteria of either the DQO or LCL approach as described in appendix A to subpart KK of this part.

§ 63.4166 How do I determine the add-on control device emission destruction or removal efficiency?

(a) For all types of add-on control devices, use the test methods as specified in paragraphs (a)(1) through (5) of this section.

(1) Use Method 1 or 1A of appendix A to 40 CFR part 60, as appropriate, to select sampling sites and velocity traverse points.

(2) Use Method 2, 2A, 2C, 2D, 2F, or 2G of appendix A to 40 CFR part 60, as appropriate, to measure gas volumetric flow rate.

(3) Use Method 3, 3A, or 3B of appendix A to 40 CFR part 60, as appropriate, for gas analysis to determine dry molecular weight. You may also use as an alternative to Method 3B, the manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas in ANSI/ASME, PTC 19.10–1981, "Flue

and Exhaust Gas Analyses" (incorporated by reference, see § 63.14).

(4) Use Method 4 of appendix A to 40 CFR part 60 to determine stack gas moisture.

(5) Methods for determining gas volumetric flow rate, dry molecular weight, and stack gas moisture must be performed, as applicable, during each test run.

(b) Measure total gaseous organic mass emissions as carbon at the inlet and outlet of the add-on control device simultaneously, using either Method 25 or 25A of appendix A to 40 CFR part 60, as specified in paragraphs (b)(1) through (3) of this section. You must use the same method for both the inlet and outlet measurements.

(1) Use Method 25 if the add-on control device is an oxidizer and you expect the total gaseous organic concentration as carbon to be more than 50 parts per million (ppm) at the control device outlet.

(2) Use Method 25A if the add-on control device is an oxidizer and you expect the total gaseous organic concentration as carbon to be 50 ppm or less at the control device outlet.

(3) Use Method 25A if the add-on control device is not an oxidizer.

(c) If two or more add-on control devices are used for the same emission stream, then you must measure emissions at the outlet of each device. For example, if one add-on control device is a concentrator with an outlet for the high-volume, dilute stream that has been treated by the concentrator, and a second add-on control device is an oxidizer with an outlet for the low-volume, concentrated stream that is treated with the oxidizer, you must measure emissions at the outlet of the oxidizer and the high-volume dilute stream outlet of the concentrator.

(d) For each test run, determine the total gaseous organic emissions mass flow rates for the inlet and the outlet of the add-on control device, using Equation 1 of this section. If there is more than one inlet or outlet to the add-on control device, you must calculate the total gaseous organic mass flow rate using Equation 1 of this section for each inlet and each outlet and then total all of the inlet emissions and total all of the outlet emissions.

$$M_f = Q_{sd} C_c [12][0.0416]\left[10^{-6}\right] \quad \text{(Eq. 1)}$$

Where:

M_f = total gaseous organic emissions mass flow rate, kg/per hour (h).

C_c = concentration of organic compounds as carbon in the vent gas, as determined by Method 25 or Method 25A, parts per million by volume (ppmv), dry basis.

Q_{sd} = volumetric flow rate of gases entering or exiting the add-on control device, as determined by Method 2, 2A, 2C, 2D, 2F, or 2G, dry standard cubic meters/hour (dscm/h).

0.0416 = conversion factor for molar volume, kg-moles per cubic meter (mol/m^3) (@ 293 Kelvin (K) and 760 millimeters of mercury (mm Hg)).

(e) For each test run, determine the add-on control device organic emissions destruction or removal efficiency, using Equation 2 of this section.

$$DRE = \frac{M_{fi} - M_{fo}}{M_{fi}} \times 100 \quad \text{(Eq. 2)}$$

Where:

DRE = add-on control device organic emissions destruction or removal efficiency, percent.

M_{fi} = total gaseous organic emissions mass flow rate at the inlet(s) to the add-on control device, using Equation 1 of this section, kg/h.

M_{fo} = total gaseous organic emissions mass flow rate at the outlet(s) of the add-on control device, using Equation 1 of this section, kg/h.

(f) Determine the emission destruction or removal efficiency of the add-on control device as the average of the efficiencies determined in the three test runs and calculated in Equation 2 of this section.

§ 63.4167 How do I establish the emission capture system and add-on control device operating limits during the performance test?

During the performance test required by § 63.4160 and described in §§ 63.4164, 63.4165, and 63.4166, you must establish the operating limits required by § 63.4092 according to this section unless you have received approval for alternative monitoring and operating limits under § 63.8(f) as specified in § 63.4092.

(a) *Thermal oxidizers.* If your add-on control device is a thermal oxidizer, establish the operating limits according to paragraphs (a)(1) and (2) of this section.

(1) During the performance test, you must monitor and record the combustion temperature at least once every 15 minutes during each of the three test runs. You must monitor the temperature in the firebox of the thermal oxidizer or immediately downstream of the firebox before any substantial heat exchange occurs.

(2) Use the data collected during the performance test to calculate and record the average combustion temperature maintained during the performance test. This average combustion temperature is the minimum operating limit for your thermal oxidizer.

(b) *Catalytic oxidizers.* If your add-on control device is a catalytic oxidizer, establish the operating limits according to either paragraphs (b)(1) and (2) or paragraphs (b)(3) and (4) of this section.

(1) During the performance test, you must monitor and record the temperature just before the catalyst bed and the temperature difference across the catalyst bed at least once every 15 minutes during each of the three test runs.

(2) Use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed and the average temperature difference across the catalyst bed maintained during the performance test. These are the minimum operating limits for your catalytic oxidizer.

(3) As an alternative to monitoring the temperature difference across the catalyst bed, you may monitor the temperature just before the catalyst bed and implement a site-specific inspection and maintenance plan for your catalytic oxidizer as specified in paragraph (b)(4) of this section. During the performance test, you must monitor and record the temperature just before the catalyst bed at least once every 15 minutes during each of the three test runs. Use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed during the performance test. This is the minimum operating limit for your catalytic oxidizer.

(4) You must develop and implement an inspection and maintenance plan for your catalytic oxidizer(s) for which you elect to monitor according to paragraph (b)(3) of this section. The plan must address, at a minimum, the elements specified in paragraphs (b)(4)(i) through (iii) of this section.

(i) Annual sampling and analysis of the catalyst activity (*i.e.*, conversion efficiency) following the manufacturer's or catalyst supplier's recommended procedures.

(ii) Monthly inspection of the oxidizer system including the burner assembly and fuel supply lines for problems and, as necessary, adjusting the equipment to assure proper air-to-fuel mixtures.

(iii) Annual internal and monthly external visual inspection of the catalyst bed to check for channeling, abrasion, and settling. If problems are found, you must take corrective action consistent with the manufacturer's recommendations and conduct a new performance test to determine

destruction efficiency according to § 63.4166.

(c) *Carbon adsorbers.* If your add-on control device is a carbon absorber, establish the operating limits according to paragraphs (c)(1) and (2) of this section.

(1) You must monitor and record the total regeneration desorbing gas (e.g., steam or nitrogen) mass flow for each regeneration cycle and the carbon bed temperature after each carbon bed regeneration and cooling cycle for the regeneration cycle either immediately preceding or immediately following the performance test.

(2) The operating limits for your carbon absorber are the minimum total desorbing gas mass flow recorded during the regeneration cycle and the maximum carbon bed temperature recorded after the cooling cycle.

(d) *Condensers.* If your add-on control device is a condenser, establish the operating limits according to paragraphs (d)(1) and (2) of this section.

(1) During the performance test, you must monitor and record the condenser outlet (product side) gas temperature at least once every 15 minutes during each of the three test runs.

(2) Use the data collected during the performance test to calculate and record the average condenser outlet (product side) gas temperature maintained during the performance test. This average condenser outlet gas temperature is the maximum operating limit for your condenser.

(e) *Concentrators.* If your add-on control device includes a concentrator, you must establish operating limits for the concentrator according to paragraphs (e)(1) through (4) of this section.

(1) During the performance test, you must monitor and record the desorption concentrate stream gas temperature at least once every 15 minutes during each of the three runs of the performance test.

(2) Use the data collected during the performance test to calculate and record the average temperature. This is the minimum operating limit for the desorption concentrate gas stream temperature.

(3) During the performance test, you must monitor and record the pressure drop of the dilute stream across the concentrator at least once every 15 minutes during each of the three runs of the performance test.

(4) Use the data collected during the performance test to calculate and record the average pressure drop. This is the maximum operating limit for the dilute stream across the concentrator.

(f) *Emission capture system.* For each capture device that is not part of a PTE that meets the criteria of § 63.4165(a), establish an operating limit for either the gas volumetric flow rate or duct static pressure as specified in paragraphs (f)(1) and (2) of this section. The operating limit for a PTE is specified in Table 1 to this subpart.

(1) During the capture efficiency determination required by § 63.4160 and described in §§ 63.4164 and 63.4165, you must monitor and record either the gas volumetric flow rate or the duct static pressure for each separate capture device in your emission capture system at least once every 15 minutes during each of the three test runs at a point in the duct between the capture device and the add-on control device inlet.

(2) Calculate and record the average gas volumetric flow rate or duct static pressure for the three test runs for each capture device. This average gas volumetric flow rate or duct static pressure is the minimum operating limit for that specific capture device.

§ 63.4168 What are the requirements for continuous parameter monitoring system installation, operation, and maintenance?

(a) *General.* You must install, operate, and maintain each CPMS specified in paragraphs (c), (e), (f), and (g) of this section according to paragraphs (a)(1) through (6) of this section. You must install, operate, and maintain each CPMS specified in paragraphs (b) and (d) of this section according to paragraphs (a)(3) through (5) of this section.

(1) The CPMS must complete a minimum of one cycle of operation for each successive 15-minute period. You must have a minimum of four equally spaced successive cycles of CPMS operation in 1 hour.

(2) You must determine the average of all recorded readings for each successive 3-hour period of the emission capture system and add-on control device operation except as specified in paragraph (a)(6) of this section.

(3) You must record the results of each inspection, calibration, and validation check of the CPMS.

(4) You must maintain the CPMS at all times and have available necessary parts for routine repairs of the monitoring equipment.

(5) You must operate the CPMS and collect emission capture system and add-on control device parameter data at all times that a controlled coating operation is operating except during monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, if applicable, calibration checks and required zero and span adjustments).

(6) You must not use emission capture system or add-on control device parameter data recorded during monitoring malfunctions, associated repairs, out-of-control periods, or required quality assurance or control activities when calculating data averages. You must use all the data collected during all other periods in calculating the data averages for determining compliance with the emission capture system and add-on control device operating limits.

(7) A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the CPMS to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions. Except for periods of required quality assurance or control activities, any period during which the CPMS fails to operate and record data continuously as required by paragraph (a)(1) of this section, or generates data that cannot be included in calculating averages as specified in paragraph (a)(6) of this section, is a deviation from the monitoring requirements.

(b) *Capture system bypass line.* You must comply with the requirements of paragraphs (a)(3) through (5) and (b)(1) and (2) of this section for each emission capture system that contains bypass lines that could divert emissions away from the add-on control device to the atmosphere.

(1) You must monitor or secure the valve or closure mechanism controlling the bypass line in a nondiverting position in such a way that the valve or closure mechanism cannot be opened without creating a record that the valve was opened. The method used to monitor or secure the valve or closure mechanism must meet one of the requirements specified in paragraphs (b)(1)(i) through (iv) of this section.

(i) *Flow control position indicator.* Install, calibrate, maintain, and operate according to the manufacturer's specifications a flow control position indicator that takes a reading at least once every 15 minutes and provides a record indicating whether the emissions are directed to the add-on control device or diverted from the add-on control device. The time of occurrence and flow control position must be recorded, as well as every time the flow direction is changed. The flow control position indicator must be installed at the entrance to any bypass line that could divert the emissions away from the add-on control device to the atmosphere.

(ii) *Car-seal or lock-and-key valve closures.* Secure any bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. You

must visually inspect the seal or closure mechanism at least once every month to ensure that the valve is maintained in the closed position and the emissions are not diverted away from the add-on control device to the atmosphere.

(iii) *Valve closure monitoring.* Ensure that any bypass line valve is in the closed (non-diverting) position through monitoring of valve position at least once every 15 minutes. You must inspect the monitoring system at least once every month to verify that the monitor will indicate valve position.

(iv) *Automatic shutdown system.* Use an automatic shutdown system in which the coating operation is stopped when flow is diverted by the bypass line away from the add-on control device to the atmosphere when the coating operation is running. You must inspect the automatic shutdown system at least once every month to verify that it will detect diversions of flow and shutdown the coating operation.

(2) If any bypass line is opened, you must include a description of why the bypass line was opened and the length of time it remained open in the semiannual compliance reports required in § 63.4120.

(c) *Thermal oxidizers and catalytic oxidizers.* If you are using a thermal oxidizer or catalytic oxidizer as an add-on control device (including those used with concentrators or with carbon adsorbers to treat desorbed concentrate streams), you must comply with the requirements in paragraphs (a) and (c)(1) through (3) of this section:

(1) For a thermal oxidizer, install a gas temperature monitor in the firebox of the thermal oxidizer or in the duct immediately downstream of the firebox before any substantial heat exchange occurs.

(2) For a catalytic oxidizer, install a gas temperature monitor in the gas stream immediately before the catalyst bed, and if you establish operating limits according to § 63.6167(b)(1) and (2), also install a gas temperature monitor in the gas stream immediately after the catalyst bed.

(3) For each gas temperature monitoring device, you must comply with the requirements in paragraphs (c)(3)(i) through (vii) of this section.

(i) Locate the temperature sensor in a position that provides a representative temperature.

(ii) Use a temperature sensor with a measurement sensitivity of 4 degrees Fahrenheit or 0.75 percent of the temperature value, whichever is larger.

(iii) Shield the temperature sensor system from electromagnetic interference and chemical contaminants.

(iv) If a gas temperature chart recorder is used, it must have a measurement sensitivity in the minor division of at least 20 degrees Fahrenheit.

(v) Perform an electronic calibration at least semiannually according to the procedures in the manufacturer's owners manual. Following the electronic calibration, you must conduct a temperature sensor validation check in which a second or redundant temperature sensor placed nearby the process temperature sensor must yield a reading within 30 degrees Fahrenheit of the process temperature sensor's reading.

(vi) Any time the sensor exceeds the manufacturer's specified maximum operating temperature range, either conduct calibration and validation checks or install a new temperature sensor.

(vii) At least monthly, inspect components for integrity and electrical connections for continuity, oxidation, and galvanic corrosion.

(d) *Carbon adsorbers.* If you are using a carbon adsorber as an add-on control device, you must monitor the total regeneration desorbing gas (e.g., steam or nitrogen) mass flow for each regeneration cycle, the carbon bed temperature after each regeneration and cooling cycle, and comply with paragraphs (a)(3) through (5) and (d)(1) and (2) of this section.

(1) The regeneration desorbing gas mass flow monitor must be an integrating device having a measurement sensitivity of plus or minus 10 percent, capable of recording the total regeneration desorbing gas mass flow for each regeneration cycle.

(2) The carbon bed temperature monitor must have a measurement sensitivity of 1 percent of the temperature recorded or 1 degree Fahrenheit, whichever is greater, and must be capable of recording the temperature within 15 minutes of completing any carbon bed cooling cycle.

(e) *Condensers.* If you are using a condenser, you must monitor the condenser outlet (product side) gas temperature and comply with paragraphs (a) and (e)(1) and (2) of this section.

(1) The gas temperature monitor must have a measurement sensitivity of 1 percent of the temperature recorded or 1 degree Fahrenheit, whichever is greater.

(2) The temperature monitor must provide a gas temperature record at least once every 15 minutes.

(f) *Concentrators.* If you are using a concentrator, such as a zeolite wheel or rotary carbon bed concentrator, you must comply with the requirements in paragraphs (a) and (f)(1) and (2) of this section.

(1) You must install a temperature monitor in the desorption gas stream. The temperature monitor must meet the requirements in paragraphs (a) and (c)(3) of this section.

(2) You must install a device to monitor pressure drop across the zeolite wheel or rotary carbon bed. The pressure monitoring device must meet the requirements in paragraphs (a) and (f)(2)(i) through (vii) of this section.

(i) Locate the pressure sensor(s) in or as close to a position that provides a representative measurement of the pressure.

(ii) Minimize or eliminate pulsating pressure, vibration, and internal and external corrosion.

(iii) Use a gauge with a minimum tolerance of 0.5 inch of water or a transducer with a minimum tolerance of 1 percent of the pressure range.

(iv) Check the pressure tap daily.

(v) Using a manometer, check gauge calibration quarterly and transducer calibration monthly.

(vi) Conduct calibration checks anytime the sensor exceeds the manufacturer's specified maximum operating pressure range or install a new pressure sensor.

(vii) At least monthly, inspect components for integrity, electrical connections for continuity, and mechanical connections for leakage.

(g) *Emission capture systems.* The capture system monitoring system must comply with the requirements in paragraph (a) of this section and the applicable requirements in paragraphs (g)(1) and (2) of this section.

(1) For each flow measurement device, you must meet the requirements in paragraphs (a) and (g)(1)(i) through (iv) of this section.

(i) Locate a flow sensor in a position that provides a representative flow measurement in the duct from each capture device in the emission capture system to the add-on control device.

(ii) Reduce swirling flow or abnormal velocity distributions due to upstream and downstream disturbances.

(iii) Conduct a flow sensor calibration check at least semiannually.

(iv) At least monthly, inspect components for integrity, electrical connections for continuity, and mechanical connections for leakage.

(2) For each pressure drop measurement device, you must comply with the requirements in paragraphs (a) and (g)(2)(i) through (vi) of this section.

(i) Locate the pressure sensor(s) in or as close to a position that provides a representative measurement of the

pressure drop across each opening you are monitoring.

(ii) Minimize or eliminate pulsating pressure, vibration, and internal and external corrosion.

(iii) Check pressure tap pluggage daily.

(iv) Using an inclined manometer with a measurement sensitivity of 0.0002 inch water, check gauge calibration quarterly and transducer calibration monthly.

(v) Conduct calibration checks any time the sensor exceeds the manufacturer's specified maximum operating pressure range or install a new pressure sensor.

(vi) At least monthly, inspect components for integrity, electrical connections for continuity, and mechanical connections for leakage.

Other Requirements and Information

§ 63.4180 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the EPA, or a delegated authority such as your State, local, or tribal agency. If the EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency (as well as the EPA) has the authority to implement and enforce this subpart. You should contact your EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the EPA Administrator and are not transferred to the State, local, or tribal agency.

(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) Approval of alternatives to the work practice standards in § 63.4093 under § 63.6(g).

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.4181 What definitions apply to this subpart?

Terms used in this subpart are defined in the CAA, in 40 CFR 63.2, the General Provisions of this part, and in this section as follows:

Add-on control device means an air pollution control device, such as a thermal oxidizer or carbon absorber, that reduces pollution in an air stream by destruction or removal before discharge to the atmosphere.

Adhesive means any chemical substance that is applied for the purpose of bonding two surfaces together.

Capture device means a hood, enclosure, room, floor sweep, or other means of containing or collecting emissions and directing those emissions into an add-on control device.

Capture efficiency or *capture system efficiency* means the portion (expressed as a percentage) of the pollutants from an emission source that is delivered to an add-on control device.

Capture system means one or more capture devices intended to collect emissions generated by a coating operation in the use of coatings and cleaning materials, both at the point of application and at subsequent points where emissions from the coatings and cleaning materials occur, such as flashoff, drying, or curing. As used in this subpart, multiple capture devices that collect emissions generated by a coating operation are considered a single capture system.

Cleaning material means a solvent used to remove contaminants and other materials such as dirt, grease, oil, and dried or wet coating (e.g., depainting) from a substrate before or after coating application or from equipment associated with a coating operation such as spray booths, spray guns, racks, tanks, and hangers. Thus, it includes cleaning materials used for substrates or equipment or both.

Coating means a material applied to a substrate for decorative, protective, or functional purposes. For the purposes of this subpart, coatings include paints, porcelain enamels, sealants, caulks, inks, adhesives, and maskants. Decorative, protective, or functional materials that consist only of protective oils, acids, bases, or any combination of these substances are not considered coatings for the purposes of this subpart.

Coating operation means equipment used to apply cleaning materials to a substrate to prepare it for coating application or to remove dried coating (surface preparation), to apply coating to a substrate (coating application) and to dry or cure the coating after application, or to clean coating operation equipment (equipment cleaning). A single coating operation may include any combination of these types of equipment but always includes at least the point at which a coating or cleaning material is applied and all subsequent points in the affected source where organic HAP emissions from that coating or cleaning material occur. There may be multiple coating operations in an affected source. Applications of coatings using hand-held, nonrefillable aerosol containers, touchup markers, or marking pens are not coating operations for the purposes of this subpart.

Coating solids means the nonvolatile portion of the coating that makes up the dry film.

Continuous parameter monitoring system means the total equipment that may be required to meet the data acquisition and availability requirements of this subpart used to sample, condition (if applicable), analyze, and provide a record of coating operation, capture system, or add-on control device parameters.

Controlled coating operation means a coating operation from which some or all of the organic HAP emissions are routed through an emission capture system and add-on control device.

Deviation means any instance in which an affected source subject to this subpart or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart including but not limited to any emission limit, or operating limit, or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limit, or operating limit, or work practice standard in this subpart during startup, shutdown, or malfunction regardless of whether or not such failure is permitted by this subpart.

Emission limitation means an emission limit, operating limit, or work practice standard.

Enclosure means a structure that surrounds a source of emissions and captures and directs the emissions to an add-on control device.

Exempt compound means a specific compound that is not considered a VOC due to negligible photochemical reactivity. The exempt compounds are listed in 40 CFR 51.100(s).

Facility maintenance means the routine repair or refurbishing (including surface coating) of the tools, equipment, machinery, and structures that comprise the infrastructure of the facility or that are necessary for the facility to function in its intended capacity. It does not mean cleaning of equipment that is part of a large appliances coating operation.

Heat transfer coil means a tube-and-fin assembly used in large appliance

products to remove heat from a circulating fluid.

Large appliance part means a component of a large appliance product except for the wider use parts excluded under § 63.4081(d)(1).

Large appliance product means, but is not limited to, any of the following products (except as provided under § 63.4081(d)(3)) manufactured for household, recreational, institutional, commercial, or industrial use:

(1) Cooking equipment (ovens, ranges, and microwave ovens but not including toasters, counter-top grills, and similar small products);

(2) Refrigerators, freezers, and refrigerated cabinets and cases;

(3) Laundry equipment (washers, dryers, drycleaning machines, and pressing machines);

(4) Dishwashers, trash compactors, and water heaters; and

(5) HVAC units, air-conditioning (except motor vehicle) units, air-conditioning and heating combination units, comfort furnaces, and electric heat pumps.

Specifically excluded are heat transfer coils and large commercial and industrial chillers.

Large commercial and industrial chillers means, for the purposes of this subpart, equipment designed to produce chilled water for use in commercial or industrial HVAC systems.

Manufacturer's formulation data means data on a material (such as a coating) that are supplied by the material manufacturer based on knowledge of the ingredients used to manufacture that material, rather than based on testing of the material with the test methods specified in § 63.4141. Manufacturer's formulation data may include, but are not limited to, information on density, organic HAP content, volatile organic matter content, and coating solids content.

Mass fraction of organic HAP means the ratio of the mass of organic HAP to the mass of a material in which it is contained, expressed as kg organic HAP per kg of material.

Month means a calendar month or a pre-specified period of 28 to 35 days to allow for flexibility in recordkeeping when data are based on a business accounting period.

Organic HAP content means the mass of organic HAP per volume of coating solids for a coating, calculated using Equation 2 of § 63.4141. The organic HAP content is determined for the coating in the condition it is in when received from its manufacturer or supplier and does not account for any alteration after receipt.

Permanent total enclosure (PTE) means a permanently installed enclosure that meets the criteria of Method 204 of appendix M, 40 CFR part 51, for a PTE and that directs all the exhaust gases from the enclosure to an add-on control device.

Protective oil means an organic material that is applied to a substrate for the purpose of providing lubrication or protection from corrosion without forming a solid film. This definition of protective oils includes, but is not limited to, lubricating oils, evaporative oils (including those that evaporate completely), and extrusion oils.

Research or laboratory facility means a facility whose primary purpose is for research and development of new processes and products conducted under the close supervision of technically trained personnel and is not engaged in the manufacture of final or intermediate products for commercial purposes, except in a de minimis manner.

Responsible official means responsible official as defined in 40 CFR 70.2.

Startup, initial means the first time equipment is brought online in a facility.

Surface preparation means use of a cleaning material on a portion of or all of a substrate including use of cleaning material to remove dried coating which is sometimes called "depainting."

Temporary total enclosure means an enclosure constructed for the purpose of measuring the capture efficiency of pollutants emitted from a given source as defined in Method 204 of appendix M, 40 CFR part 51.

Thinner means an organic solvent that is added to a coating after the coating is received from the supplier.

Total volatile hydrocarbon (TVH) means the total amount of nonaqueous volatile organic matter determined according to Methods 204 and 204A through 204F of appendix M to 40 CFR part 51 and substituting the term TVH each place in the methods where the term VOC is used. The TVH includes both VOC and non-VOC.

Uncontrolled coating operation means a coating operation from which no organic HAP emissions are routed through an emission capture system and add-on control device.

Volatile organic compound (VOC) means any compound defined as VOC in 40 CFR 51.100(s).

Volume fraction of coating solids means the ratio of the volume of coating solids (also known as volume of nonvolatiles) to the volume of coating, expressed as liters of coating solids per liter of coating.

Wastewater means water that is generated in a coating operation and is collected, stored, or treated prior to being discarded or discharged.

Tables to Subpart NNNN of Part 63

TABLE 1 TO SUBPART NNNN OF PART 63.—OPERATING LIMITS IF USING THE EMISSION RATE WITH ADD-ON CONTROLS OPTION

[If you are required to comply with operating limits by § 63.4092, you must comply with the applicable operating limits in the following table]

For following device . . .	You must meet the following operating limit . . .	And you must demonstrate continuous compliance with the operating limit by . . .
1. thermal oxidizer	a. the average combustion temperature in any 3-hour period must not fall below the combustion temperature limit established according to § 63.4167(a).	i. collecting the combustion temperature data according to § 63.4168(c); ii. reducing the data to 3-hour block averages; and iii. maintaining the 3-hour average combustion temperature at or above the combustion temperature limit.
2. catalytic oxidizer	a. the average temperature measured just before the catalyst bed in any 3-hour period must not fall below the limit established according to § 63.4167(b); and either.	i. collecting the temperature data according to § 63.4168(c); ii. reducing the data to 3-hour block before the averages; and iii. maintaining the 3-hour average temperature before the catalyst bed at or above the temperature limit.

TABLE 1 TO SUBPART NNNN OF PART 63.—OPERATING LIMITS IF USING THE EMISSION RATE WITH ADD-ON CONTROLS OPTION—Continued

[If you are required to comply with operating limits by §63.4092, you must comply with the applicable operating limits in the following table]

For following device . . .	You must meet the following operating limit . . .	And you must demonstrate continuous compliance with the operating limit by . . .
	b. ensure that average temperature difference across the catalyst bed in any 3-hour period does not fall below the temperature difference limit established according to §63.4167(b)(2); or.	i. collecting the temperature data according to §63.4168(c); ii. reducing the data to 3-hour block difference across averages; and iii. maintaining the 3-hour average temperature difference at or above the temperature difference limit.
	c. develop and implement an inspection and maintenance plan according to §63.4167(b)(4).	i. maintaining an up-to-date inspection and maintenance plan, records of annual catalyst activity checks, records monthly inspections of the oxidizer system, and records of the annual internal inspections of the catalyst bed. If a problem is discovered during a monthly or annual inspection required by §63.4167(b)(4), you must take corrective action as soon as practicable consistent with the manufacturer's recommendations.
3. carbon adsorber	a. the total regeneration desorbing gas (e.g., steam or nitrogen) mass flow for each carbon bed regeneration cycle must not fall below the total regeneration desorbing gas mass flow limit established according to §63.4167(c).	i. measuring the total regeneration desorbing gas (e.g., steam or nitrogen) mass flow for each regeneration cycle according to §63.4168(d); and ii. maintaining the total regeneration desorbing gas mass flow at or above the mass flow limit.
	b. the temperature of the carbon bed, after completing each regeneration and any cooling cycle, must not exceed the carbon bed temperature limit established according to §63.4167(c).	i. measuring the temperature of the carbon bed after completing each regeneration and any cooling cycle according to §63.4168(d); and ii. operating the carbon beds such that each carbon bed is not returned to service until the recorded temperature of the carbon bed is at or below the temperature limit.
4. condenser	a. the average condenser outlet (product side) gas temperature in any 3-hour period must not exceed the temperature limit established according to §63.4167(d).	i. collecting the condenser outlet (product side) gas temperature according to §63.4168(e); ii. reducing the data to 3-hour block averages; and iii. maintaining the 3-hour average gas exceed the temperature at the outlet at or below the temperature limit.
5. concentrators, including zeolite wheels and rotary carbon adsorbers.	a. the average gas temperature of the desorption concentrate stream in any 3-hour period must not fall below the limit established according to §63.4167(e).	i. collecting the temperature data according to 63.4168(f); ii. reducing the data to 3-hour block averaged; and iii. maintaining the 3-hour average temperature at or above the temperature limit.
	b. the average pressure drop of the dilute stream across the concentrator in any 3-hour period must not fall below the limit established according to §63.4167(e).	i. collecting the pressure drop data according to 63.4168(f); and ii. reducing the pressure drop data to across the 3-hour block averages; and iii. maintaining the 3-hour average pressure drop at or above the pressure drop limit.
6. emission capture system that is a PTE according to §63.4165(a).	a. the direction of the air flow at all times must be into the enclosure; and either.	i. collecting the direction of air flow, and either the facial velocity of air through all natural draft openings according to §63.4168(g)(1) or the pressure drop across the enclosure according to §63.4168(g)(2); and ii. maintaining the facial velocity of air flow through all natural draft openings or the pressure drop at or above the facial velocity limit or pressure drop limit, and maintaining the direction of air flow into the enclosure at all times.
	b. the average facial velocity of air through all natural draft openings in the enclosure must be at least 200 feet per minute; or.	See item 6.a. of this table.
	c. the pressure drop across the enclosure must be at least 0.007 inch H2O, as established in Method 204 of appendix M to 40 CFR part 51.	See item 6.a. of this table.

TABLE 1 TO SUBPART NNNN OF PART 63.—OPERATING LIMITS IF USING THE EMISSION RATE WITH ADD-ON CONTROLS OPTION—Continued

[If you are required to comply with operating limits by §63.4092, you must comply with the applicable operating limits in the following table]

For following device . . .	You must meet the following operating limit . . .	And you must demonstrate continuous compliance with the operating limit by . . .
7. emission capture system that is not a PTE according to §63.4165(a).	a. the average gas volumetric flow rate or duct static pressure in each duct between a capture device and add-on control device inlet in any 3-hour period must not fall below the average volumetric flow rate or duct static pressure limit established for that capture device according to §63.4167(f).	i. collecting the gas volumetric flow rate or duct static pressure for each capture device according to §63.4168(g); ii. reducing the data to 3-hour block averages; and iii. maintaining the 3-hour average gas volumetric flow rate or duct static pressure for each capture device at or above the gas volumetric flow rate or duct static pressure limit.

TABLE 2 TO SUBPART NNNN OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNN

[You must comply with the applicable General Provisions requirements according to the following table]

Citation	Subject	Applicable to subpart NNNN	Explanation
§63.1(a)(1)–(14)	General Applicability	Yes	
§63.1(b)(1)–(3)	Initial Applicability Determination	Yes	Applicability to subpart NNNN is also specified in §63.4081.
§63.1(c)(1)	Applicability After Standard Established	Yes	
§63.1(c)(2)–(3)	Applicability of Permit Program for Area Sources.	No	Area sources are not subject to subpart NNNN.
§63.1(c)(4)–(5)	Extensions and Notifications	Yes	
§63.1(e)	Applicability of Permit Program Before Relevant Standard is Set.	Yes	
§63.2	Definitions	Yes	Additional definitions are Specified in §63.4181.
§63.3(a)–(c)	Units and Abbreviations	Yes	
§63.4(a)(1)–(5)	Prohibited Activities	Yes	
§63.4(b)–(c)	Circumvention/Severability	Yes	
§63.5(a)	Construction/Reconstruction	Yes	
§63.5(b)(1)–(6)	Requirements for Existing, Newly Constructed, and Reconstructed Sources.	Yes	
§63.5(d)	Application for Approval of Construction/Reconstruction.	Yes	
§63.5(e)	Approval of Construction/Reconstruction	Yes	
§63.5(f)	Approval of Construction/Reconstruction Based on Prior State Review.	Yes	
§63.6(a)	Compliance With Standards and Maintenance Requirements—Applicability.	Yes	
§63.6(b)(1)–(7)	Compliance Dates for New and Reconstructed Sources.	Yes	Section 63.4083 specifies the compliance dates.
§63.6(c)(1)–(5)	Compliance Dates for Existing Sources	Yes	Section 63.4083 specifies the compliance dates.
§63.6(e)(1)–(2)	Operation and Maintenance	Yes	
§63.6(e)(3)	SSMP	Yes	Only sources using an add—on control device to comply with the standard must complete SSMP.
§63.6(f)(1)	Compliance Except During Startup, Shutdown, and Malfunction.	Yes	Applies only to sources using an and add—on control device to comply with the standards.
§63.6(f)(2)–(3)	Methods for Determining Compliance	Yes	
§63.6(g)(1)–(3)	Use of an Alternative Standard	Yes	
§63.6(h)	Compliance With Opacity/Visible Emission standards.	No	Subpart NNNN does not establish opacity standards and does not require continuous opacity monitoring systems (COMS).
§63.6(i)(1)–(16)	Extension of Compliance	Yes	
§63.6(j)	Presidential Compliance Exemption	Yes	
§63.7(a)(1)	Performance Test Requirements—Applicability.	Yes	Applies to all affected sources. Additional requirements for performance testing are specified in §§63.4164, 63.4165, and 63.4166.

TABLE 2 TO SUBPART NNNN OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNN—Continued

[You must comply with the applicable General Provisions requirements according to the following table]

Citation	Subject	Applicable to subpart NNNN	Explanation
§ 63.7(a)(2)	Performance Test Requirements—Dates	Yes	Applies only to performance tests for caputre system and control device efficiency at sources using these to comply with the standards. Section 63.4160 specifies the schedule for performance test requirements that are earlier than those specified in § 63.7(a)(2).
§ 63.7(a)(3)	Performance Tests Required By the Administrator.	Yes	
§ 63.7(b)–(e)	Performance Test Requirements—Notification, Quality Assurance Facilities Necessary for Safe Testing, Conditions During Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standard.
§ 63.7(f)	Performance Test Requirements—Use of Alternative Test Method.	Yes	Applies to all test methods except those used to determine capture system efficiency.
§ 63.7(g)–(h)	Performance Test Requirements—Data Analysis, Recordkeeping, Reporting, Waiver of Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standard.
§ 63.8(a)(1)–(3)	Monitoring Requirements—Applicability ..	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standard. Additional requirements for monitoring are specified in § 63.4168.
§ 63.8(a)(4)	Additional Monitoring Requirements	No	Subpart NNNN does not have monitoring requirements for flares.
§ 63.8(b)	Conduct of Monitoring	Yes	
§ 63.8(c)(1)–(3)	Continuous Monitoring Systems (CMS) Operation and Maintenance.	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standard. Additional requirements for CMS operations and maintenance are specified in § 63.4168.
§ 63.8(c)(4)	CMS	No	Section 63.4168 specifies the requirements for the operation of CMS for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(5)	COMS	No	Subpart NNNN does not have opacity or visible emission standards.
§ 63.8(c)(6)	CMS Requirements	No	Section 63.4168 specifies the requirements for monitoring systems for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(7)	CMS Out-of-Control Periods	Yes	
§ 63.8(c)(8)	CMS Out-of-Control Periods and Reporting.	No	Section 63.4120 requires reporting of CMS out-of-control periods.
§ 63.8(d)–(e)	Quality Control Program and CMS Performance Evaluation.	No	Subpart NNNN does not require the use of continuous emissions monitoring systems.
§ 63.8(f)(1)–(5)	Use of an Alternative Monitoring Method	Yes	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	No	Subpart NNNN does not require the use of continuous emissions monitoring systems.
§ 63.8(g)(1)–(5)	Data Reduction	No	Sections 63.4167 and 63.4168 specify monitoring data reduction.
§ 63.9(a)–(d)	Notification Requirements	Yes	
§ 63.9(e)	Notification of Performance Test	Yes	Applies only to capture system and add-on control device performance tests at sources using these to comply with the standard.
§ 63.9(f)	Notification of Visible Emissions/Opacity Test.	No	Subpart NNNN does not have opacity or visible emission standards.

TABLE 2 TO SUBPART NNNN OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNN—Continued

[You must comply with the applicable General Provisions requirements according to the following table]

Citation	Subject	Applicable to subpart NNNN	Explanation
§ 63.9(g)(1)–(3)	Additional Notifications When Using CMS	No	Subpart NNNN does not require the use of continuous emissions monitoring systems.
§ 63.9(h)	Notification of Compliance Status	Yes	Section 63.4110 specifies the dates for submitting the notification of compliance status.
§ 63.9(i)	Adjustment of Submittal Deadlines	Yes	
§ 63.9(j)	Change in Previous Information	Yes	
§ 63.10(a)	Recordkeeping/Reporting—Applicability and General Information.	Yes	
§ 63.10(b)(1)	General Recordkeeping Requirements	Yes	Additional requirements are specified in §§ 63.4130 and 63.4131.
§ 63.10(b)(2)(i)–(v)	Recordkeeping Relevant to Startup, Shutdown, and Malfunction Periods and CMS.	Yes	Requirements for startup, shutdown, and malfunction records only apply to add-on control devices used to comply with the standard.
§ 63.10(b)(2)(vi)–(xi)		Yes	
§ 63.10(b)(2)(xii)	Records	Yes	
§ 63.10(b)(2)(xiii)		No	Subpart NNNN does not require the use of continuous emissions monitoring systems.
§ 63.10(b)(2)(xiv)		Yes	
§ 63.10(b)(3)	Recordkeeping Requirements for Applicability Determinations.	Yes.	
§ 63.10(c)(1)–(6)	Additional Recordkeeping Requirements for Sources with CMS.	Yes	
§ 63.10(c)(7)–(8)		No	The same records are required in § 63.4120(a)(7).
§ 63.10(c)(9)–(15)		Yes	
§ 63.10(d)(1)	General Reporting Requirements	Yes	Additional requirements are specified in § 63.4120.
§ 63.10(d)(2)	Report of Performance Test Results	Yes	Additional requirements are specified in § 63.4120(b).
§ 63.10(d)(3)	Reporting Opacity or Visible Emissions Observations.	No	Subpart NNNN does not require opacity or visible emissions observations.
§ 63.10(d)(4)	Progress Reports for Sources With Compliance Extensions.	Yes	
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.	Yes	Applies only to add-on control devices at sources using these to comply with the standard.
§ 63.10(e)(1)–(2)	Additional CMS Reports	No	Subpart NNNN does not require the use of continuous emissions monitoring systems.
§ 63.10(e)(3)	Excess Emissions/CMS Performance Reports.	No	Section 63.4120(b) specifies the contents of periodic compliance reports.
§ 63.10(e)(4)	COMS Data Reports	No	Subpart NNNN does not specify requirements for opacity or COMS.
§ 63.10(f)	Recordkeeping/Reporting Waiver	Yes	
§ 63.11	Control Device Requirements/Flares	No	Subpart NNNN does not specify use of flares for compliance.
§ 63.12	State Authority and Delegations	Yes	
§ 63.13	Addresses	Yes	
§ 63.14	Incorporation by Reference	Yes	
§ 63.15	Availability of Information/Confidentiality	Yes	

TABLE 3 TO SUBPART NNNN OF PART 63.—DEFAULT ORGANIC HAP MASS FRACTION FOR SOLVENTS AND SOLVENT BLENDS

[You may use the mass fraction values in the following table for solvent blends for which you do not have test data or manufacturer's formulation data.]

Solvent/solvent blend	CAS. No.	Average organic HAP mass fraction	Typical organic HAP, percent by mass
1. Toluene	108–88–3	1.0	Toluene.
2. Xylene(s)	1330–20–7	1.0	Xylenes, ethylbenzene.
3. Hexane	110–54–3	0.5	n-hexane.
4. n-Hexane	110–54–3	1.0	n-hexane.

TABLE 3 TO SUBPART NNNN OF PART 63.—DEFAULT ORGANIC HAP MASS FRACTION FOR SOLVENTS AND SOLVENT BLENDS—Continued

[You may use the mass fraction values in the following table for solvent blends for which you do not have test data or manufacturer's formulation data.]

Solvent/solvent blend	CAS. No.	Average organic HAP mass fraction	Typical organic HAP, percent by mass
5. Ethylbenzene	100–41–4	1.0	Ethylbenzene.
6. Aliphatic 140		0	None.
7. Aromatic 100		0.02	1% xylene, 1% cumene.
8. Aromatic 150		0.09	Naphthalene.
9. Aromatic naphtha	64742–95–6	0.02	1% xylene, 1% cumene.
10. Aromatic solvent	64742–94–5	0.1	Naphthalene.
11. Exempt mineral spirits	8032–32–4	0	None.
12. Ligroines (VM & P)	8032–32–4	0	None.
13. Lactol spirits	64742–89–6	0.15	Toluene.
14. Low aromatic white spirit	64742–82–1	0	None.
15. Mineral spirits	64742–88–7	0.01	Xylenes.
16. Hydrotreated naphtha	64742–48–9	0	None.
17. Hydrotreated light distillate	64742–47–8	0.001	Toluene.
18. Stoddard solvent	8052–41–3	0.01	Xylenes.
19. Super high-flash naphtha	64742–95–6	0.05	Xylenes.
20. Varsol® solvent	8052–49–3	0.01	0.5% xylenes, 0.5% ethylbenzene.
21. VM & P naphtha	64742–89–8	0.06	3% toluene, 3% xylene.
22. Petroleum distillate mixture	68477–31–6	0.08	4% naphthalene, 4% biphenyl.

TABLE 4 TO SUBPART NNNN OF PART 63.—DEFAULT ORGANIC HAP MASS FRACTION FOR PETROLEUM SOLVENT GROUPS [a]

[You may use the mass fraction values in the following table for solvent blends for which you do not have test data or manufacturer's formulation data.]

Solvent type	Average organic HAP mass fraction	Typical organic HAP, percent by mass
Aliphatic [b]	0.03	1% Xylene, 1% Toluene, and 1% Ethylbenzene.
Aromatic [c]	0.06	4% Xylene, 1% Toluene, and 1% Ethylbenzene.

[a] Use this table only if the solvent blend does not match any of the solvent blends in Table 3 to this subpart and you only know whether the blend is aliphatic or aromatic.

[b] e.g., Mineral Spirits 135, Mineral Spirits 150 EC, Naphtha, Mixed Hydrocarbon, Aliphatic Hydrocarbon, Aliphatic Naphtha, Naphthol Spirits, Petroleum Spirits, Petroleum Oil, Petroleum Naphtha, Solvent Naphtha, Solvent Blend.

[c] e.g., Medium-flash Naphtha, High-flash Naphtha, Aromatic Naphtha, Light Aromatic Naphtha, Light Aromatic Hydrocarbons, Aromatic Hydrocarbons, Light Aromatic Solvent.

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absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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. 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.*).

The Congressional Review Act, 5 U.S.C. section 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 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 not a "major rule" as defined by 5 U.S.C. section 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 October 15, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Dioxide, Volatile organic compounds.

Dated: June 28, 2002.

Jo Lynn Traub,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

2. Section 52.770 is amended by adding paragraph (c)(151) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(151) On March 5, 2002, the Indiana Department of Environmental Management requested a revision to the Indiana State Implementation Plan in the form of revisions to the Permit Review Rules intended to add regulations to assure that construction permit conditions exist independently of title V permits. This revision took the form of an amendment to Title 326: Air Pollution Control Board of the Indiana Administrative Code (326 IAC) 2–1.1–9.5 General Provisions; Term of Permit.

(i) Incorporation by reference.

(A) Indiana Administrative Code Rules 326 IAC 2–1.1–9.5. Adopted by the Indiana Air Pollution Control Board October 3, 2001. Filed with the Secretary of State December 20, 2001. Effective January 19, 2002. Published at Indiana Register, Volume 25, Number 5, February 1, 2002.

[FR Doc. 02–20345 Filed 8–12–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7258–8]

RIN 2060–AE77

National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: On June 14, 2002, the EPA promulgated amendments to the national emission standards for the secondary aluminum production industry as a direct final rule, along with a parallel proposal to be used as a basis for final action in the event that we received any adverse comments on the direct final amendments. Because one commenter submitted adverse comments on several of the provisions in the direct final rule, we are withdrawing the entire direct final rule. We will address the adverse comments in a subsequent final rule based on the parallel proposal published on June 14, 2002. We intend to publish the subsequent final rule as soon as possible.

DATES: As of August 13, 2002, the EPA withdraws the amendments to §§ 63.1501, 63.1505, 63.1506, 63.1510, 63.1511, 63.1515 and Appendix A to subpart RRR published at 67 FR 41118 on June 14, 2002.

ADDRESSES: Docket number A–2002–05, containing supporting information used in the development of this notice, is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday (except for Federal holidays) at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (6102T), 1301 Constitution Avenue, NW, Room B108, Washington, DC 20460, or by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. John Schaefer, Minerals and Inorganic Chemicals Group, Emission Standards Division (C504–05), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–0296, facsimile number (919) 541–5600, electronic mail address: *schaefer.john@epa.gov.*

SUPPLEMENTARY INFORMATION: On June 14, 2002, we published a direct final rule (67 FR 41118) and a parallel proposed rule (67 FR 41136) to amend the national emission standards for secondary aluminum production (40 CFR part 63, subpart RRR). The amendments were the result of settlement agreements which we executed in two cases which were brought seeking judicial review of the subpart RRR. The intent of the amendments in the direct final rule was to eliminate confusion and to clarify various compliance dates in the promulgated standard, to encourage early performance tests, and to resolve some basic applicability questions being addressed in a separate rulemaking before the compliance date for certain new sources.

We stated in the preamble to the direct final rule and parallel proposal that if we received significant material adverse comment by July 15, 2002, on

one or more distinct provisions of the direct final rule, we would publish a timely notice in the **Federal Register** specifying which provisions will become effective and which provisions will be withdrawn due to adverse comment. We subsequently received from one commenter adverse comments on six of the amendments:

- § 63.1501(c), which deferred the compliance date for new and reconstructed affected sources which are located at existing aluminum die casting, foundry, or extrusion facilities; and
- § 63.1505(c),(d),(e),(f), and (k), which deferred the compliance date for thermal chip dryers, scrap dryers/delacquering kilns/decoating kilns, sweat furnaces and secondary aluminum processing units from the date on which performance testing was completed until the compliance date specified in § 63.1501.

In light of the relationship between the sections which were commented on and some of the remaining amendments, and to avoid the possibility of confusion resulting from partial adoption of the amendments, we have decided to withdraw all amendments contained in the direct final rule. Accordingly, all amendments in the direct final rule are withdrawn as of August 13, 2002. We recognize the potential disruptive effect of this withdrawal action on affected facilities. Therefore, after considering the adverse comments, we intend to take final action on the accompanying proposed rule as soon as possible. We will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: August 7, 2002.

Robert Brenner,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 02–20448 Filed 8–12–02; 8:45 am]

BILLING CODE 6560–60–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 260

[FRL–7257–7]

Exclusion from the Definition of Solid Waste; Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today granting a variance from EPA's hazardous waste requirements for certain materials reclaimed by the World Resources Company (WRC) from metal-bearing sludges. This action responds to a petition submitted by WRC requesting that the Agency exclude from the definition of solid waste under the Resource Conservation and Recovery Act (RCRA) its concentrate material that is partially reclaimed from metal-bearing sludges and sold to smelters. In response to the petition, EPA published a **Federal Register** notice proposing to grant the variance on December 9, 1999 (64 FR 68968).

EFFECTIVE DATE: This variance is effective August 13, 2002.

ADDRESSES: Supporting materials for this variance are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The Docket Identification Number is F–2002–WRCF–FFFFF. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. To review docket materials, we recommend making an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket without charge. Additional copies cost $0.15 per page. The docket index and some supporting materials are available electronically. For information on accessing them, see the beginning of the Supplementary Information section.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund/EPCRA/UST Call Center at (800) 424–9346 (toll free) or TDD (800) 553–7672 (hearing impaired). In the Washington, D.C. metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For more detailed information on specific aspects of this rulemaking, contact Ms. Marilyn Goode, U.S. Environmental Protection Agency, MC 5304W, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (703) 308–8800, electronic mail: *goode.marilyn@epa.gov.*

SUPPLEMENTARY INFORMATION: The index to the docket record and some supporting documents for this proposal are available on the Internet. Follow these instructions to access the information electronically: *http://www.epa.gov/epaoswer/hazwaste/id/index/htm.*

The official record for this action will be kept in paper form. The official record is the paper record maintained at the RCRA Information Center, also referred to as the Docket, at the address provided in the **ADDRESSES** section at the beginning of this document.

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I. Background

A. Authority

Under 40 CFR 260.30(c), facilities may petition EPA to exclude from the definition of solid waste material that has been reclaimed but must be reclaimed further before recovery is complete. To qualify for the exclusion, the material resulting from initial reclamation must be commodity-like (even though it is not yet a commercial product, and has to be reclaimed further). Petitioners must provide sufficient information to EPA to allow the Agency to make a determination that the material is not a solid waste, pursuant to criteria set forth at 40 CFR 260.31(c).

B. Summary of Petition

Pursuant to 40 CFR 260.30(c), WRC submitted to EPA a petition for a variance from classification as solid waste for metal-rich concentrate material produced at its facility in Phoenix, Arizona. WRC produces the concentrate primarily from sludges generated by electroplating operations. The sludges are rich in metals, and are generally classifed as hazardous wastes. WRC then sells the partially reclaimed material to primary smelters for metals extraction. Currently, the partially reclaimed material produced at the Phoenix facility is fully regulated as hazardous waste, must be managed and sold as hazardous waste, and off-site shipments must be accompanied by a hazardous waste manifest. In support of its variance application, WRC provided data and information in its application about each of the factors listed in 40 CFR 260.31(c).

1. Applicability of the Variance

At its Phoenix facility, WRC principally reclaims wastewater treatment sludges (F006) received from generators who conduct electroplating and metal finishing operations. From



Federal Register

Friday,
September 20, 2002

Part II

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7375–9]

RIN 2060–AJ34

National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: On June 23, 1999, EPA promulgated national emission standards for hazardous air pollutants (NESHAP) for Pesticide Active Ingredient (PAI) Production. On August 19, 20, and 23, 1999, petitions for judicial review of the June 1999 rule were filed in the U.S. Court of Appeals for the District of Columbia Circuit. The amendments proposed on April 10, 2002 were in response to issues raised by two of those petitioners—the American Crop Protection Association (ACPA) and the American Cyanamid Company (now BASF Corporation). In this action, EPA takes final action on those proposed amendments to the rule to address issues raised by petitioners and to correct inconsistencies that have been discovered since EPA originally promulgated the rule.

EFFECTIVE DATE: September 20, 2002.

ADDRESSES: Docket No. A–95–20 contains supporting information used in developing these MACT standards. All dockets are located at the U.S. EPA, Air and Radiation Docket and Information Center, Mail Code 6102T, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460, and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Randy McDonald, Organic Chemicals Group, Emission Standards Division (Mail Code C504–04), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5402, electronic mail address *mcdonald.randy@epa.gov.*

SUPPLEMENTARY INFORMATION: *Docket.* The docket is an organized and complete file of the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket, excluding interagency review materials, will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the Clean Air Act (CAA).) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

Judicial Review. Under Section 307(b)(1) of the CAA, judicial review of this final action is available only on the filing of a court petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by November 19, 2002. Under Section 307(b)(2) of the CAA, the requirements established by these final rule amendments may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this action will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this action will be posted on the EPA's TTN policy and guidance page for newly proposed or promulgated rules *http://www.epa.gov/ttn/oarpg.* The TTN at EPA's web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. The regulated category and entities affected by this action include:

Category	NAICS codes	SIC codes	Examples of regulated entities
Industry	Typically, 325199 and 325320	Typically, 2869 and 2879	• Producers of pesticide active ingredients that contain organic compounds that are used in herbicides, insecticides, or fungicides. • Producers of any integral intermediate used in onsite production of an active ingredient used in an herbicide, insecticide, or fungicide.

This table is not intended to be exhaustive, but rather provides a guide for readers likely to be interested in the revisions to the rule affected by this action. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine all of the applicability criteria in § 63.1360 of the rule, as well as in today's final action applicability sections. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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

I. What Is the History of the PAI Production NESHAP?
II. What Types of Public Comments Were Received on the April 10, 2002 Proposal?
III. What Changes Were Made for the Final Amendments?
A. Technical Clarifications
B. Minor Technical Corrections
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A. Executive Order 12866, Regulatory Planning and Review
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C. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments
D. Executive Order 13045, Protection of Children for Environmental Health Risks and Safety Risks
E. Unfunded Mandates Reform Act of 1995
F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
G. Paperwork Reduction Act
H. National Technology Transfer and Advancement Act
I. The Congressional Review Act
J. Executive Order 13211, Actions Concerning Regulations That

Significantly Affect Energy Supply, Distribution, or Use

I. What Is the History of the PAI Production NESHAP?

On June 23, 1999, we promulgated NESHAP for PAI Production as subpart MMM in 40 CFR part 63 (64 FR 33550). The American Crop Protection Association and American Cyanamid Company (now BASF Corporation) filed petitions for judicial review of the promulgated PAI Production NESHAP in the U.S. Court of Appeals for the District of Columbia Circuit, *ACPA* v. *EPA*, No. 99–1332, and *American Cyanamid Company* v. *EPA*, No. 99–1334 (Consolidated with *ACPA* v. *EPA*, No. 99–1332) (D.C. Cir.). The petitioners raised issues regarding the applicability of the rule, the alternative standard, alternatives to the standard for storage vessels, outlet concentration standards, procedures for calculating emissions averaging credits, initial compliance requirements for condensers, and performance testing over an entire batch cycle.

On January 18, 2002, ACPA and EPA signed a settlement agreement, which required us to propose amendments to the PAI Production NESHAP and include preamble discussion to clarify various issues raised by petitioners. Notice of this agreement was published in the **Federal Register** on February 4, 2002 (67 FR 5116) pursuant to the requirements of CAA section 113(g).

On April 10, 2002, we proposed amendments to address the issues raised by ACPA and BASF Corporation and included additional corrections and clarifications to ensure that the rule is implemented as intended. Some of the proposed amendments provided new compliance options and other new provisions that would reduce the burden associated with demonstrating compliance.

II. What Types of Public Comments Were Received on the April 10, 2002 Proposal?

Two comment letters were received on the April 10, 2002 proposed amendments to the rule. Comment letters were received from the U.S. Department of the Interior and CropLife America (CLA), formerly the American Crop Protection Association. In general, the comment letters were supportive and raised no significant issues. However, one of the comment letters included suggested editorial revisions to address clarity concerns and to correct errors in cross referencing other sections in the rule. We considered and agree with these suggestions and have made changes for the final amendments.

III. What Changes Were Made for the Final Amendments?

This preamble describes changes that address public comments on the proposed amendments and additional changes that clarify requirements and improve consistency with other rules.

A. Technical Clarifications

The preamble to the proposed amendments described several changes we were considering to improve the clarity of the rule, which were in addition to the proposed rule amendments resulting from the settlement agreement. We solicited public comments on these changes and we received none, so today's final rule amendments include these changes. The changes involve emissions averaging, initial compliance procedures for condensers, the duration of performance test runs, performance test requirements for large control devices, and monitoring provisions for the alternative standard.

1. Emissions Averaging

As described in the preamble to the proposed amendments, the emissions averaging provisions were intended to parallel the requirements in the Hazardous Organic NESHAP (HON). However, after making the changes for the settlement agreement, we realized that § 63.1362(h)(2) still differs from the HON in two ways. First, § 63.1362(h)(2) does not contain a requirement consistent with the HON's requirement that the control technology be approved for use in a manner that differs from the reference control technology. Since subpart MMM does not use the term "reference control technology," we are adding language to § 63.1362(h)(2) to require that the control technology must be approved for use in a manner different from that otherwise required by the rule.

Second, the proposed changes to § 63.1362(h)(2)(iii) address two components from the HON's definition of reference control technology for wastewater, but they do not address the requirement that emissions from the design steam stripper be controlled by 95 percent. Without this component in § 63.1362(h)(2)(iii), no credits could be calculated for wastewater streams treated in a design steam stripper. Therefore, we are revising § 63.1362(h)(2)(iii) to specify that credits may not be calculated if wastewater streams are managed as specified in §§ 63.133 through 63.137, treated in a design steam stripper, and emissions from the design steam stripper are controlled in a device that meets the percent reduction requirements specified in § 63.139(c). This change means that credits can be calculated if the emissions from the design steam stripper are controlled using a device that has been approved for use in a different manner and assigned a nominal control efficiency greater than 95 percent.

2. Initial Compliance Procedures for Condensers Used To Control Process Vents

Section 63.1365(c)(3)(iii) specifies initial compliance procedures for determining controlled emissions from condensers used to control process vents. For the final amendments, we are deleting the requirement to measure the temperature as part of the initial compliance demonstration and instead, allow the temperature to be determined through engineering design evaluations, as required in § 63.1365(a)(1)(iii). The owner or operator would then use that temperature to calculate the controlled emissions as part of the initial compliance determination. Temperature measurement is only required as part of the monitoring requirements to demonstrate ongoing compliance.

3. Test Duration Requirements for Batch Operations

According to § 63.1365(b)(11)(iv) of the proposed amendments, the maximum duration of a test run may be either 24 hours or the duration of the longest batch controlled by the control device, whichever is shorter. The paragraph goes on to specify that each test run must "include the same absolute or hypothetical peak-case conditions, as defined in paragraph (b)(11)(i) or (ii) of this section." We are amending this paragraph differently than we did at proposal to specify different test run duration limits depending on the format of the standard with which the owner or operator complies.

To demonstrate compliance with the percent reduction standard, the duration of test runs needs to be limited, only to the extent that the test run does not exceed the duration of the averaging period used in demonstrating ongoing compliance. Therefore, we are limiting the duration of test runs to 24 hours or the duration of the longest batch controlled by the control device, whichever is shorter. As we noted in the preamble to the proposed amendments, a consequence of this limitation is that, if the batch cycle exceeds 24 hours, an owner or operator may not take advantage of the exemption from developing an emission profile because

the test could not be conducted over the entire batch cycle in this case.

On the other hand, for tests to demonstrate compliance with the outlet concentration limit, we are limiting the duration of test runs to the applicable peak-case conditions (*i.e.*, 1 hour or up to 8 hours) because of the potential that a large number of low concentrations could be averaged in with high concentrations from a short period during the cycle, thereby rendering meaningless the concept of demonstrating compliance over peak-case conditions.

4. Performance Test Requirements for Large Control Devices

Section 63.1365(c)(3)(ii)(A) specifies measurement requirements for performance tests used to demonstrate percent reduction levels for large control devices. We edited the language to make it easier to read and understand. The meaning is unchanged.

5. Monitoring for the Alternative Standard

We have made a minor technical correction to eliminate an internal conflict in the monitoring provisions for the alternative standard. Specifically, the phrase "98 percent or less" in § 63.1366(b)(5)(ii)(A)(*2*) overlaps with the phrase "95 percent or less" in § 63.1366(b)(5)(ii)(A)(*1*). Since there are no requirements to control in the range greater than 95 percent to less than 98 percent, we have replaced the phrase "98 percent or less" with "98 percent" for the final amendments.

B. Minor Technical Corrections

One commenter suggested changes to correct a citation and to clarify the definition of a term for one equation. We concur with the suggestions and have made both changes. The sections and the associated changes are:

- Section 63.1361—We replaced the incorrect reference to § 63.1365(b)(2)(ii) with the correct reference to § 63.1365(c)(2)(ii) in the definition of "process vent."
- Section 63.1365(a)(2)—We revised the definition of the term "CG_T" in Equation 6 to read "CG_T = total concentration of TOC or organic HAP in vented gas stream, average of samples, dry basis, ppmv." The change makes it clear that the equation may be used to calculate concentrations of either total organic carbon (TOC) or organic hazardous air pollutants (HAP), not just TOC, and it makes the definition consistent with the text in § 63.1365(a)(2).

IV. What Are the Administrative Requirements for the Amendments?

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that these amendments do not constitute a "significant regulatory action" under the terms of Executive Order 12866. Consequently, this action was not subject to OMB review.

B. 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" 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."

Today's 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, because State and local governments do not own or operate any sources that would be subject to this rule. Thus, Executive Order 13132 does not apply to today's action.

C. 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 rule does not have tribal implications, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to today's final amendments.

D. 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 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 EPA.

The 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. Today's amendments are not subject to Executive Order 13045 because they are based on technology performance, not health or safety risks. Furthermore, the final rule has been determined not to be "economically significant" as defined under Executive Order 12866.

E. 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 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 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.

The EPA has determined that today's amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or the private sector in any 1 year. For existing sources, the total annual cost of the PAI Production NESHAP has been estimated to be approximately $39.4 million (64 FR 33559, June 23, 1999). Today's amendments do not add new requirements that would increase this cost. Thus, today's amendments are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that these amendments contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no requirements that apply to such governments or impose obligations upon them. Therefore, today's amendments are not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The 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 amendments on small entities, a small entity is defined as: (1) A small business in the North American Industrial Classification System (NAICS) code 325320 (standard industrial classification (SIC) code 2879) that has up to 500 employees; (2) a small business in NAICS code 325199 (SIC code 2869) that has up to 1,000 employees; (3) 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 (4) 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 amendments on small entities, we have concluded that this action will not have a significant economic impact on a substantial number of small entities. The EPA has determined that none of the small entities will experience a significant impact because the amendments impose no additional regulatory requirements on owners or operators of affected sources.

Although today's amendments will not have a significant economic impact, EPA nonetheless has tried to reduce the impact of the amendments on small entities. Many of the amendments define optional means of compliance. For example, vapor balancing was added as an optional means of compliance for storage tanks, compliance may be demonstrated for either TOC or total organic HAP rather than only TOC, monitoring of combustion device operating parameters is allowed under the alternative standard as an option to correcting to 3 percent oxygen, and we have specified additional EPA test methods that may be used to analyze wastewater without performing the validation procedures specified in Method 301 of Appendix A to 40 CFR part 63. We also added a provision that allows an owner or operator to request an extension to the specified period of planned routine maintenance of control devices for storage vessels during which the owner or operator is exempt from the standards. The amendments also simplify the initial compliance demonstration requirements and recordkeeping requirements for processes that are controlled by a dedicated control device.

G. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in the 1999 NESHAP under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0370. An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1807.01), and a copy may be obtained from Susan Auby by mail at the Collection Strategies Division, U.S. EPA (2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 260–1672. A copy may also be downloaded off the Internet at *http://www.epa.gov/icr.*

Today's amendments to the NESHAP will have no net impact on the information collection burden estimates made previously. An oversight has been corrected by adding recordkeeping and reporting requirements for add-on control devices for storage tanks equipped with floating roofs. The promulgated rule only included recordkeeping and reporting requirements for add-on control devices for storage tanks; even though both add-on control devices and floating roofs were considered in the cost impacts and burden estimates. Also, the amendments clarify the intent of several provisions in the 1999 NESHAP and correct inadvertent omissions and minor drafting errors in the 1999 NESHAP. Therefore, the ICR has not been revised.

H. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, Section 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) 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.

During the rulemaking, EPA searched for voluntary consensus standards that might be applicable. The search

identified 22 voluntary consensus standards that appeared to have possible use in lieu of EPA standard reference methods in the rule, but after review, none were considered practical alternatives to the specified EPA methods. An assessment of these voluntary consensus standards is presented in the preamble to the 1999 NESHAP (64 FR 33588, June 23, 1999). Today's action specifies additional EPA methods that may be used to determine the concentration of HAP in wastewater samples without conducting the validation procedures specified in 40 CFR 63.144, but no additional voluntary consensus standards have been identified.

I. The 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. The EPA will submit a report containing this 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 not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective September 20, 2002.

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

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

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: September 6, 2002.

Christine Todd Whitman,

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 MMM—[Amended]

2. Section 63.1360 is amended by:

a. Revising paragraph (b) introductory text;

b. Revising paragraph (b)(2);

c. Revising paragraph (d)(3);

d. Redesignating paragraph (d)(4) as paragraph (d)(5) and adding a new paragraph (d)(4);

e. Revising paragraph (f) introductory text;

f. Revising paragraphs (f)(2) through (4) and adding paragraph (f)(5);

g. Revising paragraph (h); and

h. Revising paragraph (i)(1).

The revisions and additions read as follows:

§ 63.1360 Applicability.

* * * * *

(b) *New source applicability.* A new affected source subject to this subpart and to which the requirements for new sources apply is defined according to the criteria in paragraph (b)(1) or (2) of this section.

* * * * *

(2) Any dedicated PAI process unit that meets the criteria specified in paragraphs (b)(2)(i) and (ii) of this section.

(i) For which construction, as defined in § 63.1361, commenced after November 10, 1997, or reconstruction commenced after September 20, 2002.

(ii) That has the potential to emit 10 tons/yr of any one HAP or 25 tons/yr of combined HAP.

* * * * *

(d) * * *

(3) Production of ethylene;

(4) Coal tar distillation; and

* * * * *

(f) *Storage vessel applicability determination.* An owner or operator shall follow the procedures specified in paragraphs (f)(1) through (5) of this section to determine whether a storage vessel is part of the affected source to which this subpart applies.

* * * * *

(2) Unless otherwise excluded under paragraph (f)(1) of this section, the storage vessel is part of a PAI process unit if either the input to the vessel from the PAI process unit is greater than or equal to the input from any other PAI or non-PAI process unit, or the output from the vessel to the PAI process unit is greater than or equal to the output to any other PAI or non-PAI process unit. If the greatest input to and/or output from a shared storage vessel is the same for two or more process units, including one or more PAI process units, the owner or operator must assign the storage vessel to any one of the PAI process units that meet this condition.

(3) Unless otherwise excluded under paragraph (f)(1) of this section, where a storage vessel is located in a tank farm (including a marine tank farm), the applicability of this subpart shall be determined according to the provisions in paragraphs (f)(3)(i) through (iii) of this section.

(i) The storage vessel in the tank farm is not subject to the provisions of this subpart if the greatest input to or output from the storage vessel is for a non-PAI process unit. The input and output shall be determined among only those process units that share the storage vessel and that do not have an intervening storage vessel for that product (or raw material, as appropriate).

(ii) Except for storage vessels in a tank farm excluded in accordance with paragraph (f)(3)(i) of this section, applicability of this subpart shall be determined according to the provisions in paragraphs (f)(3)(ii)(A) through (C) of this section.

(A) Except as specified in paragraph (f)(3)(ii)(C) of this section, this subpart does not apply to the storage vessel in a tank farm if each PAI process unit that receives material from or sends material to the storage vessel has an intervening storage vessel for that material.

(B) Except as specified in paragraph (f)(3)(ii)(C) of this section, a storage vessel in a tank farm shall be assigned to the PAI process unit that receives the greatest amount of material from or sends the greatest amount of material to the storage vessel and does not have an intervening storage vessel. If two or more PAI process units have the same input to or output from the storage vessel in the tank farm, then the storage vessel in the tank farm may be assigned to any one of the PAI process units that meet this condition.

(C) As an alternative to the requirements specified in paragraphs (f)(3)(ii)(A) and (B) of this section, even if an intervening storage vessel is present, an owner or operator may elect to assign a storage vessel in a tank farm to the PAI process unit that sends the most material to or receives the most material from the storage vessel. If two or more PAI process units have the same input to or output from the storage vessel in the tank farm, then the storage vessel in the tank farm may be assigned to any one of the PAI process units that meet this condition.

(iii) With respect to a process unit, an intervening storage vessel means a storage vessel connected by hard-piping to the process unit and to the storage vessel in the tank farm so that the product or raw material entering or leaving the process flows into (or from) the intervening storage vessel and does not flow directly into (or from) the storage vessel in the tank farm.

(4) If use varies from year to year, then use for the purposes of this subpart for existing sources shall be based on the utilization that occurred during the year preceding June 23, 1999, or if the storage vessel was not in operation during that year, the use shall be based on the expected use in the 5 years after startup. This determination shall be reported as part of an operating permit application or as otherwise specified by the permitting authority.

(5) If the storage vessel begins receiving material from (or sending material to) another process unit, or ceasing to receive material from (or send material to) a PAI process unit, or if there is a significant change in the use of the storage vessel, the owner or operator shall reevaluate the ownership determination for the storage vessel.

* * * * *

(h) *Applicability of process units included in a process unit group.* An owner or operator may elect to develop process unit groups in accordance with paragraph (h)(1) of this section. For the PAI process units in these process unit groups, the owner or operator may comply with the provisions in overlapping MACT standards, as specified in paragraphs (h)(2) through (4) of this section, as an alternative means of demonstrating compliance with the provisions of this subpart.

(1) Develop, revise, and document changes in a process unit group in accordance with the procedures specified in paragraphs (h)(1)(i) through (vi) of this section.

(i) Initially identify a non-dedicated PAI process unit that is operating on December 23, 2003 or a date after December 23, 2003, and identify all processing equipment that is part of this PAI process unit, based on descriptions in operating scenarios.

(ii) Add to the group any other non-dedicated PAI and non-dedicated non-PAI process units expected to be operated in the 5 years after the date specified in paragraph (h)(1)(i) of this section, provided they satisfy the criteria specified in paragraphs (h)(1)(ii)(A) through (C) of this section. Also identify all of the processing equipment used for each process unit based on information from operating scenarios and other applicable documentation.

(A) Each PAI process unit that is added to a group must have some processing equipment that is part of one or more PAI process units that are already in the process unit group.

(B) Each non-PAI process unit that is added to a group must have some processing equipment that is also part of one or more of the PAI process units in the group.

(C) No process unit may be part of more than one process unit group.

(iii) The initial process unit group consists of all of the processing equipment for the process units identified in paragraphs (h)(1)(i) and (ii) of this section.

(iv) If compliance is to be demonstrated in accordance with paragraph (h)(3) of this section, determine the primary product of the process unit group according to the procedures specified in paragraphs (h)(1)(iv)(A) through (C) of this section.

(A) The primary product is the type of product (*e.g.*, PAI, pharmaceutical product, thermoplastic resin, *etc.*) that is expected to be produced for the greatest operating time in the 5-year period specified in paragraph (h)(1)(i) of this section.

(B) If the process unit group produces multiple products equally based on operating time, then the primary product is the product with the greatest production on a mass basis over the 5-year period specified in paragraph (h)(1)(i) of this section.

(C) The primary product of the group must be redetermined if the owner or operator does not intend to make that product in the future or if it has not been made for 5 years. The results of the redetermination must be recorded as specified in § 63.1367(b) and reported in a Periodic report no later than the report covering the period for the end of the 5th year as specified in § 63.1368(g)(2). If the primary product changes, the owner or operator must either demonstrate compliance with the applicable subpart as specified in paragraph (h)(3) of this section or demonstrate compliance with the provisions of this subpart MMM.

(v) Add process units developed in the future in accordance with the conditions specified in paragraphs (h)(1)(ii)(A) through (C) of this section.

(vi) Maintain records of changes in the process units in each process unit group as specified in § 63.1367(b)(9), and maintain reports as specified in § 63.1368(f)(9) and (g)(2)(ix).

(2) If any of the products produced in the process unit group are subject to 40 CFR part 63, subpart GGG (Pharmaceuticals MACT), the owner or operator may elect to comply with the requirements of subpart GGG for the PAI process unit(s) within the process unit group, except for the following:

(i) The emission limit standard for process vents in § 63.1362(b)(2)(i) shall apply in place of § 63.1254(a)(2);

(ii) When the dates of April 2, 1997 and April 2, 2007 are provided in § 63.1254(a)(3)(ii), the dates of November 10, 1997 and November 10, 2007, respectively, shall apply for purposes of this subpart MMM; and

(iii) Requirements in § 63.1367(a)(5) regarding application for approval of construction or reconstruction shall apply in place of the provisions in § 63.1259(a)(5).

(3) If the primary product of a process unit group is determined to be a type of material that is subject to another subpart of 40 CFR part 63 on June 23, 1999 or startup of the first process unit after formation of the process unit group, whichever is later, the owner or operator may elect to comply with the other subpart for any PAI process unit within the process unit group, subject to the requirement in this paragraph (h)(3). Emissions from PAI Group 1 process vents, as defined in § 63.1361, must be reduced in accordance with the control requirements for Group 1 vents as specified in the alternative subpart. The criteria in the alternative subpart for determining which process vents must be controlled do not apply for the purposes of this paragraph (h)(3).

(4) The requirements for new and reconstructed sources in the alternative subpart apply to all PAI process units in the process unit group if, and only if, the affected source under the alternative subpart meets the requirements for construction or reconstruction.

(i) * * *

(1) *Compliance with other MACT standards.* (i) After the compliance dates specified in § 63.1364, an affected source subject to the provisions of this subpart that is also subject to the provisions of any other subpart of 40 CFR part 63 may elect, to the extent the subparts are consistent, under which subpart to maintain records and report to EPA. The affected source shall identify in the Notification of Compliance Status report required by § 63.1368(f) under which authority such records will be maintained.

(ii) After the compliance dates specified in § 63.1364, at an offsite reloading or cleaning facility subject to § 63.1362(b)(6), compliance with the emission standards and associated initial compliance monitoring, recordkeeping, and reporting provisions of any other subpart of 40 CFR part 63

constitutes compliance with the provisions of § 63.1362(b)(6)(vii)(B) or (C). The owner or operator of the affected storage vessel shall identify in the Notification of Compliance Status report required by § 63.1368(f) the subpart of 40 CFR part 63 with which the owner or operator of the offsite reloading or cleaning facility complies.

* * * * *

3. Section 63.1361 is amended by:

a. Revising the definitions for "Construction," "Consumption," "Group 1 storage vessel," "Group 1 wastewater stream," "Intermediate," "Process," "Process unit group," "Process vent," "Recovery device," "Supplemental gases," and "Wastewater";

b. Revising "equipment identified in § 63.1362(l)" to read "equipment identified in § 63.1362(k)" in the definition of "pesticide active ingredient manufacturing process unit (PAI process unit)"; and

c. Adding definitions in alphabetical order for "Dedicated PAI process unit," "Formulation of pesticide products," "Non-dedicated PAI process unit," "Reconfiguration," and "Reconstruction."

The revisions and additions read as follows:

§ 63.1361 Definitions.

* * * * *

Construction means the onsite fabrication, erection, or installation of an affected source or dedicated PAI process unit. Addition of new equipment to an affected source does not constitute construction, provided the new equipment is not a dedicated PAI process unit with the potential to emit 10 tons/yr of any one HAP or 25 tons/yr of combined HAP, but it may constitute reconstruction of the affected source or PAI process unit if it satisfies the definition of reconstruction in this section. At an affected source, changing raw materials processed and reconfiguring non-dedicated equipment to create a non-dedicated PAI process unit do not constitute construction.

Consumption means the quantity of all HAP raw materials entering a process in excess of the theoretical amount used as reactant, assuming 100 percent stoichiometric conversion. The raw materials include reactants, solvents, and any other additives. If HAP are generated in the process as well as added as raw material, consumption includes the quantity generated in the process.

* * * * *

Dedicated PAI process unit means a PAI process unit constructed from equipment that is fixed in place and designed and operated to produce only a single product or co-products. The equipment is not designed to be reconfigured to create different process units, and it is not operated with different raw materials so as to produce different products.

* * * * *

Formulation of pesticide products means the mixing, blending, or diluting of a PAI with one or more other PAI or inert ingredients.

* * * * *

Group 1 storage vessel means a storage vessel at an existing affected source with a capacity equal to or greater than 75 m^3 and storing material with a maximum true vapor pressure greater than or equal to 3.45 kPa, a storage vessel at a new affected source with a capacity equal to or greater than 40 m^3 and storing material with a maximum true vapor pressure greater than or equal to 16.5 kPa, or a storage vessel at a new affected source with a capacity greater than or equal to 75 m^3 and storing material with a maximum true vapor pressure greater than or equal to 3.45 kPa.

* * * * *

Group 1 wastewater stream means process wastewater at an existing or new source that meets the criteria for Group 1 status in § 63.132(c) for compounds in Table 9 of subpart G of this part or a maintenance wastewater stream that contains 5.3 Mg of compounds in Table 9 of subpart G of this part per discharge event.

* * * * *

Intermediate means an organic compound that is manufactured in a process and that is further processed or modified in one or more additional steps to ultimately produce a PAI.

* * * * *

Non-dedicated PAI process unit means a process unit that is not a dedicated PAI process unit.

* * * * *

Process means a logical grouping of processing equipment which collectively function to produce a product. For the purpose of this subpart, a PAI process includes all, or a combination of, reaction, recovery, separation, purification, treatment, cleaning, and other activities or unit operations which are used to produce a PAI or integral intermediate. Ancillary activities are not considered a PAI process or any part of a PAI process. Ancillary activities include boilers and incinerators (not used to comply with the provisions of § 63.1362), chillers or refrigeration systems, and other equipment and activities that are not directly involved (*i.e.*, they operate within a closed system and materials are not combined with process fluids) in the processing of raw materials or the manufacturing of a PAI. A PAI process and all integral intermediate processes for which 100 percent of the annual production is used in the production of the PAI may be linked together and defined as a single PAI process unit.

* * * * *

Process unit group means a group of process units that manufacture PAI and products other than PAI by alternating raw materials or operating conditions, or by reconfiguring process equipment. A process unit group is determined according to the procedures specified in § 63.1360(g).

Process vent means a point of emission from processing equipment to the atmosphere or a control device. The vent may be the release point for an emission stream associated with an individual unit operation, or it may be the release point for emission streams from multiple unit operations that have been manifolded together into a common header. Examples of process vents include, but are not limited to, vents on condensers used for product recovery, bottom receivers, surge control vessels, reactors, filters, centrifuges, process tanks, and product dryers. A vent is not considered to be a process vent for a given emission episode if the undiluted and uncontrolled emission stream that is released through the vent contains less than 50 ppmv HAP, as determined through process knowledge that no HAP are present in the emission stream; using an engineering assessment as discussed in § 63.1365(c)(2)(ii); from test data collected using Method 18 of 40 CFR part 60, appendix A; or from test data collected using any other test method that has been validated according to the procedures in Method 301 of appendix A of this part. Process vents do not include vents on storage vessels regulated under § 63.1362(c), vents on wastewater emission sources regulated under § 63.1362(d), or pieces of equipment regulated under § 63.1363.

* * * * *

Reconfiguration means disassembly of processing equipment for a particular non-dedicated process unit and reassembly of that processing equipment in a different sequence, or in combination with other equipment, to create a different non-dedicated process unit.

Reconstruction, as used in § 63.1360(b), shall have the meaning given in § 63.2, except that "affected or previously unaffected stationary source"

shall mean either "affected facility" or "PAI process unit."

Recovery device, as used in the wastewater provisions, means an individual unit of equipment capable of, and normally used for the purpose of, recovering chemicals for fuel value (*i.e.*, net positive heating value), use, reuse, or for sale for fuel value, use, or reuse. Examples of equipment that may be recovery devices include organic removal devices such as decanters, strippers, or thin-film evaporation units. To be a recovery device, a decanter and any other equipment based on the operating principle of gravity separation must receive only multi-phase liquid streams.

* * * * *

Supplemental gases means any nonaffected gaseous streams (streams that are not from process vents, storage vessels, equipment or waste management units) that contain less than 50 ppmv TOC and less than 50 ppmv total HCl and chlorine, as determined through process knowledge, and are combined with an affected vent stream. Supplemental gases are often used to maintain pressures in manifolds or for fire and explosion protection and prevention. Air required to operate combustion device burner(s) is not considered a supplemental gas.

* * * * *

Wastewater means water that meets either of the conditions described in paragraph (1) or (2) of this definition and is discarded from a PAI process unit that is at an affected source:

(1) Is generated from a PAI process or a scrubber used to control emissions from a PAI process and contains either:

(i) An annual average concentration of compounds in Table 9 of subpart G of this part of at least 5 ppmw and has an average flow rate of 0.02 L/min or greater; or

(ii) An annual average concentration of compounds in Table 9 of subpart G of this part of at least 10,000 ppmw at any flow rate;

(2) Is generated from a PAI process unit as a result of maintenance activities and contains at least 5.3 Mg of compounds listed in Table 9 of subpart G of this part per individual discharge event.

* * * * *

4. Section 63.1362 is amended by:

a. Revising paragraph (b)(2)(iv)(A);

b. Revising paragraph (b)(4)(ii)(A);

c. Revising paragraph (b)(5)(ii);

d. Revising paragraph (b)(6);

e. Revising paragraph (c)(2) introductory text;

f. Revising paragraph (c)(2)(iv) introductory text;

g. Revising paragraph (c)(2)(iv)(B);

h. Revising paragraphs (c)(3) through (6);

i. Adding paragraph (c)(7);

j. Revising paragraph (d) introductory text;

k. Revising paragraph (d)(2) introductory text;

l. Removing paragraph (d)(2)(v);

m. Revising paragraphs (d)(12) through (14);

n. Adding paragraphs (d)(15) and (16);

o. Revising paragraph (h)(2) introductory text;

p. Revising paragraphs (h)(2)(i) and (iii); and

q. Revising paragraphs (h)(3) and (4).

The revisions and additions read as follows:

§ 63.1362 Standards.

* * * * *

(b) * * *

(2) * * *

(iv) * * *

(A) To outlet concentrations less than or equal to 20 ppmv; or

* * * * *

(4) * * *

(ii) * * *

(A) To outlet concentrations less than or equal to 20 ppmv; or

* * * * *

(5) * * *

(ii) If HCl and Cl_2 emissions, including HCl generated from combustion of halogenated process vent emissions, from the sum of all process vents within a process are greater than 6.8 Mg/yr and less than or equal to 191 Mg/yr, these HCl and Cl_2 emissions shall be reduced by 94 percent or to an outlet concentration less than or equal to 20 ppmv.

* * * * *

(6) *Alternative standard.* As an alternative to the provisions in paragraphs (b)(2) through (5) of this section, the owner or operator may route emissions from a process vent to a combustion control device achieving an outlet TOC concentration, as calibrated on methane or the predominant HAP, of 20 ppmv or less, and an outlet concentration of HCl and Cl_2 of 20 ppmv or less. If the owner or operator is routing emissions to a non-combustion control device or series of control devices, the control device(s) must achieve an outlet TOC concentration, as calibrated on methane or the predominant HAP, of 50 ppmv or less, and an outlet concentration of HCl and Cl_2 of 50 ppmv or less. Any process vents within a process that are not routed to such a control device or series of control devices must be controlled in accordance with the provisions of paragraph (b)(2)(ii), (iii), (iv), (b)(3)(ii), (b)(4)(ii), (b)(5)(ii) or (iii) of this section, as applicable.

(c) * * *

(2) *Standard for existing sources.* Except as specified in paragraphs (c)(4), (5), and (6) of this section, the owner or operator of a Group 1 storage vessel at an existing affected source, as defined in § 63.1361, shall equip the affected storage vessel with one of the following:

* * * * *

(iv) A closed vent system meeting the conditions of paragraph (j) of this section and a control device that meets any of the following conditions:

* * * * *

(B) Reduces organic HAP emissions to outlet concentrations of 20 ppmv or less; or

* * * * *

(3) *Standard for new sources.* Except as specified in paragraphs (c)(4), (5), and (6) of this section, the owner or operator of a Group 1 storage vessel at a new source, as defined in § 63.1361, shall equip the affected storage vessel in accordance with any one of paragraphs (c)(2)(i) through (iv) of this section.

(4) *Alternative standard.* As an alternative to the provisions in paragraphs (c)(2) and (3) of this section, the owner or operator of an existing or new affected source may route emissions from storage vessels to a combustion control device achieving an outlet TOC concentration, as calibrated on methane or the predominant HAP, of 20 ppmv or less, and an outlet concentration of hydrogen chloride and chlorine of 20 ppmv or less. If the owner or operator is routing emissions to a non-combustion control device or series of control devices, the control device(s) must achieve an outlet TOC concentration, as calibrated on methane or the predominant HAP, of 50 ppmv or less, and an outlet concentration of HCl and Cl_2 of 50 ppmv or less.

(5) *Planned routine maintenance.* The owner or operator is exempt from the specifications in paragraphs (c)(2) through (4) of this section during periods of planned routine maintenance of the control device that do not exceed 240 hr/yr. The owner or operator may submit an application to the Administrator requesting an extension of this time limit to a total of 360 hr/yr. The application must explain why the extension is needed, it must indicate that no material will be added to the storage vessel between the time the 240-hr limit is exceeded and the control device is again operational, and it must be submitted at least 60 days before the 240-hr limit will be exceeded.

(6) *Vapor balancing alternative.* As an alternative to the requirements in paragraphs (c)(2) and (3) of this section, the owner or operator of an existing or new affected source may implement vapor balancing in accordance with paragraphs (c)(6)(i) through (vii) of this section.

(i) The vapor balancing system must be designed and operated to route organic HAP vapors displaced from loading of the storage tank to the railcar or tank truck from which the storage tank is filled.

(ii) Tank trucks and railcars must have a current certification in accordance with the U.S. Department of Transportation pressure test requirements of 49 CFR part 180 for tank trucks and 49 CFR 173.31 for railcars.

(iii) Hazardous air pollutants must only be unloaded from tank trucks or railcars when vapor collection systems are connected to the storage tank's vapor collection system.

(iv) No pressure relief device on the storage tank or on the railcar or tank truck shall open during loading or as a result of diurnal temperature changes (breathing losses).

(v) Pressure relief devices on affected storage tanks must be set to no less than 2.5 psig at all times to prevent breathing losses. The owner or operator shall record the setting as specified in § 63.1367(b)(8) and comply with the following requirements for each pressure relief valve:

(A) The pressure relief valve shall be monitored quarterly using the method described in § 63.180(b).

(B) An instrument reading of 500 ppmv or greater defines a leak.

(C) When a leak is detected, it shall be repaired as soon as practicable, but no later than 5 days after it is detected, and the owner or operator shall comply with the recordkeeping requirements of § 63.1363(g)(4)(i) through (iv).

(vi) Railcars or tank trucks that deliver HAP to an affected storage tank must be reloaded or cleaned at a facility that utilizes one of the following control techniques:

(A) The railcar or tank truck must be connected to a closed vent system with a control device that reduces inlet emissions of HAP by 90 percent by weight or greater; or

(B) A vapor balancing system designed and operated to collect organic HAP vapor displaced from the tank truck or railcar during reloading must be used to route the collected HAP vapor to the storage tank from which the liquid being transferred originated.

(vii) The owner or operator of the facility where the railcar or tank truck is reloaded or cleaned must comply with the following requirements:

(A) Submit to the owner or operator of the affected storage tank and to the Administrator a written certification that the reloading or cleaning facility will meet the requirements of this section. The certifying entity may revoke the written certification by sending a written statement to the owner or operator of the affected storage tank giving at least 90 days notice that the certifying entity is rescinding acceptance of responsibility for compliance with the requirements of this paragraph (c)(6)(vii)(A).

(B) If complying with paragraph (c)(6)(vi)(A) of this section, demonstrate initial compliance in accordance with § 63.1365(d), demonstrate continuous compliance in accordance with § 63.1366, keep records as specified in § 63.1367, and prepare reports as specified in § 63.1368.

(C) If complying with paragraph (c)(6)(vi)(B) of this section, keep records of:

(*1*) The equipment to be used and the procedures to be followed when reloading the railcar or tank truck and displacing vapors to the storage tank from which the liquid originates, and

(*2*) Each time the vapor balancing system is used to comply with paragraph (c)(6)(vi)(B) of this section.

(7) Compliance with the provisions of paragraphs (c)(2) and (3) of this section is demonstrated using the initial compliance procedures in § 63.1365(d) and the monitoring requirements in § 63.1366. Compliance with the outlet concentrations in paragraph (c)(4) of this section shall be determined by the initial compliance provisions in § 63.1365(a)(5) and the continuous emission monitoring requirements of § 63.1366(b)(5).

(d) *Wastewater.* The owner or operator of each affected source shall comply with the requirements of §§ 63.132 through 63.147, with the differences noted in paragraphs (d)(1) through (16) of this section for the purposes of this subpart.

* * * * *

(2) When the storage tank requirements contained in §§ 63.119 through 63.123 are referred to in §§ 63.132 through 63.147, §§ 63.119 through 63.123 are applicable, with the exception of the differences noted in paragraphs (d)(2)(i) through (iv) of this section.

* * * * *

(12) As an alternative to using Method 18 of 40 CFR part 60, as specified in §§ 63.139(c)(1)(ii) and 63.145(i)(2), the owner or operator may elect to use Method 25 or Method 25A of 40 CFR part 60, as specified in § 63.1365(b).

(13) The requirement to correct outlet concentrations from combustion devices to 3 percent oxygen in § 63.139(c)(1)(ii) shall apply only if supplemental gases are combined with affected vent streams, and the procedures in § 63.1365(a)(7)(i) apply instead of the procedures in § 63.145(i)(6) to determine the percent oxygen correction. If emissions are controlled with a vapor recovery system as specified in § 63.139(c)(2), the owner or operator must correct for supplemental gases as specified in § 63.1365(a)(7)(ii).

(14) As an alternative to the management and treatment options specified in § 63.132(g)(2), any Group 1 wastewater stream (or residual removed from a Group 1 wastewater stream) that contains less than 50 ppmw of HAP listed in Table 2 to subpart GGG of this part may be transferred offsite or to an on-site treatment operation not owned or operated by the owner or operator of the source generating the wastewater (or residual) if the transferee manages and treats the wastewater stream or residual in accordance with paragraphs (d)(14)(i) through (iv) of this section.

(i) Treat the wastewater stream or residual in a biological treatment unit in accordance with §§ 63.138 and 63.145.

(ii) Cover the waste management units up to the activated sludge unit. Alternatively, covers are not required if the owner or operator demonstrates that less than 5 percent of the total HAP listed in Table 3 to subpart GGG of this part is emitted.

(iii) Inspect covers as specified in § 63.1366(h).

(iv) The reference in § 63.132(g)(2) to "§ 63.102(b) of subpart F" does not apply for the purposes of this subpart.

(15) When § 63.133 refers to Table 10 to subpart G of this part, the maximum true vapor pressures in the table shall be limited to the HAP listed in Table 9 to subpart G of this part.

(16) When the inspection, recordkeeping, and reporting requirements contained in § 63.148 are referred to in §§ 63.132 through 63.147, the inspection requirements in § 63.1366(h), the recordkeeping requirements in § 63.1367(f), and the reporting requirements in § 63.1368(g)(2)(iii) and (xi) shall apply for the purposes of this subpart.

* * * * *

(h) * * *

(2) Group 1 emission points that are controlled as specified in paragraphs (h)(2)(i) through (iii) of this section may not be used to calculate emissions averaging credits, unless the equipment

is approved for use in a different manner from that specified in paragraphs (b) through (d) of this section, and a nominal efficiency has been assigned according to the procedures in § 63.150(i). The nominal efficiency must exceed the percent reduction required by paragraphs (b) and (c) of this section for process vents and storage vessels, respectively, exceed the percent reduction required in § 63.139(c) for control devices used to control emissions vented from waste management units, and exceed the percent reduction required in § 63.138(e) or (f) for wastewater treatment processes.

(i) Storage vessels controlled with an internal floating roof meeting the specifications of § 63.119(b), an external floating roof meeting the specifications of § 63.119(c), or an external floating roof converted to an internal floating meeting the specifications of § 63.119(d).

* * * * *

(iii) Wastewater streams that are managed in waste management units that are controlled as specified in §§ 63.133 through 63.137, treated using a steam stripper meeting the specifications of § 63.138(d), and emissions from the steam stripper are controlled in a control device that meets the percent reduction requirements specified in § 63.139(c).

(3) Process vents and storage vessels controlled with a control device to an outlet concentration of 20 ppmv or 50 ppmv, as specified in paragraph (b)(2)(iv)(A), (b)(3)(ii), (b)(6), (c)(2)(iv)(B), or (c)(4) of this section, and wastewater streams controlled in a treatment unit to an outlet concentration of 50 ppmw, may not be used in any averaging group.

(4) Maintenance wastewater streams, wastewater streams treated in biological treatment units, and Group 2 wastewater streams that are not managed as specified in §§ 63.133 through 63.137 may not be included in any averaging group.

* * * * *

5. Section 63.1363 is amended by:

a. Revising paragraph (a)(1);

b. Revising paragraphs (a)(10)(ii) and (iii);

c. Revising paragraphs (b)(3)(iii)(A) through (F);

d. Adding paragraph (b)(3)(iii)(G);

e. Revising paragraph (b)(3)(iv);

f. Revising paragraphs (c)(2)(i) and (iii);

g. Revising paragraph (c)(3)(i);

h. Revising paragraph (c)(4)(ii);

i. Revising paragraph (c)(5) introductory text;

j. Revising paragraph (c)(5)(iv);

k. Removing paragraphs (c)(5)(vi)(C) and (D);

l. Adding paragraph (c)(5)(vii);

m. Revising paragraph (c)(6);

n. Revising paragraph (c)(9);

o. Revising paragraph (e)(7)(iii);

p. Revising paragraph (e)(9);

q. Revising paragraph (f); and

r. Revising paragraph (g)(2)(vi).

The revisions and additions read as follows:

§ 63.1363 Standards for equipment leaks.

(a) * * *

(1) The provisions of this section apply to "equipment" as defined in § 63.1361. The provisions of this section also apply to any closed-vent systems and control devices required by this section.

* * * * *

(10) * * *

(ii) The identification on a valve in light liquid or gas/vapor service may be removed after it has been monitored as specified in paragraph (e)(7)(iii) of this section, and no leak has been detected during the follow-up monitoring. If an owner or operator elects to comply with § 63.174(c)(1)(i), the identification on a connector may be removed after it has been monitored as specified in § 63.174(c)(1)(i) and no leak is detected during that monitoring.

(iii) The identification on equipment, except as specified in paragraph (a)(10)(ii) of this section, may be removed after it has been repaired.

* * * * *

(b) * * *

(3) * * *

(iii) * * *

(A) Section 63.174(b), (f), (g), and (h) shall not apply. In place of § 63.174(b), the owner or operator shall comply with paragraphs (b)(3)(iii)(C) through (G) of this section. In place of § 63.174(f), (g), and (h), the owner or operator shall comply with paragraph (f) of this section.

(B) Days that the connectors are not in organic HAP service shall not be considered part of the 3-month period in § 63.174(c).

(C) If the percent leaking connectors in a group of processes was greater than or equal to 0.5 percent during the initial monitoring period, monitoring shall be performed once per year until the percent leaking connectors is less than 0.5 percent.

(D) If the percent leaking connectors in the group of processes was less than 0.5 percent, but equal to or greater than 0.25 percent, during the last required monitoring period, monitoring shall be performed once every 4 years. An owner or operator may comply with the requirements of this paragraph by monitoring at least 40 percent of the connectors in the first 2 years and the remainder of the connectors within the next 2 years. The percent leaking connectors will be calculated for the total of all monitoring performed during the 4-year period.

(E) The owner or operator shall increase the monitoring frequency to once every 2 years for the next monitoring period if leaking connectors comprise at least 0.5 percent but less than 1.0 percent of the connectors monitored within either the 4 years specified in paragraph (b)(3)(iii)(D) of this section, the first 4 years specified in paragraph (b)(3)(iii)(G) of this section, or the entire 8 years specified in paragraph (b)(3)(iii)(G) of this section. At the end of that 2-year monitoring period, the owner or operator shall monitor once per year while the percent leaking connectors is greater than or equal to 0.5 percent; if the percent leaking connectors is less than 0.5 percent, the owner or operator may again elect to monitor in accordance with paragraph (b)(3)(iii)(D) or (G) of this section, as applicable.

(F) If an owner or operator complying with the requirements of paragraph (b)(3)(iii)(D) or (G) of this section for a group of processes determines that 1 percent or greater of the connectors are leaking, the owner or operator shall increase the monitoring frequency to one time per year. The owner or operator may again elect to use the provisions of paragraph (b)(3)(iii)(D) or (G) of this section after a monitoring period in which less than 0.5 percent of the connectors are determined to be leaking.

(G) Monitoring shall be required once every 8 years, if the percent leaking connectors in the group of process units was less than 0.25 percent during the last required monitoring period. An owner or operator shall monitor at least 50 percent of the connectors in the first 4 years and the remainder of the connectors within the next 4 years. If the percent leaking connectors in the first 4 years is equal to or greater than 0.35 percent, the monitoring program shall revert at that time to the appropriate monitoring frequency specified in paragraph (b)(3)(iii)(D), (E), or (F) of this section.

(iv) Section 63.178, shall apply, except as specified in paragraphs (b)(3)(iv)(A) and (B) of this section.

(A) Section 63.178(b), requirements for pressure testing, shall apply to all processes, not just batch processes.

(B) For pumps, the phrase "at the frequencies specified in Table 1 of this

subpart" in § 63.178(c)(3)(iii) shall mean "quarterly" for the purposes of this subpart.

* * * * *

(c) * * *

(2) * * *

(i) *Monitoring.* Each pump and agitator subject to this section shall be monitored quarterly to detect leaks by the method specified in § 63.180(b), except as provided in §§ 63.177, 63.178, paragraph (f) of this section, and paragraphs (c)(5) through (9) of this section.

* * * * *

(iii) *Visual inspections.* Each pump and agitator shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump or agitator seal. If there are indications of liquids dripping from the seal at the time of the weekly inspection, the owner or operator shall follow the procedure specified in either paragraph (c)(2)(iii)(A) or (B) of this section prior to the next weekly inspection.

(A) The owner or operator shall monitor the pump or agitator by the method specified in § 63.180(b). If the instrument reading indicates a leak as specified in paragraph (c)(2)(ii) of this section, a leak is detected.

(B) The owner or operator shall eliminate the visual indications of liquids dripping.

(3) * * *

(i) When a leak is detected pursuant to paragraph (c)(2)(i), (c)(2)(iii)(A), (c)(5)(iv)(A), or (c)(5)(vi)(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 paragraph (b)(3)(i) of this section.

* * * * *

(4) * * *

(ii) If, calculated on a 1-year rolling average, 10 percent or more of the pumps in a group of processes (or 3 pumps in a group of processes with fewer than 30 pumps) leak, the owner or operator shall monitor each pump once per month, until the calculated 1-year rolling average value drops below 10 percent (or three pumps in a group of processes with fewer than 30 pumps).

* * * * *

(5) *Exemptions.* Each pump or agitator equipped with a dual mechanical seal system that includes a barrier fluid system and meets the requirements specified in paragraphs (c)(5)(i) through (vii) is exempt from the requirements of paragraphs (c)(1) through (c)(4)(iii) of this section, except as specified in paragraphs (c)(5)(iv)(A) and (vii) of this section.

* * * * *

(iv) Each pump/agitator is checked by visual inspection each calendar week for indications of liquids dripping from the pump/agitator seal. If there are indications of liquids dripping from the pump or agitator seal at the time of the weekly inspection, the owner or operator shall follow the procedures specified in either paragraph (c)(5)(iv)(A) or (B) of this section prior to the next required inspection.

(A) The owner or operator shall monitor the pump or agitator using the method specified in § 63.180(b) to determine if there is a leak of organic HAP in the barrier fluid. If the instrument reading indicates a leak, as specified in paragraph (c)(2)(ii) of this section, a leak is detected.

(B) The owner or operator shall eliminate the visual indications of liquids dripping.

(vii) When a leak is detected pursuant to paragraph (c)(5)(iv)(A) or (vi)(B) of this section, the leak must be repaired as specified in paragraph (c)(3) of this section.

(6) Any pump/agitator that is designed with no externally actuated shaft penetrating the pump/agitator housing is exempt from the requirements of paragraphs (c)(1) through (3) of this section.

* * * * *

(9) If more than 90 percent of the pumps in a group of processes meet the criteria in either paragraph (c)(5) or (6) of this section, the group of processes is exempt from the requirements of paragraph (c)(4) of this section.

* * * * *

(e) * * *

(7) * * *

(iii) When a leak is repaired, the valve shall be monitored at least once within the first 3 months after its repair. Days that the valve is not in organic HAP service shall not be considered part of this 3-month period. The monitoring required by this paragraph is in addition to the monitoring required to satisfy the definitions of "repaired" and "first attempt at repair."

(A) The monitoring shall be conducted as specified in § 63.180(b) and (c) as appropriate, to determine whether the valve has resumed leaking.

(B) Periodic monitoring required by paragraphs (e)(2) through (4) of this section may be used to satisfy the requirements of paragraph (e)(7)(iii) of this section, if the timing of the monitoring period coincides with the time specified in paragraph (e)(7)(iii) of this section. Alternatively, other monitoring may be performed to satisfy the requirements of paragraph (e)(7)(iii) of this section, regardless of whether the timing of the monitoring period for periodic monitoring coincides with the time specified in paragraph (e)(7)(iii) of this section.

(C) If a leak is detected by monitoring that is conducted pursuant to paragraph (e)(7)(iii) of this section, the owner or operator shall follow the provisions of paragraphs (e)(7)(iii)(C)(*1*) and (*2*) of this section to determine whether that valve must be counted as a leaking valve for purposes of paragraph (e)(6) of this section.

(*1*) If the owner or operator elects to use periodic monitoring required by paragraphs (e)(2) through (4) of this section to satisfy the requirements of paragraph (e)(7)(iii) of this section, then the valve shall be counted as a leaking valve.

(*2*) If the owner or operator elects to use other monitoring prior to the periodic monitoring required by paragraphs (e)(2) through (4) of this section to satisfy the requirements of paragraph (e)(7)(iii) of this section, then the valve shall be counted as a leaking valve unless it is repaired and shown by periodic monitoring not to be leaking.

* * * * *

(9) Any equipment located at a plant site with fewer than 250 valves in organic HAP service in the affected source is exempt from the requirements for monthly monitoring specified in paragraph (e)(4)(i) of this section. Instead, the owner or operator shall monitor each valve in organic HAP service for leaks once each quarter, or comply with paragraph (e)(4)(iii), (iv), or (v) of this section, except as provided in paragraph (f) of this section.

(f) *Unsafe to monitor, difficult-to-monitor, and inaccessible equipment.*

(1) Equipment that is designated as unsafe-to-monitor, difficult-to-monitor, or inaccessible is exempt from the requirements as specified in paragraphs (f)(1)(i) through (iv) of this section provided the owner or operator meets the requirements specified in paragraph (f)(2), (3), or (4) of this section, as applicable. All equipment, except connectors that meet the requirements in paragraph (f)(4) of this section, must be assigned to a group of processes. Ceramic or ceramic-lined connectors are subject to the same requirements as inaccessible connectors.

(i) For pumps and agitators, paragraphs (c)(2), (3), and (4) of this section do not apply.

(ii) For valves, paragraphs (e)(2) through (7) of this section do not apply.

(iii) For connectors, § 63.174(b) through (e) and paragraphs (b)(3)(iii)(C) through (G) of this section do not apply.

(iv) For closed-vent systems, § 63.172(f)(1), (f)(2), and (g) do not apply.

(2) *Equipment that is unsafe-to-monitor.*

(i) Valves, connectors, agitators, and any part of closed-vent systems may be designated as unsafe-to-monitor if the owner or operator determines that monitoring personnel would be exposed to an immediate danger as a consequence of complying with the monitoring requirements identified in paragraphs (f)(1)(i) through (iii) of this section, or the inspection requirements identified in paragraph (f)(1)(iv) of this section.

(ii) The owner or operator of equipment that is designated as unsafe-to-monitor must have a written plan that requires monitoring of the equipment as frequently as practicable during safe-to-monitor times. For valves, connectors, and agitators, monitoring shall not be more frequent than the periodic monitoring schedule otherwise applicable to the group of processes in which the equipment is located. For closed-vent systems, inspections shall not be more frequent than annually.

(3) *Equipment that is difficult-to-monitor.*

(i) A valve, agitator, pump, or any part of a closed-vent system may be designated as difficult-to-monitor if the owner or operator determines that the equipment cannot be monitored or inspected without elevating the monitoring personnel more than 2 meters above a support surface or the equipment is not accessible in a safe manner when it is in organic HAP service;

(ii) At a new affected source, an owner or operator may designate no more than 3 percent of valves as difficult-to-monitor.

(iii) The owner or operator of valves, agitators, or pumps designated as difficult-to-monitor must have a written plan that requires monitoring of the equipment at least once per calendar year or on the periodic monitoring schedule otherwise applicable to the group of processes in which the equipment is located, whichever is less frequent. For any part of a closed-vent system designated as difficult-to-monitor, the owner or operator must have a written plan that requires inspection of the closed-vent system at least once every 5 years.

(4) *Inaccessible, ceramic, or ceramic-lined connectors.*

(i) A connector may be designated as inaccessible if it is:

(A) Buried;

(B) Insulated in a manner that prevents access to the equipment by a monitor probe;

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

(D) Unable to be reached from a wheeled scissor-lift or hydraulic-type scaffold which would allow access to equipment up to 7.6 meters above the ground; or

(E) 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.

(F) Would require elevating the monitoring personnel more than 2 meters above a permanent support surface or would require the erection of scaffold.

(ii) At a new affected source, an owner or operator may designate no more than 3 percent of connectors as inaccessible.

(iii) If any inaccessible, ceramic, or ceramic-lined connector is observed by visual, audible, olfactory, or other means to be leaking, the leak shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as provided in paragraph (b)(3)(i) of this section.

(iv) Any connector that is inaccessible or that is ceramic or ceramic-lined is exempt from the recordkeeping and reporting requirements of paragraphs (g) and (h) of this section.

(g) * * *

(2) * * *

(vi) A list of equipment designated as unsafe-to-monitor or difficult-to-monitor under paragraph (f) of this section and a copy of the plan for monitoring this equipment.

* * * * *

6. Section 63.1365 is amended by:

a. Revising paragraph (a)(1)(iii);

b. Revising paragraph (a)(2);

c. Revising paragraph (a)(5);

d. Revising paragraph (a)(6);

e. Revising paragraph (a)(7)(i) introductory text;

f. Revising paragraphs (a)(7)(i)(A) and (C);

g. Revising paragraph (a)(7)(ii);

h. Revising paragraph (b) introductory text;

i. Revising paragraph (b)(8);

j. Revising paragraph (b)(11) introductory text;

k. Revising paragraph (b)(11)(iii) introductory text;

l. Revising "paragraph (b)(1)(i)(B) of this section" to read "paragraph (b)(11)(i)(B) of this section" in the last sentence of paragraph (b)(11)(iii)(A);

m. Adding paragraph (b)(11)(iii)(D);

n. Revising paragraph (b)(11)(iv);

o. Removing paragraph (b)(12);

p. Revising paragraph (c)(1)(iii) and (v);

q. Revising paragraph (c)(2)(i)(C);

r. Revising paragraphs (c)(2)(i)(D)(*4*)(*i*) and (*iii*);

s. Revising paragraphs (c)(2)(i)(E)(3) and (4);

t. Revising paragraph (c)(2)(i)(F);

u. Revising paragraph (c)(2)(ii) introductory text and paragraph (c)(2)(ii)(A);

v. Revising paragraph (c)(3)(ii)(A);

w. Revising paragraph (c)(3)(iii) introductory text;

x. Revising paragraphs (d)(1)(i)(A) and (B);

y. Revising paragraph (d)(3)(ii);

z. Revising paragraph (e);

aa. Revising "§ 63.1362(h)(2)" to read "§ 63.1362(g)(2)" and revising "§ 63.1362(h)(3)" to read "§ 63.1362(g)(3)" in paragraph (g) introductory text;

bb. Revising "§ 63.1362(h)(2)" to read "§ 63.1362(g)(2)" in paragraph (g)(3)(i);

cc. Revising "§ 63.1362(h)(3)(i)" to read "§ 63.1362(g)(3)(i)" in paragraph (g)(3)(ii);

dd. Revising "§ 63.1362(h)(3)(ii)" to read "§ 63.1362(g)(3)(ii)" in paragraph (g)(4) introductory text;

ee. Revising "§ 63.1362(h)(3)(ii)(A)" to read "§ 63.1362(g)(3)(ii)(A)" in paragraph (g)(4)(i); and

ff. Revising "§ 63.1362(i)(3)(ii)(A)" to read "§ 63.1362(g)(3)(iii)(A)" in paragraph (g)(4)(ii).

The revisions and additions read as follows:

§ 63.1365 Test methods and initial compliance procedures.

(a) * * *

(1) * * *

(iii) For a condenser, the design evaluation must consider the vent stream flow rate, relative humidity, and temperature, and must establish the maximum temperature of the condenser exhaust vent stream and the corresponding outlet organic HAP compound concentration level or emission rate for which the required reduction is achieved.

* * * * *

(2) *Calculation of TOC or total organic HAP concentration.* The TOC concentration or total organic HAP concentration is the sum of the concentrations of the individual components. If compliance is being determined based on TOC, the owner or

operator shall compute TOC for each run using Equation 6 of this subpart. If compliance is being determined based on total organic HAP, the owner or operator shall compute total organic HAP using Equation 6 of this subpart, except that only organic HAP compounds shall be summed; when determining compliance with the wastewater provisions of § 63.1362(d), the organic HAP compounds shall consist of the organic HAP compounds in Table 9 of subpart G of this part.

$$CG_T = \frac{1}{m}\sum_{j=1}^{m}\left(\sum_{i=1}^{n} CGS_{i,j}\right) \qquad \text{(Eq. 6)}$$

Where:

CG_T = total concentration of TOC or organic HAP in vented gas stream, average of samples, dry basis, ppmv

$CGS_{i,j}$ = concentration of sample components in vented gas stream for sample j, dry basis, ppmv

n = number of compounds in the sample

m = number of samples in the sample run.

* * * * *

(5) *Initial compliance with alternative standard.* Initial compliance with the alternative standards in § 63.1362(b)(6) and (c)(4) for combustion devices is demonstrated when the outlet TOC concentration is 20 ppmv or less, and the outlet HCl and chlorine concentration is 20 ppmv or less. Initial compliance with the alternative standards in § 63.1362(b)(6) and (c)(4) for noncombustion devices is demonstrated when the outlet TOC concentration is 50 ppmv or less, and the outlet HCl and chlorine concentration is 50 ppmv or less. To demonstrate initial compliance, the owner or operator shall be in compliance with the monitoring provisions in § 63.1366(b)(5) on the initial compliance date. The owner or operator shall use Method 18 to determine the predominant organic HAP in the emission stream if the TOC monitor is calibrated on the predominant HAP.

(6) *Initial compliance with the 20 ppmv outlet limit.* Initial compliance with the 20 ppmv TOC or total organic HAP concentration is demonstrated when the outlet TOC or total organic HAP concentration is 20 ppmv or less. Initial compliance with the 20 ppmv HCl and chlorine concentration is demonstrated when the outlet HCl and chlorine concentration is 20 ppmv or less. To demonstrate initial compliance, the operator shall use applicable test methods described in paragraphs (b)(1) through (9) of this section, and test under conditions described in paragraph (b)(10) or (11) of this section, as applicable. The owner or operator shall comply with the monitoring provisions in § 63.1366(b)(1) through (5) on the initial compliance date.

(7) * * *

(i) *Combustion device.* Except as specified in § 63.1366(b)(5)(ii)(A), if the vent stream is controlled with a combustion device, the owner or operator must comply with the provisions in paragraphs (a)(7)(i)(A) through (C) of this section.

(A) To comply with a TOC or total organic HAP outlet concentration standard in § 63.1362(b)(2)(iv)(A), (b)(4)(ii)(A), (b)(6), (c)(2)(iv)(B), (c)(4), (d)(13), or § 63.172, the actual TOC outlet concentration must be corrected to 3 percent oxygen.

* * * * *

(C) The integrated sampling and analysis procedures of Method 3B of 40 CFR part 60, appendix A, shall be used to determine the actual oxygen concentration ($\%O_{2d}$). The samples shall be taken during the same time that the TOC, total organic HAP, and total HCl and chlorine samples are taken. The concentration corrected to 3 percent oxygen (C_d) shall be computed using Equation 7 of this subpart:

$$C_c = C_m\left(\frac{17.9}{20.9 - \%O_{2d}}\right) \qquad \text{(Eq. 7)}$$

Where:

C_c = concentration of TOC, total organic HAP, or total HCl and chlorine corrected to 3 percent oxygen, dry basis, ppmv

C_m = total concentration of TOC, total organic HAP, or total HCl and chlorine in the vented gas stream, average of samples, dry basis, ppmv

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

(ii) *Noncombustion devices.* If a control device other than a combustion device, and not in series with a combustion device, is used to comply with a TOC, total organic HAP, or total HCl and chlorine outlet concentration standard, the owner or operator must correct the actual concentration for supplemental gases using Equation 8 of this subpart.

$$C_a = C_m\left(\frac{V_s + V_a}{V_a}\right) \qquad \text{(Eq. 8)}$$

Where:

C_a = corrected outlet TOC, total organic HAP, or total HCl and chlorine concentration, dry basis, ppmv

C_m = actual TOC, total organic HAP, or total HCl and chlorine concentration measured at control device outlet, dry basis, ppmv

V_a = total volumetric flow rate of affected streams vented to the control device

V_s = total volumetric flow rate of supplemental gases.

(b) *Test methods and conditions.* When testing is conducted to measure emissions from an affected source, the test methods specified in paragraphs (b)(1) through (9) of this section shall be used. Compliance tests shall be performed under conditions specified in paragraphs (b)(10) and (11) of this section.

* * * * *

(8) Wastewater analysis shall be conducted in accordance with § 63.144(b)(5)(i) through (iii) or as specified in paragraph (b)(8)(i) or (ii) of this section.

(i) As an alternative to the methods specified in § 63.144(b)(5)(i), an owner or operator may conduct wastewater analyses using Method 1666 or 1671 of 40 CFR part 136, appendix A, and comply with the sampling protocol requirements specified in § 63.144(b)(5)(ii). The validation requirements specified in § 63.144(b)(5)(iii) do not apply if an owner or operator uses Method 1666 or 1671 of 40 CFR part 136, appendix A.

(ii) As an alternative to the methods specified in § 63.144(b)(5)(i), an owner or operator may use procedures specified in Method 8260 or 8270 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication No. SW–846, Third Edition, September 1986, as amended by Update I, November 15, 1992. An owner or operator also may use any more recent, updated version of Method 8260 or 8270 approved by EPA. For the purpose of using Method 8260 or 8270 to comply with this subpart, the owner or operator must maintain a formal quality assurance program consistent with either Section 8 of Method 8260 or Method 8270. This program must include the elements related to measuring the concentrations of volatile compounds that are specified in paragraphs (b)(8)(ii)(A) through (C) of this section.

(A) Documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, and preparation steps.

(B) Documentation of specific quality assurance procedures followed during sampling, sample preparation, sample introduction, and analysis.

(C) Measurement of the average accuracy and precision of the specific

procedures, including field duplicates and field spiking of the material source before or during sampling with compounds having similar chemical characteristics to the target analytes.

* * * * *

(11) *Testing conditions for batch processes.* Testing of emissions on equipment where the flow of gaseous emissions is intermittent (batch operations) shall be conducted at absolute peak-case conditions or hypothetical peak-case conditions, as specified in paragraphs (b)(11)(i) and (ii) of this section, respectively. Gas stream volumetric flow rates shall be measured at 15-minute intervals. Organic HAP, TOC, or HCl and chlorine concentration shall be determined from samples collected in an integrated sample over the duration of the test, or from grab samples collected simultaneously with the flow rate measurements (every 15 minutes). If an integrated sample is collected for laboratory analysis, the sampling rate shall be adjusted proportionally to reflect variations in flow rate. In all cases, a site-specific test plan shall be submitted to the Administrator for approval prior to testing in accordance with § 63.7(c). The test plan shall include the emissions profile described in paragraph (b)(11)(iii) of this section. The term "HAP mass loading" as used in paragraphs (b)(11)(i) through (iii) of this section refers to the class of HAP, either organic or HCl and chlorine, that the control device is intended to control.

* * * * *

(iii) *Emissions profile.* The owner or operator may choose to perform tests only during those periods of the peak-case episode(s) that the owner or operator selects to control as part of achieving the required emission reduction. Except as specified in paragraph (b)(11)(iii)(D) of this section, the owner or operator shall develop an emission profile for the vent to the control device that describes the characteristics of the vent stream at the inlet to the control device under either absolute or hypothetical peak-case conditions. The emissions profile shall be developed based on the applicable procedures described in paragraphs (b)(11)(iii)(A) through (C) of this section, as required by paragraphs (b)(11)(i) and (ii) of this section.

* * * * *

(D) *Exemptions.* The owner or operator is not required to develop an emission profile under the circumstances described in paragraph (b)(11)(iii)(D)(*1*) or (*2*) of this section.

(*1*) If all process vents for a process are controlled using a control device or series of control devices that reduce HAP emissions by 98 percent or more, no other emission streams are vented to the control device when it is used to control emissions from the subject process, and the performance test is conducted over the entire batch cycle.

(*2*) If a control device is used to comply with the outlet concentration limit for process vent emission streams from a single process (but not necessarily all of the process vents from that process), no other emission streams are vented to the control device while it is used to control emissions from the subject process, and the performance test is conducted over the entire batch cycle.

(iv) *Test duration.* Three runs, at a minimum of 1 hour each, are required for performance testing. When complying with a percent reduction standard, each test run may be a maximum of either 24 hours or the duration of the longest batch controlled by the control device, whichever is shorter, and each run must include the same absolute or hypothetical peak-case conditions, as defined in paragraph (b)(11)(i) or (ii) of this section. When complying with an outlet concentration limit, each run must include the same absolute or hypothetical peak-case conditions, as defined in paragraph (b)(11)(i) or (ii) of this section, and the duration of each run may not exceed the duration of the applicable peak-case condition.

(c) * * *

(1) * * *

(iii) Initial compliance with the organic HAP percent reduction requirements specified in § 63.1362(b)(2)(ii), (iii), and (b)(4)(ii) is demonstrated by determining controlled HAP emissions using the procedures described in paragraph (c)(3) of this section, determining uncontrolled HAP emissions using the procedures described in paragraph (c)(2) of this section, and calculating the applicable percent reduction. As an alternative, if the conditions specified in paragraph (b)(11)(iii)(D)(*1*) of this section are met, initial compliance may be demonstrated by showing the control device reduces emissions by 98 percent by weight or greater using the procedures specified in paragraph (c)(3) of this section.

* * * * *

(v) Initial compliance with the outlet concentration limits in § 63.1362(b)(2)(iv)(A), (b)(3)(ii), (b)(4)(ii)(A), (b)(5)(ii) and (iii) is demonstrated when the outlet TOC or total organic HAP concentration is 20 ppmv or less and the outlet HCl and chlorine concentration is 20 ppmv or less. The owner or operator shall demonstrate compliance by fulfilling the requirements in paragraph (a)(6) of this section. If an owner or operator elects to develop an emissions profile by process as described in paragraph (b)(11)(iii)(A) of this section, uncontrolled emissions shall be determined using the procedures in paragraph (c)(2) of this section.

* * * * *

(2) * * *

(i) * * *

(C) *Purging.* Emissions from purging shall be calculated using Equation 10 of this subpart, except that for purge flow rates greater than 100 scfm, the mole fraction of HAP will be assumed to be 25 percent of the saturated value.

$$E = \sum_{i=1}^{n} P_i MW_i \times \left(\frac{(V)(t)}{(R)(T)} \right) \times \frac{P_T}{P_T - \sum_{j=1}^{m} (P_j)} \qquad \text{(Eq. 10)}$$

Where:

E = mass of HAP emitted

V = purge flow rate at the temperature and pressure of the vessel vapor space

R = ideal gas law constant

T = temperature of the vessel vapor space; absolute

P_i = partial pressure of the individual HAP

P_j = partial pressure of individual condensable compounds (including HAP)

P_T = pressure of the vessel vapor space

MW_i = molecular weight of the individual HAP

t = time of purge

n = number of HAP compounds in the emission stream

m = number of condensable compounds (including HAP) in the emission stream.

(D) * * *

(*4*) * * *

(*i*) As an alternative to the procedures described in paragraphs (c)(2)(i)(D)(1) and (*2*) of this section, emissions caused by heating a vessel to any temperature less than the boiling point may be calculated using Equation 15 of this subpart.

$$E = MW_{HAP} \times \left(N_{avg} \times \ln\left(\frac{P_T - \sum_{i=1}^{m}(P_{i,1})}{P_T - \sum_{i=1}^{m}(P_{i,2})} \right) - \left(n_{HAP,2} - n_{HAP,1} \right) \right) \quad \text{(Eq. 15)}$$

Where:

E = mass of HAP vapor displaced from the vessel being heated

N_{avg} = average gas space molar volume during the heating process, as calculated using Equation 16 of this subpart

P_T = total pressure in the vessel

$P_{i,1}$ = partial pressure of the individual HAP compounds at T_1

$P_{i,2}$ = partial pressure of the individual HAP compounds at T_2

MW_{HAP} = average molecular weight of the HAP compounds, as calculated using Equation 14 of this subpart

$n_{HAP,1}$ = number of moles of total HAP in the vessel headspace at T_1

$n_{HAP,2}$ = number of moles of total HAP in the vessel headspace at T_2

m = number of HAP compounds in the emission stream.

* * * * *

(*iii*) The difference in the number of moles of total HAP in the vessel headspace between the initial and final temperatures is calculated using Equation 17 of this subpart.

$$\left(n_{HAP,2} - n_{HAP,1} \right) = \frac{V}{(R)(T_2)} \sum_{i=1}^{n} P_{i,2} - \frac{V}{(R)(T_1)} \sum_{i=1}^{n} P_{i,1} \quad \text{(Eq. 17)}$$

Where:

$n_{HAP,2}$ = number of moles of total HAP in the vessel headspace at T_2

$n_{HAP,1}$ = number of moles of total HAP in the vessel headspace at T_1

V = volume of free space in vessel

R = ideal gas law constant

T_1 = initial temperature of the vessel contents, absolute

T_2 = final temperature of the vessel contents, absolute

$P_{i,1}$ = partial pressure of the individual HAP compounds at T_1

$P_{i,2}$ = partial pressure of the individual HAP compounds at T_2

n = number of HAP compounds in the emission stream.

(E) * * *

(*3*) The initial and final partial pressures of the noncondensable gas in the vessel are determined using Equations 21 and 22 of this subpart.

$$P_{nc1} = P_1 - \sum_{j=1}^{m}(P_j^*)(x_j) \quad \text{(Eq. 21)}$$

$$P_{nc2} = P_2 - \sum_{j=1}^{m}(P_j^*)(x_j) \quad \text{(Eq. 22)}$$

Where:

P_{nc1} = initial partial pressure of the noncondensable gas

P_{nc2} = final partial pressure of the noncondensable gas

P_1 = initial vessel pressure

P_2 = final vessel pressure

P_j^* = vapor pressure of each condensable compound (including HAP) in the emission stream

x_j = mole fraction of each condensable compound (including HAP) in the liquid phase

m = number of condensable compounds (including HAP) in the emission stream.

(*4*) The moles of HAP emitted during the depressurization are calculated by taking an approximation of the average ratio of moles of HAP to moles of noncondensable and multiplying by the total moles of noncondensables released during the depressurization, using Equation 23 of this subpart:

$$n_{HAP,e} = \frac{\left(\frac{n_{HAP,1}}{n_1} + \frac{n_{HAP,2}}{n_2} \right)}{2} \left[n_1 - n_2 \right] \quad \text{(Eq. 23)}$$

Where:

$n_{HAP,e}$ = moles of HAP emitted

$n_{HAP,1}$ = moles of HAP vapor in vessel at the initial pressure, as calculated using Equation 18 of this subpart

$n_{HAP,2}$ = moles of HAP vapor in vessel at the final pressure, as calculated using Equation 18 of this subpart

n_1 = initial number of moles of noncondensable gas in the vessel, as calculated using Equation 19 of this subpart

n_2 = final number of moles of noncondensable gas in the vessel, as calculated using Equation 19 of this subpart.

* * * * *

(F) *Vacuum systems.* Calculate emissions from vacuum systems using Equation 26 of this subpart:

$$E = \frac{(MW_{HAP})(La)(t)}{MW_{nc}}\left(\frac{\sum_{i=1}^{n} P_i}{P_T - \sum_{j=1}^{m} P_j}\right) \quad \text{(Eq. 26)}$$

Where:

E = mass of HAP emitted

P_T = absolute pressure of receiving vessel or ejector outlet conditions, if there is no receiver

P_i = partial pressure of individual HAP at the receiver temperature or the ejector outlet conditions

P_j = partial pressure of individual condensable compounds (including HAP) at the receiver temperature or the ejector outlet conditions

La = total air leak rate in the system, mass/time

MW_{nc} = molecular weight of noncondensable gas

t = time of vacuum operation

MW_{HAP} = average molecular weight of HAP in the emission stream, as calculated using Equation 14 of this subpart, with HAP partial pressures calculated at the temperature of the receiver or ejector outlet, as appropriate

n = number of HAP components in the emission stream

m = number of condensable compounds (including HAP) in the emission stream.

* * * * *

(ii) *Engineering assessments.* The owner or operator shall conduct an engineering assessment to determine uncontrolled HAP emissions for each emission episode that is not due to vapor displacement, purging, heating, depressurization, vacuum systems, gas evolution, or air drying. For a given emission episode caused by any of these seven types of activities, the owner or operator also may request approval to determine uncontrolled HAP emissions based on an engineering assessment. Except as specified in paragraph (c)(2)(ii)(A) of this section, all data, assumptions, and procedures used in the engineering assessment shall be documented in the Precompliance plan in accordance with § 63.1367(b). An engineering assessment includes, but is not limited to, the information and procedures described in paragraphs (c)(2)(ii)(A) through (D) of this section.

(A) Test results, provided the tests are representative of current operating practices at the process unit. For process vents without variable emission stream characteristics, an engineering assessment based on the results of a previous test may be submitted in the Notification of Compliance Status report instead of the Precompliance plan. Results from a previous test of process vents with variable emission stream characteristics will be acceptable in place of values estimated using the procedures specified in paragraph (c)(2)(i) of this section if the test data show a greater than 20 percent discrepancy between the test value and the estimated value, and the results of the engineering assessment shall be included in the Notification of Compliance Status report. For other process vents with variable emission stream characteristics, engineering assessments based on the results of a previous test must be submitted in the Precompliance plan. For engineering assessments based on new tests, the owner or operator must comply with the test notification requirements in § 63.1368(m), and the results of the engineering assessment may be submitted in the Notification of Compliance Status report rather than the Precompliance plan.

(3) * * *

(ii) * * *

(A) Performance test measurements shall be conducted at both the inlet and outlet of the control device for TOC, total organic HAP, and total HCl and chlorine, as applicable, using the test methods and procedures described in paragraph (b) of this section. Concentrations shall be calculated from the data obtained through emission testing according to the procedures in paragraph (a)(2) of this section.

* * * * *

(iii) *Condensers.* The owner or operator using a condenser as a control device shall determine controlled emissions for each batch emission episode according to the engineering methodology in paragraphs (c)(3)(iii)(A) through (G) of this section. The owner or operator must establish the maximum outlet gas temperature and calculate the controlled emissions using this temperature in the applicable equation. Individual HAP partial pressures shall be calculated as specified in paragraph (c)(2)(i) of this section.

* * * * *

(d) * * *

(1) * * *

(i) * * *

(A) At the reasonably expected maximum filling rate, Equations 35 and 36 of this subpart shall be used to calculate the mass rate of total organic HAP or TOC at the inlet and outlet of the control device.

$$E_i = K_2\left(\sum_{j=1}^{n} C_{ij} M_{ij}\right) Q_i \quad \text{(Eq. 35)}$$

$$E_o = K_2\left(\sum_{j=1}^{n} C_{oj} M_{oj}\right) Q_o \quad \text{(Eq. 36)}$$

Where:

C_{ij}, C_{oj} = concentration of sample component j of the gas stream at the inlet and outlet of the control device, respectively, dry basis, ppmv

E_i, E_o = mass rate of total organic HAP or TOC at the inlet and outlet of the control device, respectively, dry basis, kg/hr

M_{ij}, M_{oj} = molecular weight of sample component j of the gas stream at the inlet and outlet of the control device, respectively, g/gmole

Q_i, Q_o = flow rate of gas stream at the inlet and outlet of the control device, respectively, dscmm

K_2 = constant, 2.494×10^{-6} (parts per million)$^{-1}$ (gram-mole per standard cubic meter) (kilogram/gram) (minute/hour), where standard temperature is 20 °C.

(B) The percent reduction in total organic HAP or TOC shall be calculated using Equation 37 of this subpart:

$$R = \frac{E_i - E_o}{E_i}(100) \quad \text{(Eq. 37)}$$

Where:

R = control efficiency of control device, percent

E_i = mass rate of total organic HAP or TOC at the inlet to the control device as calculated under paragraph (d)(l)(i)(A) of this section, kilograms organic HAP per hour

E_o = mass rate of total organic HAP or TOC at the outlet of the control device, as calculated under paragraph (d)(1)(i)(A) of this section, kilograms organic HAP per hour.

* * * * *

(3) * * *

(ii) Comply with the procedures described in § 63.120(a), (b), or (c), as applicable, with the differences specified in paragraphs (d)(3)(ii)(A) through (C) of this section.

(A) When the term "storage vessel" is used in § 63.120, the definition of the term "storage vessel" in § 63.1361 shall apply for the purposes of this subpart.

(B) When the phrase "the compliance date specified in § 63.100 of subpart F of this part" is referred to in § 63.120, the phrase "the compliance date specified in § 63.1364" shall apply for the purposes of this subpart.

(C) When the phrase "the maximum true vapor pressure of the total organic HAP in the stored liquid falls below the values defining Group 1 storage vessels specified in Table 5 or Table 6 of this subpart" is referred to in § 63.120(b)(1)(iv), the phrase "the maximum true vapor pressure of the total organic HAP in the stored liquid falls below the values defining Group 1 storage vessels specified in § 63.1361" shall apply for the purposes of this subpart.

* * * * *

(e) *Initial compliance with wastewater provisions.* The owner or operator shall demonstrate initial compliance with the wastewater requirements by complying with the applicable provisions in § 63.145, except that the owner or operator need not comply with the requirement to determine visible emissions that is specified in § 63.145(j)(1), and references to compounds in Table 8 of subpart G of this part are not applicable for the purposes of this subpart. When § 63.145(i) refers to Method 18 of 40 CFR part 60, appendix A–6, the owner or operator may use any method specified in § 63.1362(d)(12) to demonstrate initial compliance with this subpart.

* * * * *

7. Section 63.1366 is amended by:

a. Revising paragraph (b)(5);

b. Revising the first sentence of paragraph (b)(8) introductory text;

c. Revising paragraph (b)(8)(iii); and

d. Adding paragraph (h).

The revisions and additions read as follows:

§ 63.1366 Monitoring and inspection requirements.

* * * * *

(b) * * *

(5) *Monitoring for the alternative standards.*

(i) For control devices that are used to comply with the provisions of § 63.1362(b)(6) and (c)(4), the owner or operator shall monitor and record the outlet TOC concentration and the outlet total HCl and chlorine concentration at least once every 15 minutes during the period in which the device is controlling HAP from emission streams subject to the standards in § 63.1362. A TOC monitor meeting the requirements of Performance Specification 8 or 9 of appendix B of 40 CFR part 60 shall be installed, calibrated, and maintained, according to § 63.8. The owner or operator need not monitor the total HCl and chlorine concentration if the owner or operator determines that the emission stream does not contain HCl or chlorine. The owner or operator need not monitor for TOC concentration if the owner or operator determines that the emission stream does not contain organic compounds.

(ii) If supplemental gases are introduced before the control device, the owner or operator must either correct for supplemental gases as specified in § 63.1365(a)(7) or, if using a combustion control device, comply with the requirements of paragraph (b)(5)(ii)(A) of this section. If the owner or operator corrects for supplemental gases as specified in § 63.1365(a)(7)(ii) for non-combustion control devices, the flow rates must be evaluated as specified in paragraph (b)(5)(ii)(B) of this section.

(A) *Provisions for combustion devices.* As an alternative to correcting for supplemental gases as specified in § 63.1365(a)(7), the owner or operator may monitor residence time and firebox temperature according to the requirements of paragraphs (b)(5)(ii)(A)(*1*) and (*2*) of this section. Monitoring of residence time may be accomplished by monitoring flow rate into the combustion chamber.

(*1*) If complying with the alternative standard instead of achieving a control efficiency of 95 percent or less, the owner or operator must maintain a minimum residence time of 0.5 seconds and a minimum combustion chamber temperature of 760 °C.

(*2*) If complying with the alternative standard instead of achieving a control efficiency of 98 percent, the owner or operator must maintain a minimum residence time of 0.75 seconds and a minimum combustion chamber temperature of 816 °C.

(B) *Flow rate evaluation for non-combustion devices.* To demonstrate continuous compliance with the requirement to correct for supplemental gases as specified in § 63.1365(a)(7)(ii) for non-combustion devices, the owner or operator must evaluate the volumetric flow rate of supplemental gases, V_s, and the volumetric flow rate of all gases, V_a, each time a new operating scenario is implemented based on process knowledge and representative operating data. The procedures used to evaluate the flow rates, and the resulting correction factor used in Equation 8 of this subpart, must be included in the Notification of Compliance Status report and in the next Periodic report submitted after an operating scenario change.

* * * * *

(8) *Violations.* Exceedances of parameters monitored according to the provisions of paragraphs (b)(1)(ii), (iv) through (ix), and (b)(5)(i)(A) of this section, or excursions as defined by paragraphs (b)(7)(i) and (ii) of this section, constitute violations of the operating limit according to paragraphs (b)(8)(i), (ii), and (iv) of this section.

* * *

* * * * *

(iii) Except as provided in paragraph (b)(8)(iv) of this section, exceedances of the 20 or 50 ppmv TOC outlet emission limit, averaged over the operating day, will result in no more than one violation per day per control device. Except as provided in paragraph (b)(8)(iv) of this section, exceedances of the 20 or 50 ppmv HCl and chlorine outlet emission limit, averaged over the operating day, will result in no more than one violation per day per control device.

* * * * *

(h) *Leak inspection provisions for vapor suppression equipment.*

(1) Except as provided in paragraphs (h)(9) and (10) of this section, for each vapor collection system, closed-vent system, fixed roof, cover, or enclosure required to comply with this section, the owner or operator shall comply with the requirements of paragraphs (h)(2) through (8) of this section.

(2) Except as provided in paragraphs (h)(6) and (7) of this section, each vapor collection system and closed-vent system shall be inspected according to the procedures and schedule specified in paragraphs (h)(2)(i) and (ii) of this section and each fixed roof, cover, and enclosure shall be inspected according to the procedures and schedule specified in paragraph (h)(2)(iii) of this section.

(i) If the vapor collection system or closed-vent system is constructed of hard-piping, the owner or operator shall:

(A) Conduct an initial inspection according to the procedures in paragraph (h)(3) of this section, and

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

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

(A) Conduct an initial inspection according to the procedures in paragraph (h)(3) of this section,

(B) Conduct annual inspections according to the procedures in paragraph (h)(3) of this section, and

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

(iii) For each fixed roof, cover, and enclosure, the owner or operator shall:

(A) Conduct an initial inspection according to the procedures in paragraph (h)(3) of this section, and

(B) Conduct semiannual visual inspections for visible, audible, or olfactory indications of leaks.

(3) Each vapor collection system, closed-vent system, fixed roof, cover, and enclosure shall be inspected according to the procedures specified in paragraphs (h)(3)(i) through (vi) of this section.

(i) Inspections shall be conducted in accordance with Method 21 of 40 CFR part 60, appendix A.

(ii) *Detection instrument performance criteria.*

(A) Except as provided in paragraph (h)(3)(ii)(B) of this section, the detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except the instrument response factor criteria in section 3.1.2(a) of Method 21 shall be for the average composition of the process fluid not each individual VOC in the stream. For process streams that contain nitrogen, air, or other inerts which are not organic HAP or VOC, the average stream response factor shall be calculated on an inert-free basis.

(B) If no instrument is available at the plant site that will meet the performance criteria specified in paragraph (h)(3)(ii)(A) of this section, the instrument readings may be adjusted by multiplying by the average response factor of the process fluid, calculated on an inert-free basis as described in paragraph (h)(3)(ii)(A) of this section.

(iii) The detection instrument shall be calibrated before use on each day of its use by the procedures specified in Method 21 of 40 CFR part 60, appendix A.

(iv) Calibration gases shall be as follows:

(A) Zero air (less than 10 parts per million hydrocarbon in air); and

(B) Mixtures of methane in air at a concentration less than 10,000 parts per million. A calibration gas other than methane in air may be used if the instrument does not respond to methane or if the instrument does not meet the performance criteria specified in paragraph (h)(2)(ii)(A) of this section. In such cases, the calibration gas may be a mixture of one or more of the compounds to be measured in air.

(v) An owner or operator may elect to adjust or not adjust instrument readings for background. If an owner or operator elects to not adjust readings for background, all such instrument readings shall be compared directly to the applicable leak definition to determine whether there is a leak. If an owner or operator elects to adjust instrument readings for background, the owner or operator shall measure background concentration using the procedures in § 63.180(b) and (c). The owner or operator shall subtract background reading from the maximum concentration indicated by the instrument.

(vi) The arithmetic difference between the maximum concentration indicated by the instrument and the background level shall be compared with 500 parts per million for determining compliance.

(4) Leaks, as indicated by an instrument reading greater than 500 parts per million above background or by visual inspections, shall be repaired as soon as practicable, except as provided in paragraph (h)(5) of this section.

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

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

(5) Delay of repair of a vapor collection system, closed-vent system, fixed roof, cover, or enclosure for which leaks have been detected is allowed if the repair is technically infeasible without a shutdown, as defined in § 63.1361, 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 shutdown.

(6) Any parts of the vapor collection system, closed-vent system, fixed roof, cover, or enclosure that are designated, as described in § 63.1367(f)(1), as unsafe-to-inspect are exempt from the inspection requirements of paragraphs (h)(2)(i), (ii), and (iii) of this section if:

(i) 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 paragraph (h)(2)(i), (ii), or (iii) of this section; and

(ii) The owner or operator has a written plan that requires inspection of the equipment as frequently as practicable during safe-to-inspect times. Inspection is not required more than once annually.

(7) Any parts of the vapor collection system, closed-vent system, fixed roof, cover, or enclosure that are designated, as described in § 63.1367(f)(2), as difficult-to-inspect are exempt from the inspection requirements of paragraphs (h)(2)(i), (ii), and (iii)(A) of this section if:

(i) 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

(ii) The owner or operator has a written plan that requires inspection of the equipment at least once every 5 years.

(8) Records shall be maintained as specified in § 63.1367(f).

(9) If a closed-vent system subject to this section is also subject to the equipment leak provisions of § 63.1363, the owner or operator shall comply with the provisions of § 63.1363 and is exempt from the requirements of this section.

(10) For any closed-vent system that is operated and maintained under negative pressure, the owner or operator is not required to comply with the requirements specified in paragraphs (h)(2) through (8) of this section.

8. Section 63.1367 is amended by:

a. Revising "paragraphs (b)(3)(i) through (iii) of this section" to read "paragraphs (a)(3)(i) through (iii) of this section" in paragraph (a)(3) introductory text;

b. Revising paragraph (a)(3)(i);

c. Revising paragraph (b) introductory text;

d. Revising paragraph (b)(4);

e. Revising paragraph (b)(6)(i);

f. Adding paragraph (b)(6)(ix) and revising paragraph (b)(7);

g. Adding paragraphs (b)(8) through (11); and

h. Revising paragraph (f).

The revisions and additions read as follows:

§ 63.1367 Recordkeeping requirements.

(a) * * *

(3) * * *

(i) The owner or operator shall record the occurrence and duration of each malfunction of the process operations or of air pollution control equipment used to comply with this subpart, as specified in § 63.6(e)(3)(iii).

* * * * *

(b) *Records of equipment operation.* The owner or operator must keep the records specified in paragraphs (b)(1)

through (11) of this section up-to-date and readily accessible.

* * * * *

(4) For processes in compliance with the 0.15 Mg/yr emission limit of § 63.1362(b)(2)(i) or (b)(4)(i), daily records of the rolling annual calculations of uncontrolled emissions.

* * * * *

(6) * * *

(i) Except as specified in paragraph (b)(6)(ix) of this section, the initial calculations of uncontrolled and controlled emissions of gaseous organic HAP and HCl per batch for each process.

* * * * *

(ix) As an alternative to the records in paragraph (b)(6)(i) of this section, a record of the determination that the conditions in § 63.1365(b)(11)(iii)(D)(*1*) or (*2*) are met.

(7) Daily schedule or log of each operating scenario updated daily or, at a minimum, each time a different operating scenario is put into operation.

(8) If the owner or operator elects to comply with the vapor balancing alternative in § 63.1362(c)(6), the owner or operator must keep records of the DOT certification required by § 63.1362(c)(6)(ii) and the pressure relief vent setting and leak detection records specified in § 63.1362(c)(6)(v).

(9) If the owner or operator elects to develop process unit groups, the owner or operator must keep records of the PAI and non-PAI process units in the process unit group, including records of the operating time for process units used to establish the process unit group. The owner or operator must also keep records of any redetermination of the primary product for the process unit group.

(10) All maintenance performed on the air pollution control equipment.

(11) If the owner or operator elects to comply with § 63.1362(c) by installing a floating roof, the owner or operator must keep records of each inspection and seal gap measurement in accordance with § 63.123(c) through (e) as applicable.

* * * * *

(f) *Records of inspections.* The owner or operator shall keep records specified in paragraphs (f)(1) through (6) of this section.

(1) Records identifying all parts of the vapor collection system, closed-vent system, fixed roof, cover, or enclosure that are designated as unsafe to inspect in accordance with § 63.1366(h)(6), an explanation of why the equipment is unsafe-to-inspect, and the plan for inspecting the equipment.

(2) Records identifying all parts of the vapor collection system, closed-vent system, fixed roof, cover, or enclosure that are designated as difficult-to-inspect in accordance with § 63.1366(h)(7), an explanation of why the equipment is difficult-to-inspect, and the plan for inspecting the equipment.

(3) For each vapor collection system or closed-vent system that contains bypass lines that could divert a vent stream away from the control device and to the atmosphere, the owner or operator shall keep a record of the information specified in either paragraph (f)(3)(i) or (ii) of this section.

(i) Hourly records of whether the flow indicator specified under § 63.1362(j)(1) was operating and whether a diversion was detected at any time during the hour, as well as records of the times and durations of all periods when the vent stream is diverted from the control device or the flow indicator is not operating.

(ii) Where a seal mechanism is used to comply with § 63.1362(j)(2), hourly records of flow are not required. In such cases, the owner or operator shall record that the monthly visual inspection of the seals or closure mechanisms has been done and shall record the occurrence of all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type lock has been checked out, and records of any car-seal that has broken.

(4) For each inspection conducted in accordance with § 63.1366(h)(2) and (3) during which a leak is detected, a record of the information specified in paragraphs (f)(4)(i) through (ix) of this section.

(i) Identification of the leaking equipment.

(ii) The instrument identification numbers and operator name or initials, if the leak was detected using the procedures described in § 63.1366(h)(3); or a record of that the leak was detected by sensory observations.

(iii) The date the leak was detected and the date of the first attempt to repair the leak.

(iv) Maximum instrument reading measured by the method specified in § 63.1366(h)(4) after the leak is successfully repaired or determined to be nonrepairable.

(v) "Repair delayed" and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak.

(vi) The name, initials, or other form of identification of the owner or operator (or designee) whose decision it was that repair could not be effected without a shutdown.

(vii) The expected date of successful repair of the leak if a leak is not repaired within 15 calendar days.

(viii) Dates of shutdowns that occur while the equipment is unrepaired.

(ix) The date of successful repair of the leak.

(5) For each inspection conducted in accordance with § 63.1366(h)(3) 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.

(6) For each visual inspection conducted in accordance with § 63.1366(h)(2)(i)(B) or (iii)(B) 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.

* * * * *

9. Section 63.1368 is amended by:

a. Revising paragraph (e)(4);

b. Revising paragraph (f)(6);

c. Adding paragraph (f)(9);

d. Revising paragraph (g)(1) introductory text;

e. Revising paragraph (g)(2) introductory text;

f. Adding paragraphs (g)(2)(ix) through (xii);

g. Revising paragraph (h)(1) introductory text;

h. Revising "§ 63.1365(b)(10)(ii)" to read "§ 63.1365(b)(11)(iii)" in paragraph (m).

The revisions and additions read as follows:

§ 63.1368 Reporting requirements.

* * * * *

(e) * * *

(4) For owners and operators complying with the requirements of § 63.1362(g), the pollution prevention demonstration summary required in § 63.1365(g)(1).

* * * * *

(f) * * *

(6) Identification of emission points subject to overlapping requirements described in § 63.1360(i) and the authority under which the owner or operator will comply, and identification of emission sources discharging to devices described by § 63.1362(l).

* * * * *

(9) Records of the initial process units used to create each process unit group, if applicable.

(g) * * *

(1) *Submittal schedule.* Except as provided in paragraphs (g)(1)(i) and (ii) of this section, the owner or operator shall submit Periodic reports semiannually. The first report shall be submitted no later than 240 days after

the date the Notification of Compliance Status report is due and shall cover the 6-month period beginning on the date the Notification of Compliance Status report is due. Each subsequent Periodic report shall cover the 6-month period following the preceding period and shall be submitted no later than 60 days after the end of the applicable period.

* * * * *

(2) *Content of periodic report.* The owner or operator shall include the information in paragraphs (g)(2)(i) through (xii) of this section, as applicable.

* * * * *

(ix) Records of process units added to each process unit group, if applicable.

(x) Records of redetermination of the primary product for a process unit group.

(xi) For each inspection conducted in accordance with § 63.1366(h)(2) or (3) during which a leak is detected, the records specify in § 63.1367(h)(4) must be included in the next Periodic report.

(xii) If the owner or operator elects to comply with the provisions of § 63.1362(c) by installing a floating roof, the owner or operator shall submit the information specified in § 63.122(d) through (f) as applicable. References to § 63.152 in § 63.122 shall not apply for the purposes of this subpart.

(h) * * *

(1) Except as specified in paragraph (h)(2) of this section, whenever a process change is made, or any of the information submitted in the Notification of Compliance Status report changes, the owner or operator shall submit the information specified in paragraphs (h)(1)(i) through (iv) of this section with the next Periodic report required under paragraph (g) of this section. For the purposes of this section, a process change means the startup of a new process, as defined in § 63.1361.

* * * * *

10. Table 1 to subpart MMM is amended by:

a. Removing entry "63.9(i)–(j);" and

b. Adding the entries "63.9(i)" and "63.9(j)" in it's place.

The additions read as follows:

TABLE 1 TO SUBPART MMM OF PART 63.—GENERAL PROVISIONS APPLICABILITY TO SUBPART MMM

Reference to subpart A	Applies to subpart MMM	Explanation
* * * * * * *		
63.9(i)	Yes.	
63.9(j)	No	§ 63.1368(h) specifies procedures for notification of changes.
* * * * * * *		

11. Table 4 to subpart MMM is revised to read as follows:

TABLE 4 TO SUBPART MMM.—CONTROL REQUIREMENTS FOR ITEMS OF EQUIPMENT THAT MEET THE CRITERIA OF § 63.1362(K)

Item of equipment	Control requirement [a]
1. Drain or drain hub	(a) Tightly fitting solid cover (TFSC); or (b) TFSC with a vent to either a process, or to a control device meeting the requirements of § 63.139(c); or (c) Water seal with submerged discharge or barrier to protect discharge from wind.
2. Manhole [b]	(a) TFSC; or (b) TFSC with a vent to either a process or to a control device meeting the requirements of § 63.139(c); or (c) If the item is vented to the atmosphere, use a TFSC with a properly operating water seal at the entrance or exit to the item to restrict ventilation in the collection system. The vent pipe shall be at least 90 cm in length and not exceeding 10.2 cm in nominal inside diameter.
3. Lift station	(a) TFSC; or (b) TFSC with a vent to either a process, or to a control device meeting the requirements of § 63.139(c); or (c) If the lift station is vented to the atmosphere, use a TFSC with a properly operating water seal at the entrance or exit to the item to restrict ventilation in the collection system. The vent pipe shall be at least 90 cm in length and not exceeding 10.2 cm in nominal inside diameter. The lift station shall be level controlled to minimize changes in the liquid level.
4. Trench	(a) TFSC; or (b) TFSC with a vent to either a process, or to a control device meeting the requirements of § 63.139(c); or (c) If the item is vented to the atmosphere, use a TFSC with a properly operating water seal at the entrance or exit to the item to restrict ventilation in the collection system. The vent pipe shall be at least 90 cm in length and not exceeding 10.2 cm in nominal inside diameter.
5. Pipe	Each pipe shall have no visible gaps in joints, seals, or other emission interfaces.
6. Oil/water separator	(a) Equip with a fixed roof and route vapors to a process, or equip with a closed-vent system that routes vapors to a control device meeting the requirements of § 63.139(c); or (b) Equip with a floating roof that meets the equipment specifications of § 60.693 (a)(1)(i), (a)(1)(ii), (a)(2), (a)(3), and (a)(4).
7. Tank	Maintain a fixed roof and consider vents as process vents. [c]

[a] Where a tightly fitting solid cover is required, it shall be maintained with no visible gaps or openings, except during periods of sampling, inspection, or maintenance.

[b] Manhole includes sumps and other points of access to a conveyance system.

[c] A fixed roof may have openings necessary for proper venting of the tank, such as pressure/vacuum vent, j-pipe vent.

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BILLING CODE 6560–50–P

EPA—APPROVED KENTUCKY REGULATIONS FOR KENTUCKY—Continued

Regulation	Title/subject	State effective date	EPA approval date	Federal Register notice
*	* * * *	*	*	*
	Chapter 65 Mobile Source Related Emissions			
401 KAR, 65:001	Definitions for 401, KAR Chapter 65	8/15/01	September 24, 2002	[Insert FR page citation]
*	* * * *	*	*	*
401 KAR, 65:010	Vehicle emission control programs	8/15/01	September 24, 2002	[Insert FR page citation]

EPA—APPROVED JEFFERSON COUNTY REGULATIONS FOR KENTUCKY

Regulation	Title/subject	District effective date	EPA approval date	Federal Register notice
*	* * * *	*	*	*
Reg 8	**Mobile Source Emissions Control**			
8.01	Mobile Source Emissions Control Requirements	11/21/01	September 24, 2002	[Insert FR page citation]
8.02	Vehicle Emissions Testing Procedure	11/21/01	September 24, 2002	[Insert FR page citation]
*	* * * *	*	*	*

* * * * *

[FR Doc. 02–24091 Filed 9–23–02; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7382–4]

RIN 2060–AE78

National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: On June 14, 2002, the EPA promulgated amendments to the national emission standards for secondary aluminum production as a direct final rule along with a parallel proposal to be used as a basis for final action in the event we received any adverse comments. On August 13, 2002, we withdrew the direct final rule amendments because one commenter submitted adverse comments on certain amendments. This action promulgates final amendments to the national emission standards for secondary aluminum production based on the June 14, 2002 proposal which accompanied the direct final rule.

EFFECTIVE DATE: November 25, 2002.

ADDRESSES: Docket A–2002–05, containing supporting information used in developing these final rule amendments, is available for public inspection and copying between 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding Federal holidays, at the following address: U.S. EPA, Air and Radiation Docket and Information Center, Room B–108, 1301 Constitution Avenue, NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. John Schaefer, U.S. EPA, Minerals and Inorganic Chemicals Group (C504–05), Emission Standards Division, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541–0296, facsimile number (919) 541–5600, electronic mail address: *schaefer.john@epa.gov.*

SUPPLEMENTARY INFORMATION: *Docket.* The docket is an organized and complete file of the administrative record compiled by EPA in the development of these final rule amendments. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so they can effectively participate in the rulemaking process. Along with the proposed and promulgated rules and their preambles, the contents of the docket will serve as the record in the case of judicial review. Other material related to this rulemaking is available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of this action will also be available through the WWW. Following signature, a copy of this action will be posted on EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules: *http://www.epa.gov/ttn/oarpg.* The TTN at EPA's web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN help line at (919) 541–5384.

Judicial Review. Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of these final rule amendments is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by November 25, 2002. Under section 307(d)(7)(B) of the CAA, only an objection to these final rule 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 rule amendments may not be challenged

separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

Regulated Entities. Entities potentially regulated by this action are secondary aluminum production facilities (including those collocated at primary aluminum production facilities) using clean charge, post-consumer scrap, aluminum scrap, ingots, foundry returns, dross, or molten metal as the raw material, and performing one or more of the following processes: aluminum scrap shredding, scrap drying/delacquering/decoating, thermal chip drying, furnace operations (i.e., melting, holding, refining, fluxing, or alloying), in-line fluxing, or dross cooling. Affected sources at facilities that are major sources of HAP are regulated under the final rule. In addition, emissions of dioxins and furans from affected sources at facilities that are area sources of hazardous air pollutants are also regulated. Regulated categories and entities include:

Category	NAICS code	SIC Code	Examples of regulated entities
Industry	331314	3341	Secondary smelting and alloying of aluminum facilities.
			Secondary aluminum production facility affected sources that are collocated at:
	331312	3334	Primary aluminum production facilities.
	331315	3353	Aluminum sheet, plate, and foil manufacturing facilities.
	331316	3354	Aluminum extruded product manufacturing facilities.
	331319	3355	Other aluminum rolling and drawing facilities.
	331521	3363	Aluminum die casting facilities.
	331524	3365	Aluminum foundry facilities.
State/local/tribal governments			Not affected.
Federal government			Not affected.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the Agency is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 63.1500 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Outline. The following outline is provided to aid in reading this preamble to these final rule amendments.

I. Background
II. Response to Comments on Amendments to the NESHAP for Secondary Aluminum Production
III. Administrative Requirements
A. Executive Order 12866, Regulatory Planning and Review
B. Executive Order 13132, Federalism
C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
E. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
F. Unfunded Mandates Reform Act of 1995
G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
H. Paperwork Reduction Act
I. National Technology Transfer and Advancement Act of 1995
J. Congressional Review Act

I. Background

On March 23, 2000, we promulgated the national emission standards for hazardous air pollutants (NESHAP) for secondary aluminum production (40 CFR 63, subpart RRR) at 63 FR 15710. These standards were established under the authority of section 112(d) of the CAA to reduce emissions of hazardous air pollutants (HAP) from major and area sources.

After promulgation of the NESHAP for secondary aluminum production, two petitions for judicial review of the standard were filed in the D.C. Circuit Court of Appeals. The first of these petitions was filed by the American Foundrymen's Society, the North American Die Casting Association, and the Non-Ferrous Founders' Society. *American Foundrymen's Society* v. *U.S. Environmental Protection Agency,* Civ. No 00–1208 (D.C. Cir.). A second petition for judicial review was filed by the Aluminum Association. *The Aluminum Association* v. *U.S. Environmental Protection Agency,* No. 00–1211 (D.C. Cir.). There was no significant overlap in the issues presented by the two petitions, and the cases have never been consolidated. However, we did enter into separate settlement discussions with the petitioners in each case.

The *Foundrymen's* case presented issues concerning the applicability of subpart RRR to aluminum die casters and aluminum foundries which were first considered during the initial rulemaking. Because aluminum die casters and foundries sometimes conduct the same type of operations as other secondary aluminum producers, we originally intended to apply the standards to these facilities, but only in those instances when they conduct such operations. However, representatives of the affected facilities argued that they should not be considered to be secondary aluminum producers and should be wholly exempt from the rule. During the rulemaking, we decided to permit die casters and foundries to melt contaminated internal scrap without being considered to be secondary aluminum producers, but their representatives insisted that too many facilities would still be subject to the rule. At the time of promulgation of the standards, in response to a request by the die casters and foundries, we announced we would withdraw the standards as applied to die casters and foundries and develop separate maximum achievable control technology (MACT) standards for those facilities.

After the *Foundrymen's* case was filed, we negotiated an initial settlement agreement in that case which established a process to effectuate our commitment to develop new MACT standards. In that first settlement, EPA agreed that it would stay the current standard for those facilities, collect comprehensive data to support alternate standards, and promulgate alternate standards. We then published a proposal to stay the standards and an advance notice of proposed rulemaking (ANPR) concerning new standards. However, during the process of preparing for information collection, the petitioners concluded that the present rule was not as sweeping in applicability as they had feared, and the parties then agreed to explore an alternate approach to settlement based

on clarifications of the current standards.

We subsequently reached agreement with the *Foundrymen's* petitioners on a new settlement. Pursuant to that settlement, we agreed to propose changes in the applicability of the present standards which would permit customer returns without solid paints or coatings to be treated like internal scrap, and would permit facilities operated by the same company at different locations to be aggregated for purposes of determining what is internal scrap. Those revisions were addressed in a separate proposed rule (67 FR 41125, June 14, 2002).

In the *Foundrymen's* settlement, we also agreed to defer the compliance date for new sources constructed or reconstructed at existing aluminum die casters, aluminum foundries, and aluminum extruders until the compliance date for existing sources so that the related rulemaking on general applicability issues could be completed first. This element of that settlement is the only one which is implemented by this final rule.

As required by section 113(g) of the CAA, we provided notice and an opportunity for comment concerning the *Foundrymen's* settlement (67 FR 9972, March 5, 2002). We received three adverse comments on the settlement, although none of the comments addressed the only element in the settlement which is implemented by this final rule. After reviewing the comments, we decided to proceed with settlement. A copy of the comments and our responses to them is available in the docket for this rule.

In separate discussions, we also agreed on a settlement of the *Aluminum Association* case. That settlement required that we propose a number of substantive clarifications and revisions of the standards. The substantive changes have been addressed in the same separate proposed rule as the applicability changes for aluminum die casters and foundries. The *Aluminum Association* settlement also required that we propose to clarify and simplify the compliance dates for the standards and to defer certain early compliance obligations until after the substantive rulemaking can be completed. The compliance issues are addressed by amendments in this final rule.

Pursuant to CAA section 113(g), we also provided notice and an opportunity for public comment concerning the *Aluminum Association* settlement (67 FR 16374, April 5, 2002). We received one adverse comment concerning that settlement. After reviewing that comment, we decided to proceed with settlement. A copy of that comment and our response to it is available in the docket for this rule.

We originally published the amendments adopted by this final rule as a direct final rule (67 FR 41118, June 14, 2002). The intent of these amendments is to eliminate confusion and to clarify various compliance dates in the promulgated standard, to encourage early performance tests, and to permit some basic applicability questions for aluminum die casters, foundries, and extruders to be resolved before the compliance date for new sources constructed or reconstructed at existing facilities. Therefore, we decided to utilize a direct final rule so that these changes could become effective as quickly as possible.

Along with the direct final rule, we published a proposed rule to serve as the basis for final action in the event that we received any adverse comment on the proposed rule. We received a letter from one commenter expressing opposition to six of the amendments in the direct final rule. We also received a letter from another commenter expressing support for all of the amendments in the direct final rule. Because of the receipt of adverse comment, we published a notice withdrawing the direct final rule at 63 FR 52616. In view of the relationship between those amendments concerning which we received adverse comment and some of the remaining amendments, and to avoid the possibility of confusion resulting from partial adoption of the amendments, we decided to withdraw all amendments contained in the direct final rule. Today's final rule amendments serve as our final administrative action concerning all of the amendments set forth in the direct final rule and parallel proposal.

II. Response to Comments on Amendments to the NESHAP for Secondary Aluminum Production

We received one letter in which a commenter expressed opposition to six specific amendments set forth in the direct final rule. Our responses to these adverse comments are set forth below. We also received one other letter expressing support for all of the amendments in the direct final rule. Both letters are available in the docket.

One of the commenters opposed the proposed new 40 CFR 63.1501(c), which would defer the compliance date for affected sources which are constructed or reconstructed at an existing aluminum die casting facility, aluminum foundry, or aluminum extruder, and which meet the current applicability criteria for the secondary aluminum standards, until March 24, 2003 (the compliance date for existing sources) or startup, whichever is later. The commenter stated that these sources are able to achieve compliance with MACT as originally promulgated, that any major sources excluded from the source category will still be required to achieve a MACT level of control, and that, if EPA later promulgates less stringent standards for these sources, they will be permitted to demonstrate compliance with those standards.

We believe that the commenter misconstrued the very narrow purpose of this provision. We proposed in a separate rulemaking at 63 FR 41118 to make some modest adjustments in the applicability criteria for aluminum die casting facilities, aluminum foundries, and aluminum extruders. Those proposed applicability changes would permit customer returns without any solid paints or coatings to be treated like internal scrap and would permit facilities operated by the same company at different locations to be aggregated for purposes of determining what is internal scrap in determining which facilities are subject to the standards. The only purpose of the amendment in 40 CFR 63.1501(c) is to defer the compliance date for affected sources which are constructed or reconstructed at existing facilities until after the scope of the applicability criteria has been clearly resolved. We do not think it is reasonable to require sources which may no longer be covered by the applicability criteria after we complete action on the other rule proposed at 63 FR 41125 to undertake compliance activities during this brief interim period. If the newly constructed or reconstructed sources remain within the applicability criteria after the separate rulemaking has been concluded, such sources will be subject to the same substantive control requirements.

The same commenter also expressed opposition to the proposed amendments to § 63.1505(c), (d), (e), (f), and (k) that would change the compliance date for certain existing sources to a single certain date, rather than requiring compliance to begin immediately after a successful performance test. The commenter opposed the changes because they would permit facilities to shut down control devices even though they have demonstrated the capacity to meet the standards.

While we understand the concern that reductions in HAP emissions may be deferred by affected facilities, the commenter has not addressed the reasons why we decided it is necessary to make these changes. The change to a single definite compliance date for

certain existing sources is an integral part of a larger set of changes which are intended to resolve confusion and facilitate rational planning for compliance at the affected facilities. In particular, the existing rule is confusing because a facility could be unable to finalize its required operation, maintenance, and monitoring (OM&M) plan until after completing, and then evaluating the results, of an initial performance test. The existing rule could also discourage facilities from conducting early performance tests, even though such early tests could facilitate identification and correction of problems before the compliance date.

We did not receive adverse comment on any of the other amendments previously set forth in the direct final rule. However, we decided to withdraw all of the amendments, in view of the relationship between the amendments concerning which we received adverse comment and some of the remaining amendments, and the potential for confusion which would be associated with partial promulgation. In today's action, we have decided to adopt all of the amendments as proposed. We hereby incorporate by reference the explanation we previously provided for those amendments on which no adverse comment was received.

III. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 5173, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in standards that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that these amendments do not constitute a "significant regulatory action" because they do not meet any of the above criteria. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. 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, because State and local governments do not own or operate any sources that would be subject to the amendments. Thus, Executive Order 13132 does not apply to these final rule amendments.

C. 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 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 rule amendments do not have tribal implications, as specified in Executive Order 13175, because tribal governments do not own or operate any sources subject to the amendments. Thus, Executive Order 13175 does not apply to the final rule amendments.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 applies to any rule that EPA determines (1) is "economically significant" as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has 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.

These final rule amendments are not subject to Executive Order 13045, because they are not an economically significant regulatory action as defined by Executive Order 12866, and because the rule and amendments are based on technology performance and not on health or safety risks.

E. 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.

F. 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, the 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 the 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 the 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.

The 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 aggregate, or the private sector in any 1 year, nor do the amendments significantly or uniquely impact small governments, because they contain no requirements that apply to such governments or impose obligations upon them. Thus, the requirements of the UMRA do not apply to these final rule amendments.

G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this 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, small entities are defined as: (1) A small business that has fewer than 750 employees; (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 amendments on small entities, the EPA has concluded that this action will not have a significant impact on a substantial number of small entities because the intent of these amendments is to eliminate confusion and to clarify various compliance dates in the promulgated standard, to encourage early performance tests, and to permit some basic applicability questions for aluminum die casters, foundries, and extruders to be resolved before the compliance date for new sources constructed or reconstructed at existing facilities.

H. Paperwork Reduction Act

This action does not impose any new information collection burden. Today's action consists primarily of clarifications to the final rule that impose no new information collection requirements on industry or EPA. Therefore, the existing ICR has not been revised. However, the Office of Management and Budget (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 assigned OMB control No. 2060–0433 (EPA ICR no. 1894.02). A copy of the ICR document may be obtained from Susan Auby by mail at the Office of Environmental Information, Collection Strategies Division (2822T), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at *auby.susan@epamail.epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded from the Internet at *http://www.epa.gov/icr*.

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 purpose of collecting, validating, and verifying information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing 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 number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

I. National Technology Transfer and Advancement Act of 1995

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pubic 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.

Because today's action contains no new test methods, sampling procedures or other technical standards, there is no need to consider the availability of voluntary consensus standards.

J. 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. The EPA will submit a report containing this 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**. These final rule amendments are not a "major rule" as defined by 5 U.S.C. 804(2). These amendments will be effective on November 25, 2002.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: September 18, 2002.

Christine T. Whitman,

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 *et seq.*

Subpart RRR—[Amended]

2. Section 63.1501 is revised to read as follows:

§ 63.1501 Dates.

(a) The owner or operator of an existing affected source must comply

with the requirements of this subpart by March 24, 2003.

(b) Except as provided in paragraph (c) of this section, the owner or operator of a new affected source that commences construction or reconstruction after February 11, 1999 must comply with the requirements of this subpart by March 24, 2000 or upon startup, whichever is later.

(c) The owner or operator of any affected source which is constructed or reconstructed at any existing aluminum die casting facility, aluminum foundry, or aluminum extrusion facility which otherwise meets the applicability criteria set forth in § 63.1500 must comply with the requirements of this subpart by March 24, 2003 or upon startup, whichever is later.

3. Section 63.1505 is amended by:

a. Revising the introductory text of paragraphs (b), (c), (d), and (e);

b. Revising paragraph (f)(2); and

c. Revising the introductory text of paragraphs (g), (h), and (k).

The revisions read as follows:

§ 63.1505 Emission standards for affected sources and emission units.

* * * * *

(b) *Aluminum scrap shredder.* On and after the compliance date established by § 63.1501, the owner or operator of an aluminum scrap shredder at a secondary aluminum production facility that is a major source must not discharge or cause to be discharged to the atmosphere:

* * * * *

(c) *Thermal chip dryer.* On and after the compliance date established by § 63.1501, the owner or operator of a thermal chip dryer must not discharge or cause to be discharged to the atmosphere emissions in excess of:

* * * * *

(d) *Scrap dryer/delacquering kiln/decoating kiln.* On and after the compliance date established by § 63.1501:

* * * * *

(e) *Scrap dryer/delacquering kiln/decoating kiln: alternative limits.* The owner or operator of a scrap dryer/delacquering kiln/decoating kiln may choose to comply with the emission limits in this paragraph (e) as an alternative to the limits in paragraph (d) of this section if the scrap dryer/delacquering kiln/decoating kiln is equipped with an afterburner having a design residence time of at least 1 second and the afterburner is operated at a temperature of at least 750 °C (1400 °F) at all times. On and after the compliance date established by § 63.1501:

* * * * *

(f) *Sweat furnace.* * * *

(2) On and after the compliance date established by § 63.1501, the owner or operator of a sweat furnace at a secondary aluminum production facility that is a major or area source must not discharge or cause to be discharged to the atmosphere emissions in excess of 0.80 nanogram (ng) of D/F TEQ per dscm (3.5×10^{-10} gr per dscf) at 11 percent oxygen (O_2).

(g) *Dross-only furnace.* On and after the compliance date established by § 63.1501, the owner or operator of a dross-only furnace at a secondary aluminum production facility that is a major source must not discharge or cause to be discharged to the atmosphere:

* * * * *

(h) *Rotary dross cooler.* On and after the compliance date established by § 63.1501, the owner or operator of a rotary dross cooler at a secondary aluminum production facility that is a major source must not discharge or cause to be discharged to the atmosphere:

* * * * *

(k) *Secondary aluminum processing unit.* On and after the compliance date established by § 63.1501, the owner or operator must comply with the emission limits calculated using the equations for PM and HCl in paragraphs (k)(1) and (2) of this section for each secondary aluminum processing unit at a secondary aluminum production facility that is a major source. The owner or operator must comply with the emission limit calculated using the equation for D/F in paragraph (k)(3) of this section for each secondary aluminum processing unit at a secondary aluminum production facility that is a major or area source.

* * * * *

4. Section 63.1506 is amended by revising paragraph (a)(1) to read as follows:

§ 63.1506 Operating requirements.

(a) *Summary.* (1) On and after the compliance date established by § 63.1501, the owner or operator must operate all new and existing affected sources and control equipment according to the requirements in this section.

* * * * *

5. Section 63.1510 is amended by revising paragraphs (a) and (b) introductory text to read as follows:

§ 63.1510 Monitoring requirements.

(a) *Summary.* On and after the compliance date established by § 63.1501, the owner or operator of a new or existing affected source or emission unit must monitor all control equipment and processes according to the requirements in this section. Monitoring requirements for each type of affected source and emission unit are summarized in Table 3 to this subpart.

(b) *Operation, maintenance, and monitoring (OM&M) plan.* The owner or operator must prepare and implement for each new or existing affected source and emission unit, a written operation, maintenance, and monitoring (OM&M) plan. The owner or operator of an existing affected source must submit the OM&M plan to the responsible permitting authority no later than the compliance date established by § 63.1501(a). The owner or operator of any new affected source must submit the OM&M plan to the responsible permitting authority within 90 days after a successful initial performance test under § 63.1511(b), or within 90 days after the compliance date established by § 63.1501(b) if no initial performance test is required. Each plan must contain the following information:

* * * * *

6. Section 63.1511 is amended by revising paragraphs (a) and (b) introductory text to read as follows:

§ 63.1511 Performance test/compliance demonstration general requirements.

(a) *Site-specific test plan.* Prior to conducting any performance test required by this subpart, the owner or operator must prepare a site-specific test plan which satisfies all of the requirements, and must obtain approval of the plan pursuant to the procedures, set forth in § 63.7(c).

(b) *Initial performance test.* Following approval of the site-specific test plan, the owner or operator must demonstrate initial compliance with each applicable emission, equipment, work practice, or operational standard for each affected source and emission unit, and report the results in the notification of compliance status report as described in § 63.1515(b). The owner or operator of any existing affected source for which an initial performance test is required to demonstrate compliance must conduct this initial performance test no later than the date for compliance established by § 63.1501(a). The owner or operator of any new affected source for which an initial performance test is required must conduct this initial performance test within 90 days after the date for compliance established by § 63.1501(b). Except for the date by which the performance test must be conducted, the owner or operator must conduct each performance test in accordance with the requirements and procedures set forth

in § 63.7(c). Owners or operators of affected sources located at facilities which are area sources are subject only to those performance testing requirements pertaining to D/F. Owners or operators of sweat furnaces meeting the specifications of § 63.1505(f)(1) are not required to conduct a performance test.

* * * * *

7. Section 63.1515 is amended by removing the first sentence in the introductory text of paragraph (b) and adding, in its place, two new sentences to read as follows:

§ 63.1515 Notifications.

* * * * *

(b) *Notification of compliance status report.* Each owner or operator of an existing affected source must submit a notification of compliance status report within 60 days after the compliance date established by § 63.1501(a). Each owner or operator of a new affected source must submit a notification of compliance status report within 90 days after conducting the initial performance test required by § 63.1511(b), or within 90 days after the compliance date established by § 63.1501(b) if no initial performance test is required. * * *

* * * * *

8. Appendix A to subpart RRR is amended by revising the entries for § 63.7(a)–(h) and § 63.9(h)(1)–(3) to read as follows:

APPENDIX A TO SUBPART RRR OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART RRR

Citation	Requirement	Applies to RRR	Comment
*	*	*	*
§ 63.7(a)–(h)	Performance Test and Dates. Requirements-Applicability	Yes	Except § 63.1511 establishes dates for initial performance tests.
*	*	*	*
§ 63.9(h)(1)–(3)	Notification of Compliance Status	Yes	Except § 63.1515 establishes dates for notification of compliance status reports.

* * * * *

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Federal Register

Friday,
October 18, 2002

Part IV

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7385–9]

RIN 2060–AG87

National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for new and existing friction materials manufacturing facilities. Some of these facilities, specifically those that perform solvent mixing, have been identified as major sources of hazardous air pollutants (HAP) including n-hexane, toluene, and trichloroethylene. Exposure to these substances has been demonstrated to cause adverse health effects such as irritation of the lungs, skin, mucous membranes, and effects on the central nervous system, liver, and kidney.

Today's final rule will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). Implementation of today's final rule will reduce HAP emissions by approximately 290 tons per year (tpy).

EFFECTIVE DATE: October 18, 2002.

ADDRESSES: Docket No. A–97–57 contains supporting information used in developing the final rule. The docket is located at the Air and Radiation Docket and Information Center in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC, and may be inspected from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For further information concerning applicability and rule determinations, contact the appropriate State or local agency representative. If no State or local representative is available, contact the EPA Regional Office staff listed in § 63.13. For information concerning the analyses performed in developing this rule, contact Kevin Cavender, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Emission Standards Division, Metals Group, (Mail Code 439–02), Research Triangle Park, NC 27711, telephone number (919) 541–2364, electronic mail address *cavender.kevin@epa.gov.*

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Categories and entities potentially regulated by this action include those listed in the following table:

Category	NAICS code	Examples of regulated entities
Industry	33634, 327999, 333613	Friction materials manufacturing facilities.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities potentially regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in § 63.9485 of today's 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.

Judicial Review. The NESHAP for friction materials manufacturing was proposed on October 4, 2001 (66 FR 50768). Today's action announces EPA's final decisions on the rule. Under section 307(b)(1) of the CAA, judicial review of today's final rule is available by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by December 17, 2002. Only those objections to this rule which were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2) of the CAA, the requirements that are the subject of today's final rule may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of today's final rule will also be available on the WWW through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the final rule will be posted 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. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

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

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A. What is the statutory authority for NESHAP?
B. What criteria are used in the development of NESHAP?
C. How was the rule developed?
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B. Executive Order 13132, Federalism
C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
E. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
F. Unfunded Mandates Reform Act of 1995
G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
H. Paperwork Reduction Act
I. National Technology Transfer and Advancement Act of 1995
J. Congressional Review Act

I. Background and Public Participation

A. What Is the Statutory Authority for NESHAP?

Section 112 of the CAA requires us to list all categories and subcategories of major sources of HAP emissions and to establish NESHAP for their control. Major sources are those that emit or have the potential to emit at least 10 tpy

of any single HAP or 25 tpy of any combination of HAP. An initial list of source categories and accompanying schedules for regulation were published on December 3, 1993 (58 FR 63941). Friction materials manufacturing was not among the initially listed source categories. A subsequent notice published on June 4, 1996 (61 FR 28197) added friction products manufacturing to the list of major source categories scheduled for regulation by November 15, 2000. The listing was based on information obtained in a 1992 survey of the industry from which we concluded that some facilities that manufacture friction products have the potential to be major sources of HAP emissions. Friction products manufacturing includes facilities that manufacture, assemble, or rebuild friction products such as brakes or clutches. Based on information obtained during the development of this final rule, we have determined that only facilities that manufacture friction materials have the potential to emit HAP at major source levels. As such, this final rule will affect only friction materials manufacturers and will not affect facilities that only assemble or rebuild friction products. Friction materials manufacturing was added to the source category list on February 12, 2002 (67 FR 6521), replacing friction products manufacturing.

B. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction of HAP emissions that is achievable. This level of control is commonly referred to as MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than the standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources for categories or subcategories with 30 or more sources (or the best-performing five sources for categories or subcategories with fewer than 30 sources) (CAA section 112(d)(3)).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor taking into consideration the cost of achieving the emission reductions, any non-air quality health and environmental impacts, and energy requirements (CAA section 112(d)(2).

C. How Was the Rule Developed?

We proposed the NESHAP for friction materials manufacturing on October 4, 2001 (66 FR 50768). The preamble for the proposed standards described the rationale for the proposed standards. Public comments were solicited at the time of proposal. The public comment period lasted from October 4, 2001 to December 3, 2001. Industry representatives, regulatory agencies, environmental groups, and the general public were given the opportunity to comment on the proposed rule and to provide additional information during the public comment period. Although we offered at proposal the opportunity for oral presentation of data, views, or arguments concerning the proposed rule, no one requested a hearing, and a hearing was not held.

We received a total of four letters containing comments on the proposed rule during and after the public comment period. Commenters included a Federal government agency, a law firm representing a friction materials manufacturing company, and an industry trade association. Today's final rule reflects our full consideration of all of the comments received. Major public comments on the proposed rule, along with our responses to those comments, are summarized in this preamble.

D. How Can I Get Copies of This Document and Other Related Information?

EPA has established an official public docket for this action under Docket ID No. A–97–57. The official public docket is the collection of materials that is available for public viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center 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 Reading Room is (202) 566–1742, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566–1742.

You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the Air and Radiation Docket and Information Center. Once in the system, select "search," then key in the appropriate docket identification number.

II. Summary of the Final Rule

This section presents a summary of the requirements of today's final rule.

A. Who Must Comply With This Rule?

The final rule applies to any owner or operator of a friction materials manufacturing facility that is, or is part of, a major source of HAP emissions. Friction materials manufacturing includes any facility engaged in the manufacture of friction materials such as brake and clutch linings.

B. What Sources Are Affected?

The final rule affects each existing or new solvent mixer at a friction materials manufacturing facility which uses a solvent in their mixer that contains one or more HAP as an ingredient to the friction material composition.

C. What Are the Compliance Dates?

All existing affected sources must be in compliance no later than October 18, 2005. An affected source is an existing source if its construction began before October 4, 2001. A new or reconstructed affected source with an initial start up date on or after October 4, 2001, but before October 18, 2002 must be in compliance by October 18, 2002. A new or reconstructed source with an initial start up date after October 18, 2002 must be in compliance upon initial start up. An affected source is considered reconstructed if it meets definition of "reconstruction" in 40 CFR 63.2.

D. What Are the Emission Limitations?

Today's final rule will require owners or operators of new and existing large solvent mixers to limit emissions of total organic HAP discharged to the atmosphere to 30 percent or less of that

which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution, based on a 7-day block average. Owners or operators of new and existing small solvent mixers will be required to limit emissions of total organic HAP discharged to the atmosphere to 15 percent or less of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution, based on a 7-day block average.

E. What Are the Initial and Continuous Compliance Requirements?

For owners or operators of solvent mixers using a solvent recovery system, initial compliance will be determined by measuring and recording the weight of solvent added to each affected mixer and the weight of solvent recovered for each mix batch over the first 7 consecutive days after the compliance date. For owners or operators of solvent mixers using solvent substitution, initial compliance will be determined by recording the use of a non-HAP material as a substitute for a HAP solvent for each mix batch. For owners or operators of new and existing large solvent mixers, initial compliance is demonstrated if the average amount of solvent discharged to the atmosphere recorded for each mix batch over the 7-day period does not exceed 30 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution. For owners or operators of new and existing small solvent mixers, initial compliance is demonstrated if the average amount of solvent discharged to the atmosphere recorded for each mix batch over the 7-day period does not exceed 15 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution. Today's final rule also includes performance specifications for the weight measurement device as well as procedures for conducting the measurements and computing the results.

For owners or operators of solvent mixers using a solvent recovery system, continuous compliance will be determined by continuing to measure and record the weight of solvent added to each affected mixer and the weight of solvent recovered for each mix batch. For owners or operators of solvent mixers using solvent substitution, continuous compliance will be determined by continuing to record the use of a non-HAP material as a substitute for HAP solvent for each mix batch. For owners or operators of new and existing large solvent mixers, continuous compliance is demonstrated by maintaining each 7-day block average at or below 30 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution. For owners or operators of new and existing small solvent mixers, continuous compliance is demonstrated by maintaining each 7-day block average at or below 15 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution.

F. What Are the Notification, Recordkeeping, and Reporting Requirements?

The notification, recordkeeping, and reporting requirements in today's final rule rely on the NESHAP General Provisions in 40 CFR part 63, subpart A. Table 1 in the final rule shows each of the requirements in the General Provisions (§§ 63.2 through 63.15) and whether they apply.

Under the final rule, owners or operators subject to these standards must submit each of the notifications contained in the General Provisions that applies to them. These include an initial notification of applicability, which for existing sources is required within 120 days of the promulgation date; and a notification of compliance status, which must be submitted before the close of business on the 30th calendar day following the completion of the initial compliance demonstration.

In addition, owners or operators subject to these standards will need to prepare and maintain all records required by the General Provisions to document compliance with each enforceable provision of the proposed rule. Records needed to show continuous compliance with the emission limitation in the final rule are to be kept for 5 years.

We are also requiring owners or operators of all affected sources to submit semiannual compliance reports which highlight any deviations from the emission limitation and other provisions of the final rule. Each report will be due no later than 30 days after the end of the reporting period. If no deviations occurred, owners or operators are only required to submit a statement that there were no deviations from the emission limitation during the reporting period. More detailed information will be required, as specified in the final rule, if a deviation occurred or there was a startup, shutdown, or malfunction event. Owners or operators must submit an immediate report if they undertake actions during a startup, shutdown, or malfunction that are inconsistent with the procedures in their approved startup, shutdown, and malfunction plan, required by § 63.6(e)(3) of the General Provisions. Deviations that occur during a period of startup, shutdown, or malfunction are not violations if the owner or operator demonstrates to our satisfaction that the affected source was operating in accordance with the startup, shutdown, and malfunction plan.

III. Summary of Major Changes Since Proposal

This section describes the major changes made to the proposed rule based on public comments. We extended the compliance period for existing sources from 2 years to 3 years. We subcategorized the friction materials manufacturing source category into small and large solvent mixer subcategories and established new MACT floor and beyond-the-floor control options for those subcategories. We chose the MACT floor option of 70 percent emission reduction as the standard for new and existing large solvent mixers and the beyond-the-floor option of 85 percent emission reduction as the standard for new and existing small solvent mixers. We now allow owners and operators the option of complying with the standards by using solvent recovery, as proposed, or substitution to a non-HAP containing solvent. We revised the initial and continuous compliance requirements to reflect the change in standards. We also added definitions for small solvent mixer, large solvent mixer, and solvent substitution.

IV. Summary of Responses to Major Comments

This section summarizes the major comments we received on the proposed rule and our responses to those comments. A more comprehensive summary of comments and responses can be found in Docket No. A–97–57.

A. De Minimis Use Exemption

Comment: One commenter recommended that the final rule clarify the intended applicability of the rule by including a *de minimis* use (production) exemption that would exempt from the standard facilities that produce very small amounts of friction material.

Response: A follow-up contact with the commenter revealed that the commenter's concerns are based on research and development (R&D) activities. Because § 63.9485(b) of the rule includes an exemption for R&D facilities, as they are defined in section 112(c)(7) of the CAA, any R&D activities related to friction materials would not be covered under the friction materials

manufacturing NESHAP. As such, no change has been made in the final rule to address this comment.

B. MACT Standard

1. Additional Emission Reductions

Comment: One commenter noted that the proposed rule affects only a few sources and will reduce baseline HAP emissions from the industry by only 50 percent, allowing 330 tpy of emissions to not be recovered through implementation of the proposed rule. The commenter stated that it was troubling that the proposal did not include a mechanism for addressing these remaining emissions.

Response: Emissions due to the use of HAP solvents in solvent mixing operations account for 99 percent of the baseline HAP emissions. The emission standards contained in both the proposed rule and the final rule are based on what we believe to be the maximum technically and economically feasible level of emissions control achievable for solvent mixers. As such, the rule effectively addresses the solvent mixing component of HAP emissions from friction materials manufacturing. However, fugitive emissions resulting from the residual solvent in the mixed material, which accounts for approximately 70 percent of the estimated HAP emissions that will remain once the final rule is implemented, are not addressed. These emissions occur in later process equipment (extruders, granulators, dryers, hot presses, and curing ovens.) None of these pieces of equipment are currently equipped with HAP emission controls. Therefore, the MACT floor is no additional emission reduction for these sources. The commenter did not provide any data that would indicate that control of these fugitive sources would be economically feasible, and we do not believe that it would be cost-effective to capture and control the fugitive emissions from these sources. For these reasons, we have decided, as proposed, not to regulate these sources. No change has been made in the final rule to address this comment.

2. Consideration of Mixer Type/ Configuration and Cost of Compliance

Comment: According to one commenter, the proposed rule is factually flawed because it fails to account for the type and configuration of three of the mixers currently operated by the commenter's facility, which constitute 50 percent of the facility's operations. The commenter noted that these three small solvent mixers do not perform the mixing and drying in an enclosed space amenable to complete capture of VOC emissions, in contrast to the Plant A mixer used by EPA to establish MACT. The commenter stated that the proposed rule incorrectly assumes that all mixers in the industry can be retrofitted relatively easily with VOC capture and recovery systems.

The commenter stated that it would be impossible, due to design and process parameters, to control the emissions from these three small uncontrolled mixers to achieve the proposed 85 percent overall standard. According to the commenter, the two major components of the three small uncontrolled mixers (mixing bowl and mixing assembly) are separate from each other, unlike the fourth mixer at the facility (and more typical of the industry) in which the mixing assembly is integral to the mixing bowl. In the case of the three small uncontrolled mixers, materials are dumped into the mixing bowl, the bowl is rolled under the mixing assembly, and the assembly is lowered and raised pneumatically in and out of the mixing bowl as needed. According to the commenter, the presence of the mixing assembly makes it impossible to get an acceptable vacuum seal to extract solvent vapors during the mixing process. The commenter stated that it would be very difficult if not impossible to install capture devices on the mixer, extrusion, and conveying processes to achieve the required minimum 90 percent capture efficiency. The commenter argued that the engineering obstacles to retrofitting the three small uncontrolled mixers with emission controls are so severe that the three mixers would need to be replaced under any scenario, at very substantial cost.

Response: We agree with the commenter that the proposed rule did not account for the cost to replace the existing small solvent mixers in order for the facility to meet the required 85 percent standard for small solvent mixers. In addition, we agree that because of their configuration, the small solvent mixers cannot be retrofitted with a system to capture and recover the hexane solvent, and, therefore, must be replaced. Based on information we have received from the commenter, we have revised our cost estimates for the final rule to include the cost for a new large solvent mixer to replace the existing small solvent mixers, as well as a solvent recovery system. We now estimate a capital cost of approximately $900,000, an annual cost of approximately $115,000 (without recovery credits, *i.e.*, the value of the recovered solvent), and an annual cost credit of approximately $15,600 (with recovery credits) for the commenter's facility to achieve the required 70 percent emission reduction for the new large solvent mixer. For monitoring, recordkeeping, and reporting, we estimate a capital cost of approximately $2,300 and an annual cost of approximately $12,000. Overall, we estimate a total annual cost of approximately $126,000 (without recovery credits) and an annual cost credit of approximately $3,600 (with recovery credits).

Based on 70 percent reduction of uncontrolled emissions for the new large solvent mixer, we estimate an emission reduction of approximately 250 tpy. Using these cost and emission reduction values, we estimate a cost per ton of approximately $500/ton (without recovery credits) and a cost per ton credit of approximately $14/ton (with recovery credits). Based on these low cost per ton values, we conclude that replacing the existing small solvent mixers and with a large solvent mixer and installing a solvent recovery system (condenser) capable of meeting the required 70 percent standard for large mixers is cost-effective. The associated secondary air impacts and energy impacts are also estimated to be low; secondary emissions are less than 3 tpy, and energy impacts are only approximately 1,100 million Btu/yr. No change has been made in the final rule to address this comment.

3. Assumed Mixer Size

Comment: One commenter disagreed with EPA's premise (described below) for using Plant A's vacuum system efficiency in determining MACT for the proposed rule. As noted by the commenter, the proposed rule states that vacuum systems remove solvents from the mixed material by evaporation at low pressure, so the higher the volatility of the solvent, the more easily it can be removed by a vacuum system. The proposal preamble states that, of the solvents used, hexane is the most volatile, while toluene is the least volatile. The preamble also indicates that, based on the available data, Plant A's vacuum system efficiency of 95 percent is the best of the existing systems. Because Plant A also uses the least volatile solvent, the proposed rule assumes that a vacuum system efficiency of 95 percent can be achieved for all three of the solvents used at the existing facilities. The commenter argued that this premise neglects other parameters, such as mixer size, mixer cycle, mixer type, or differences in product chemistry.

The commenter stated that EPA incorrectly assumed that typical mixer

batch sizes range from 300 to 1,000 pounds of material. Based on information the commenter obtained from the docket, the commenter estimated that the weight of a typical batch at Plant A is 331 pounds (including solvent). The commenter contrasted this amount with the 3,300 pounds (not including solvent) commonly mixed in one of the mixers at the commenter's facility, concluding that the subject mixer at the commenter's facility is about 10 times larger than the mixer at Plant A.

The commenter argued that, when large batches are mixed, less solvent is volatilized in the mixer, and VOC capture is reduced. According to the commenter, operational experience at the commenter's facility indicates that larger batches generate more internal heat than smaller batches. The commenter pointed out that excess heat, if not properly controlled, would begin to cure the mix and make it unusable. As a result, the potential for heat generation limits the ability to remove solvent in the facility's large mixer.

In addition, the commenter noted that it is significantly harder to remove VOC solvent in a larger solvent mixer than a smaller solvent mixer per unit time. The commenter pointed out that drying rates decrease linearly with time, and a larger volume of identical materials would take a longer period of time to achieve the same level of dryness. According to the commenter, drying theories suggest that internal diffusion and/or internal capillary effects limit the drying process. The commenter pointed out that in drying, it is necessary to remove free moisture from both the surface and the interior of the material. As free moisture is removed from the surface of the material, the rate of drying is constant, but when the surface can no longer supply sufficient free moisture, the rate of drying falls. The drying rate is then limited by the time it takes for the moisture to migrate from the interior of the material to the surface. The commenter believes that the further the solvent has to travel to the surface, the longer it will take or the harder it will be to remove. The commenter argued that the larger the mixer, the larger the mass of material, and the larger the mass of material, the farther the interior solvent content will have to travel, and the harder it will be to remove that solvent.

The commenter argued that the distinction in mixer size is fundamental and that finalizing this MACT standard for existing sources without considering the differences in mixer size may effectively make it impossible for the commenter's facility to perform solvent mixing operations using any of its current mixers or other mixers of similar size.

Response: We agree with the commenter's argument regarding the impact of mixer size on solvent recovery. Accordingly, we have decided to subcategorize the friction materials manufacturing source category into small and large solvent mixer subcategories and have established new control options for these subcategories. For the final rule, we have chosen the beyond-the-floor option (85 percent emission reduction) as the standard for new and existing small solvent mixers and the MACT floor option (70 percent emission reduction) as the standard for new and existing large solvent mixers. For large solvent mixers, beyond-the-floor control similar to that achieved by small solvent mixers was determined to be technically infeasible. As noted in our response in section IV.C, we also have extended the compliance date for existing sources from 2 years to 3 years after the effective date.

4. Assumed Solvent Recovery Efficiency

Comment: One commenter disagreed with EPA's conclusion that the same level of solvent recovery can be achieved at the same cost for different solvent mixers using different solvents at different facilities. More specifically, the commenter expressed concern regarding the statement in the preamble to the proposed rule that the hexane removal efficiency at the commenter's facility would increase from 80 percent to 90 percent if the outlet gas temperature from the condenser was reduced from 60°F to 32°F. The commenter contends that it is impractical and erroneous to predict a condenser efficiency of 90 percent for hexane at the facility solely by lowering the outlet temperature from 60°F to 32°F. The commenter acknowledged that reducing the temperature would improve efficiency, but the commenter believes the following variables must also be taken into account: (1) Volumetric flow rate of the gas stream; (2) inlet temperature of the gas stream; (3) concentration and composition of the VOC in the gas stream; (4) moisture content of the gas stream; (5) properties of the VOC, such as heat of condensation, heat capacity, and vapor pressure; and (6) degree of subcooling (difference between the condensing temperature and the outlet temperature of the condenser exhaust).

The commenter explained that many of the materials used in brake mixes at the commenter's facility are hygroscopic or contain moisture as delivered. Because of the potential that this moisture could cause icing problems in the condenser, the facility maintains the coolant temperature at or slightly above 35°F. The commenter believes that it would be impractical or impossible to operate the existing condenser with an outlet gas temperature of 32°F because the coolant temperature would have to be below the freezing point of water.

In addition, the commenter disagrees with our position stated in the preamble to the proposed rule that establishing separate standards for individual solvents would be unwise. The commenter noted that the efficiency of a comparable condenser would be better for toluene than for hexane for the following reasons. First, a lower temperature would be needed to condense hexane than to condense toluene because hexane has a much higher vapor pressure. Second, at the facility's operating vacuum level, the boiling point of hexane is much lower than the boiling point of toluene, which means a condenser for hexane would have to operate at about −43°F to match the same amount of subcooling as a condenser for toluene operating at 32°F.

Response: We disagree with the commenter's position regarding the need for separate standards for each type of solvent. We understand that the HAP vapor pressures and specific control conditions differ for different solvents, and that, for a given condenser design and set of operating conditions, the removal efficiency would be better for toluene than for hexane. However, a properly designed and operated condenser can achieve a 90 percent removal efficiency on mixer exhausts at a reasonable cost for any of the three solvents currently being used at friction materials manufacturing facilities. Refrigerated condensers are commercially available which can reduce the exhaust temperature to well below −50°F. In addition, multi-stage condensers are available and can be used when water vapor poses a problem with water freezing on the cold condenser surfaces. No change has been made in the final rule to address this comment.

C. Compliance Deadline

Comment: One commenter noted that EPA has proposed a compliance deadline for existing sources of 2 years from the publication date of the final rule. The commenter pointed out that EPA is authorized by the CAA to set a 3-year compliance deadline (42 U.S.C. 7412(i)(3)(A)). The commenter argued that EPA's proposed 2-year compliance deadline is not based on any finding supported by the administrative record that mixers of the type and size used by

the commenter's facility can achieve MACT compliance within this time frame. The commenter's facility is in the process of developing alternative manufacturing techniques which, when fully developed and implemented, would eliminate VOC emissions from the mixing operations at the facility. The commenter stated that, upon achieving this goal, the rule should no longer apply to the facility's operations.

While some of the facility's mixing operations will be converted to non-VOC emitting techniques, the commenter could not ensure that all of the unique formulations can be converted, tested, and approved for implementation by the various transportation agencies and/or boards within 2 years after publication of the final rule. According to the commenter, the proposed rule would force the facility to spend several million dollars unnecessarily if it is compelled to meet the 2-year compliance deadline and would delay the implementation of the long-term program. Based on these arguments, the commenter recommended that EPA specify a 3-year compliance deadline in the final rule.

Response: Based on information from the commenter, the uncontrolled small solvent mixers at the commenter's facility are not amenable to control and will need to be replaced. (See section IV.B.3.) The facility will need time to replace the mixers, install the necessary control equipment, and bring the system into compliance. Therefore, to provide the commenter with sufficient time to achieve compliance, we have decided to extend the compliance deadline for existing sources to 3 years, which is consistent with section 112(i)(3)(A) of the CAA. If the commenter's facility wanted to comply by using non-VOC techniques with the new solvent mixer, the 3-year compliance time should also provide the facility with sufficient time to conduct the tests and obtain the approvals necessary to implement the techniques. The existing large mixer at the commenter's facility is already in compliance with the 70 percent standard for large solvent mixers.

V. Summary of Impacts

A. What Are the Health Impacts?

The primary HAP that would be addressed by this proposed rule include n-hexane, toluene, and trichloroethylene. Each are associated with a variety of adverse health effects, including chronic health disorders (e.g., reproductive and developmental effects, and effects on the central nervous system (CNS)), and acute health disorders (e.g., irritation of the lung, skin, and mucus membranes and effects on the CNS, liver, and kidneys). Acute inhalation exposure of humans to high levels of hexane causes mild CNS effects, including dizziness, giddiness, slight nausea, and headache. Chronic exposure to hexane in air causes numbness in the extremities, muscular weakness, blurred vision, headache, and fatigue. One study reported testicular damage in rats exposed to hexane through inhalation. No information is available on the carcinogenic effects of hexane in humans or animals. We have classified hexane in Group D, not classifiable as to human carcinogenicity.

Acute and chronic inhalation exposure to trichloroethylene can affect the human CNS, producing symptoms such as dizziness, headache, confusion, euphoria, facial numbness, and weakness. High, short-term exposures to humans by inhalation have also been associated with effects on the liver, kidneys, gastrointestinal system, and skin. Human evidence is not adequate to establish a causal link between trichloroethylene exposure and cancer, but animal inhalation studies have reported increases in lung, liver, and testicular tumors. We have classified trichloroethylene as intermediate between probable and possible human carcinogen (Group B/C). We are currently reassessing its potential carcinogenicity.

Acute inhalation of toluene by humans may cause effects to the CNS, such as fatigue, sleepiness, headache, and nausea, as well as irregular heartbeat. Adverse CNS effects have been reported in chronic abusers exposed to high levels of toluene. Symptoms include tremors, decreased brain size, involuntary eye movements, and impaired speech, hearing, and vision. Chronic (long-term) inhalation exposure of humans to lower levels of toluene also causes irritation of the upper respiratory tract, eye irritation, sore throat, nausea, dizziness, headaches, and difficulty with sleep. Studies of children whose mothers were exposed to toluene by inhalation or mixed solvents during pregnancy have reported CNS problems, facial and limb abnormalities, and delayed development. However, these effects may not be attributable to toluene alone. We have classified toluene in Group D, not classifiable as to human carcinogenicity.

B. What Are the Air Emission Reduction Impacts?

Estimates of organic HAP emissions from the use of solvents are based on a mass balance using solvent usage data collected during the industry survey, estimates of solvent recovery efficiencies for existing controls, and the promulgated solvent emission limitations of 30 percent emissions (or 70 percent emission reduction) for new and existing large solvent mixers and 15 percent emissions (or 85 percent emission reduction) for new and existing small solvent mixers. We assumed that one currently uncontrolled small mixer will be fitted with a solvent recovery system, and three currently uncontrolled small mixers (which are not amenable to control) will be replaced with a new mixer, and the new mixer will be equipped with a solvent recovery system. The remaining three existing mixers (one large, two small) currently meet the promulgated standards and as such should require no additional upgrades. We estimate that today's final rule will reduce organic HAP emissions by approximately 290 tpy from a baseline level of approximately 660 tpy. Emissions of volatile organic compounds (VOC) will also be reduced by approximately 290 tpy because these HAP are also VOC.

C. What Are the Cost Impacts?

We obtained process and emissions data from the facilities with the best-controlled solvent mixers and incorporated these data into the control cost algorithms for condensers in the OAQPS Control Cost Manual. We also obtained cost data from one facility to replace existing solvent mixers not amenable to control. We then applied these costs to those facilities that we project will be impacted by today's final rule.

As stated above, we project that four mixers located at two facilities will be impacted by the final rule. To meet the promulgated standard, we assumed that one existing small mixer will be equipped with a solvent recovery system, and three existing small mixers (which are not amenable to control) will be replaced with a new mixer, and the new mixer will be equipped with a solvent recovery system. One impacted facility is assumed to incur capital costs to install one or more new mixers to meet the promulgated standard, as well as annual costs to operate and maintain the new equipment. Both impacted facilities are assumed to incur capital costs to install condensers to meet the promulgated standard, as well as annual costs to operate and maintain the condensers.

Monitoring is also an important component of MACT and the cost estimate. We expect that all four facilities affected by the final rule will incur some additional annual costs due

to the monitoring, recordkeeping, and reporting requirements of the final rule.

Implementation of the final rule is expected to result in a nationwide capital cost of approximately $947,000, with total annualized costs of approximately $213,000 per year (without recovery credits) and $60,000 per year (with recovery credits).

D. What Are the Economic Impacts?

Based on the cost estimates provided above, we believe the economic impacts associated with today's final rule will be negligible. In 1992, there were 53 facilities manufacturing friction materials. Of these 53 facilities, four are affected by the final rule and will incur control and monitoring costs. When we consider the solvent recovery credits along with control technology costs, the total economic impact of this final rule is a cost to the industry of $60,000 per year, which is less than 1 percent of industry revenues. We consider impacts of less than 1 percent of industry revenues to be minor. In addition, we do not believe these impacts to be significant enough to alter the market price for friction materials.

E. What Are the Non-air Environmental and Energy Impacts?

Indirect air impacts of today's final rule will result from increased electricity usage associated with operation of control devices (i.e., condensers) installed to meet the promulgated standard. Assuming that facilities will purchase electricity from a power plant, we estimate that the final rule will increase secondary emissions of criteria pollutants from power plants by less than 3.0 tpy. These criteria pollutants include particulate matter, sulfur dioxide, nitrogen oxides, and carbon monoxide. The overall energy demand is expected to increase by approximately 40 kilowatts nationwide under the final rule. This energy demand is based on the electricity required to operate the vacuum and condenser systems needed to comply with the promulgated standard. Both the indirect air impact and energy impact are considered minor.

Because impacted facilities are expected to reuse or sell the solvent recovered by the condensers, we do not anticipate any significant wastewater or solid waste impacts as a result of the final rule.

VI. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a "significant regulatory action" because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. 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." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless EPA consults with State and local officials early in the process of developing the regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and EPA's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, it must include a certification from EPA's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

Today's 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. None of the affected facilities are owned or operated by State governments, and the rule requirements will not supercede State regulations that are more stringent. Thus, the requirements of Executive Order 13132 do not apply to this final rule.

C. 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 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." "Policies that have tribal implications" are defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

Today's final rule does not have tribal implications. 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, as specified in Executive Order 13175. No tribal governments own or operate friction materials manufacturing facilities. Thus, Executive Order 13175 does not apply to this final rule.

D. 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 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 rule is preferable to other potentially effective and reasonably feasible alternatives that EPA considered.

The 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 rule. Today's final rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, this final rule has been determined not to be "economically significant" as defined under Executive Order 12866.

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

Today's final rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

F. 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 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's regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that today's final rule does not contain a Federal mandate that may result in estimated costs of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annual cost of this proposed rule for any year has been estimated to be approximately $213,000 without solvent recovery credits and $60,000 with solvent recovery credits. Thus, this 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 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. Therefore, today's final rule is not subject to the requirements of section 203 of the UMRA.

G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis for 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 on small entities, small entity is defined as: (1) A small business that has no more than 500 employees for NAICS codes 327999 and 333613 or no more than 750 employees for NAICS code 33634; (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. We have determined that only one company meets one of the definitions of small entity—a small business that has no more than 500 employees for NAICS code 333613. This company owns only one of the four facilities subject to this final rule. The mixer at this facility is equipped with a solvent recovery system capable of meeting the requirements of this final rule. As such, the additional burden to this facility as a result of this final rule will only be approximately $16,400 per year for recordkeeping and reporting costs associated with demonstrating continued compliance with the final rule. There are several firms subject to this final rule whose costs will be a greater percentage of sales than this small business.

H. Paperwork Reduction Act

The information collection requirements in today's final rule will be submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The EPA has prepared an Information Collection Request (ICR) document (ICR No. 2025.02), and you may obtain a copy from Sandy Farmer by mail at the Office of Environmental Information, Collection Strategies Division (2822), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; by electronic mail at *farmer.sandy@epa.gov;* or by calling (202) 260–2740. You may also download a copy off the Internet at *http://www.epa.gov/icr.* The information

requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to NESHAP. 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's policies set forth in 40 CFR part 2, subpart B.

The final rule will require maintenance inspections of the control devices but will not require any notifications or reports beyond those required by the NESHAP General Provisions. The recordkeeping requirements require only the specific information needed to determine compliance.

The annual public reporting and recordkeeping burden for this collection of information (averaged over the first 3 years after the effective date of the final rule) is estimated to be approximately 1,390 labor hours per year, at a total annual cost of approximately $65,300. This burden estimate includes the cost to install and operate the weight measurement device; one-time submission of a startup, shutdown, and malfunction plan, with semiannual reports for any event when the procedures in the plan were not followed; semiannual compliance reports; maintenance inspections; notifications; and recordkeeping. Total capital/startup costs associated with the recordkeeping requirements over the 3-year period of the ICR are estimated at approximately $940, with operation and maintenance costs of approximately $250/yr.

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: (1) Review instructions; (2) 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; (3) adjust the existing ways to comply with any previously applicable instructions and requirements; (4) train personnel to be able to respond to a collection of information; (5) search existing data sources; (6) complete and review the collection of information; and (7) 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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

I. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) Public Law 104–113 (15 U.S.C. 272 note) directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory and procurement 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, business practices) developed or adopted by one or more voluntary consensus bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), American Society of Mechanical Engineers (ASME), National Fire Protection Association (NFPA), and Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

This rulemaking involves a technical standard. The EPA is promulgating test methods based on the weighing portion of EPA Method 28 (section 10.1) for weighing of recovered solvent. Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards that could be used in addition to this EPA method. The search for emissions measurement procedures identified two voluntary consensus standards potentially applicable to this final rule. However, after reviewing the available standards, EPA determined that these two standards, identified for measuring recovered solvent on a scale, were impractical alternatives to the EPA test methods for the purposes of today's final rule. Therefore, EPA does not intend to adopt these standards for this purpose.

The voluntary consensus standard ASTM E319–85 (Reapproved 1997), "Standard Practice for the Evaluation of Single-Pan Mechanical Balances," is impractical for the purposes of this rulemaking primarily because this standard is not a complete weighing procedure because it does not include a pretest procedure.

The voluntary consensus standard ASME Power Test Codes, "Supplement on Instruments and Apparatus, part 5, Measurement of Quantity of Materials, Chapter 1, Weighing Scales," is impractical for the purposes of this rulemaking because it does not specify the number of initial calibration weights to be used nor a specific pretest weight procedure.

Section 63.9525 to subpart QQQQQ lists the testing procedures included in today's final rule. Under § 63.8 of the NESHAP General Provisions, a source may apply to EPA for permission to use an alternative method in place of any of the EPA testing methods.

J. 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. The EPA will submit a report containing this 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 December 17, 2002. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

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

Dated: October 9, 2002.

Christine Todd Whitman,

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, *et seq.*

2. Part 63 is amended by adding subpart QQQQQ to read as follows:

Subpart QQQQQ—National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities

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Table

Table 1 to Subpart QQQQQ—Applicability of General Provisions to Subpart QQQQQ

Subpart QQQQQ—National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities

What This Subpart Covers

§ 63.9480 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for friction materials manufacturing facilities that use a solvent-based process. This subpart also establishes requirements to demonstrate initial and continuous compliance with all applicable emission limitations in this subpart.

§ 63.9485 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a friction materials manufacturing facility (as defined in § 63.9565) that is (or is part of) a major source of hazardous air pollutants (HAP) emissions on the first compliance date that applies to you, as specified in § 63.9495. Your friction materials manufacturing facility is a major source of HAP if it emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (10 tons) or more per year or any combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year.

(b) The requirements in this subpart do not apply to research and development facilities, as defined in section 112(c)(7) of the Clean Air Act.

§ 63.9490 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, or existing affected source at your friction materials manufacturing facility.

(b) The affected source covered by this subpart is each new, reconstructed, or existing solvent mixer (as defined in § 63.9565) at your friction materials manufacturing facility.

(c) A solvent mixer at your friction materials manufacturing facility is new if you commence construction of the solvent mixer after October 18, 2002. An affected source is reconstructed if it meets the definition of "reconstruction" in § 63.2, and reconstruction is commenced after October 18, 2002.

(d) A solvent mixer at your friction materials manufacturing facility is existing if it is not new or reconstructed.

§ 63.9495 When do I have to comply with this subpart?

(a) If you have an existing solvent mixer, you must comply with each of the requirements for existing sources no later than October 18, 2005.

(b) If you have a new or reconstructed solvent mixer and its initial startup date is after October 18, 2002, you must comply with the requirements for new and reconstructed sources upon initial startup.

(c) If your friction materials manufacturing facility is an area source that increases its emissions or its potential to emit such that it becomes a (or part of a) major source of HAP emissions, then paragraphs (c)(1) and (2) of this section apply.

(1) For any portion of the area source that becomes a new or reconstructed affected source, you must comply with the requirements for new and reconstructed sources upon startup or no later than October 18, 2002, whichever is later.

(2) For any portion of the area source that becomes an existing affected source, you must comply with the requirements for existing sources no later than 1 year after the area source becomes a major source or no later than October 18, 2005, whichever is later.

(d) You must meet the notification and schedule requirements in § 63.9535. Several of the notifications must be submitted before the compliance date for your affected source.

Emission Limitations

§ 63.9500 What emission limitations must I meet?

(a) For each new, reconstructed, or existing large solvent mixer at your friction materials manufacturing facility, you must limit HAP solvent emissions to the atmosphere to no more than 30 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution, based on a 7-day block average.

(b) For each new, reconstructed, or existing small solvent mixer at your friction materials manufacturing facility, you must limit HAP solvent emissions to the atmosphere to no more than 15 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution, based on a 7-day block average.

General Compliance Requirements

§ 63.9505 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitation in this subpart at all times, except during periods of startup, shutdown, or malfunction.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) You must develop and implement a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

Initial Compliance Demonstration Requirements

§ 63.9510 By what date must I conduct my initial compliance demonstration?

(a) If you use a solvent recovery system and/or solvent substitution, you

must conduct your initial compliance demonstration within 7 calendar days after the compliance date that is specified for your source in § 63.9495.

(b) If you use a control technique other than a solvent recovery system and/or solvent substitution, you must comply with the provisions in § 63.9570.

§ 63.9515 How do I demonstrate initial compliance with the emission limitation that applies to me?

(a) You have demonstrated initial compliance for each new, reconstructed, or existing large solvent mixer subject to the emission limitation in § 63.9500(a) if the HAP solvent discharged to the atmosphere during the first 7 days after the compliance date, determined according to the provisions in § 63.9520, does not exceed a 7-day block average of 30 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution.

(b) You have demonstrated initial compliance for each new, reconstructed, or existing small solvent mixer subject to the emission limitation in § 63.9500(b) if the HAP solvent discharged to the atmosphere during the first 7 days after the compliance date, determined according to the provisions in § 63.9520, does not exceed a 7-day block average of 15 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution.

(c) You must submit a notification of compliance status containing the results of the initial compliance demonstration according to § 63.9535(e).

§ 63.9520 What procedures must I use to demonstrate initial compliance?

(a) If you use a solvent recovery system, you must use the procedures in paragraphs (a)(1) through (8) of this section to demonstrate initial compliance with the emission limitations in § 63.9500(a) and (b).

(1) Record the date and time of each mix batch.

(2) Record the identity of each mix batch using a unique batch ID, as defined in § 63.9565.

(3) Measure and record the weight of HAP solvent loaded into the solvent mixer for each mix batch.

(4) Measure and record the weight of HAP solvent recovered for each mix batch.

(5) If you use a solvent recovery system, you must determine the percent of HAP solvent discharged to the atmosphere for each mix batch according to Equation 1 of this section as follows: (Eq. 1)

$$P_b = \left(1 - \frac{S_{rec}}{S_{mix}}\right)(100) \qquad \text{(Eq. 1)}$$

Where:

P_b = Percent of HAP solvent discharged to the atmosphere for each mix batch, percent;

S_{rec} = Weight of HAP solvent recovered for each mix batch, lb;

S_{mix} = Weight of HAP solvent loaded into the solvent mixer for each mix batch, lb.

(6) If you use solvent substitution for a mix batch, you must record the use of a non-HAP material as a substitute for a HAP solvent for that mix batch and assign a value of 0 percent to the percent of HAP solvent discharged to the atmosphere for that mix batch (Pb).

(7) Determine the 7-day block average percent of HAP solvent discharged to the atmosphere according to Equation 2 of this section as follows:

$$P_7 = \frac{1}{n}\sum_{i=1}^{n} P_b \qquad \text{(Eq. 2)}$$

Where:

$\%P_7$ = 7-day block average percent of HAP solvent discharged to the atmosphere, percent;

i = mix batch;

n = number of mix batches in 7-day block average.

(8) Have valid data for at least 90 percent of the mix batches over the 7-day averaging period.

(b) If you use a control technique other than a solvent recovery system and/or solvent substitution, you may apply to EPA for approval to use an alternative method of demonstrating compliance with the emission limitations for solvent mixers in § 63.9500(a) and (b), as provided in § 63.9570.

§ 63.9525 What are the installation, operation, and maintenance requirements for my weight measurement device?

(a) If you use a solvent recovery system, you must install, operate, and maintain a weight measurement device to measure the weight of HAP solvent loaded into the solvent mixer and the weight of HAP solvent recovered for each mix batch.

(b) For each weight measurement device required by this section, you must develop and submit for approval a site-specific monitoring plan that addresses the requirements of paragraphs (b)(1) through (6) of this section:

(1) Procedures for installing the weight measurement device;

(2) The minimum accuracy of the weight measurement device in pounds and as a percent of the average weight of solvent to be loaded into the solvent mixer;

(3) Site-specific procedures for how the measurements will be made;

(4) How the measurement data will be recorded, reduced, and stored;

(5) Procedures and acceptance criteria for calibration of the weight measurement device; and

(6) How the measurement device will be maintained, including a routine maintenance schedule and spare parts inventory list.

(c) The site-specific monitoring plan required in paragraph (b) of this section must include, at a minimum, the requirements of paragraphs (c)(1) through (3) of this section:

(1) The weight measurement device must have a minimum accuracy of ±0.05 kilograms (±0.1 pounds) or ±1 percent of the average weight of solvent to be loaded into the solvent mixer, whichever is greater.

(2) An initial multi-point calibration of the weight measurement device must be made using 5 points spanning the expected range of weight measurements before the weight measurement device can be used. The manufacturer's calibration results can be used to meet this requirement.

(3) Once per day, an accuracy audit must be made using a single Class F calibration weight that corresponds to 20 to 80 percent of the average weight of solvent to be loaded into the solvent mixer. If the weight measurement device cannot reproduce the value of the calibration weight within ±0.05 kilograms (0.1 pounds) or ±1 percent of the average weight of solvent to be loaded into the solvent mixer, whichever is greater, the scale must be recalibrated before being used again. The recalibration must be performed with at least five Class F calibration weights spanning the expected range of weight measurements.

(d) You must operate and maintain the weight measurement device according to the site-specific monitoring plan.

(e) You must maintain records of all maintenance activities, calibrations, and calibration audits.

Continuous Compliance Requirements

§ 63.9530 How do I demonstrate continuous compliance with the emission limitation that applies to me?

(a) If you use a solvent recovery system and/or solvent substitution, you must demonstrate continuous compliance with the emission limitations for solvent mixers in § 63.9500(a) and (b) according to the

provisions in paragraphs (a)(1) through (3) of this section.

(1) Except for during malfunctions of your weight measurement device and associated repairs, you must collect and record the information required in § 63.9520(a)(1) through (8) at all times that the affected source is operating and record all information needed to document conformance with these requirements.

(2) For new, reconstructed, or existing large solvent mixers, maintain the 7-day block average percent of HAP solvent discharged to the atmosphere at or below 30 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution.

(3) For new, reconstructed, or existing small solvent mixers, maintain the 7-day block average percent of HAP solvent discharged to the atmosphere at or below 15 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution.

(b) If you use a control technique other than a solvent recovery system and/or solvent substitution, you must demonstrate continuous compliance with the emission limitations for solvent mixers in § 63.9500(a) and (b) according to the provisions in § 63.9570.

(c) You must report each instance in which you did not meet the emission limitations for solvent mixers in § 63.9500(a) and (b). This includes periods of startup, shutdown, or malfunction. These instances are deviations from the emission limitations in this subpart. These deviations must be reported according to the requirements in § 63.9540.

(d) During periods of startup, shutdown, or malfunction, you must operate in accordance with your startup, shutdown, and malfunction plan.

(e) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the startup, shutdown, and malfunction plan. The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

Notifications, Reports, and Records

§ 63.9535 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.8(f)(4) and 63.9(b), (c), (d), and (h) that apply to you by the specified dates.

(b) If you use a control technique other than a solvent recovery system and/or solvent substitution, you must comply with the provisions in § 63.9570.

(c) As specified in § 63.9(b)(2), if you start up your affected source before October 18, 2002, you must submit your initial notification no later than 120 calendar days after October 18, 2002.

(d) As specified in § 63.9(b)(3), if you start up your new affected source on or after October 18, 2002, you must submit your initial notification no later than 120 calendar days after you become subject to this subpart.

(e) You must submit a notification of compliance status according to § 63.9(h)(2)(ii). You must submit the notification of compliance status before the close of business on the 30th calendar day following the completion of the initial compliance demonstration.

§ 63.9540 What reports must I submit and when?

(a) Unless the Administrator has approved a different schedule, you must submit each semiannual compliance report according to the requirements in paragraphs (a)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.9495 and ending on June 30 or December 31, whichever date comes first after the compliance date that is specified for your source in § 63.9495.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date comes first after your first compliance report is due.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date comes first after the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 71 of this chapter, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A) of this chapter, you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (a)(1) through (4) of this section.

(b) Each compliance report must include the information in paragraphs (b)(1) through (3) of this section, and if applicable, paragraphs (b)(4) through (6) of this section.

(1) Company name and address.

(2) Statement by a responsible official, with the official's name, title, and signature, certifying that, based on information and belief formed after reasonable inquiry, the statements and information in the report are true, accurate, and complete.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).

(5) If there were no deviations from the emission limitations for solvent mixers in § 63.9500(a) and (b), a statement that there were no deviations from the emission limitations during the reporting period.

(6) If there were no periods during which a monitoring system was out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which a monitoring system was out-of-control during the reporting period.

(c) For each deviation from an emission limitation occurring at an affected source, you must include the information in paragraphs (b)(1) through (4) and (c)(1) and (2) of this section. This includes periods of startup, shutdown, or malfunction.

(1) The total operating time of each affected source during the reporting period.

(2) Information on the number, duration, and cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

(d) If you had a startup, shutdown, or malfunction during the semiannual reporting period that was not consistent with your startup, shutdown, and malfunction plan, you must submit an immediate startup, shutdown, and malfunction report according to the requirements in § 63.10(d)(5)(ii).

(e) If you have obtained a title V operating permit for an affected source pursuant to 40 CFR part 70 or 71 of this chapter, you must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A) of this chapter. If you submit a compliance report for an

affected source along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A) of this chapter, and the compliance report includes all the required information concerning deviations from any emission limitation in this subpart, then submission of the compliance report satisfies any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report does not otherwise affect any obligation you may have to report deviations from permit requirements to your permitting authority.

§ 63.9545 What records must I keep?

(a) You must keep the records in paragraphs (a)(1) and (2) of this section that apply to you.

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any initial notification or notification of compliance status that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, or malfunction.

(b) You must keep the records required in § 63.9525 to show proper operation and maintenance of the weight measurement device.

(c) You must keep the records required in § 63.9530 to show continuous compliance with the emission limitations for solvent mixers in § 63.9500(a) and (b).

§ 63.9550 In what form and how long must I keep my records?

(a) You must keep your records in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.9555 What parts of the General Provisions apply to me?

Table 1 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

§ 63.9560 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraphs (c)(1) through (4) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local or tribal agencies are as follows:

(1) Approval of alternatives to the emission limitations in § 63.9500(a) and (b) under § 63.6(g).

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.9565 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in § 63.2, and in this section as follows:

Batch ID means a unique identifier used to differentiate each individual mix batch.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including, but not limited to, any emission limitation (including any operating limit);

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation (including any operating limit) in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Friction ingredients means any of the components used in the manufacture of friction materials, excluding the HAP solvent. Friction ingredients include, but are not limited to, reinforcement materials, property modifiers, resins, and other additives.

Friction materials manufacturing facility means a facility that manufactures friction materials using a solvent-based process. Friction materials are used in the manufacture of products used to accelerate or decelerate objects. Products that use friction materials include, but are not limited to, disc brake pucks, disc brake pads, brake linings, brake shoes, brake segments, brake blocks, brake discs, clutch facings, and clutches.

HAP solvent means a solvent that contains 10 percent or more of any one HAP, as listed in section 112(b) of the Clean Air Act, or any combination of HAP that is added to a solvent mixer. Examples include hexane, toluene, and trichloroethylene.

Initial startup means the first time that equipment is put into operation. Initial startup does not include operation solely for testing equipment. Initial startup does not include subsequent startups (as defined in this section) following malfunction or shutdowns or following changes in product or between batch operations.

Large solvent mixer means a solvent mixer with a design capacity greater than or equal to 2,000 pounds, including friction ingredients and HAP solvent.

Mix batch means each batch of friction materials manufactured in a solvent mixer.

Responsible official means responsible official as defined in § 63.2.

7-day block average means an averaging technique for a weekly compliance determination where the calculated values for percent HAP solvent discharged to the atmosphere are averaged together for all mix batches (for which there are valid data) in a 7-day block period according to the equation provided in § 63.9520(a)(6).

Small solvent mixer means a solvent mixer with a design capacity less than 2,000 pounds, including friction ingredients and HAP solvent.

Solvent mixer means a mixer used in the friction materials manufacturing process in which HAP solvent is used as one of the ingredients in at least one batch during a semiannual reporting period. Trace amounts of HAP solvents in resins or other friction ingredients do not qualify mixers as solvent mixers.

Solvent recovery system means equipment used for the purpose of recovering the HAP solvent from the exhaust stream. An example of a solvent recovery system is a condenser.

Solvent substitution means substitution of a non-HAP material for a HAP solvent.

Startup means bringing equipment online and starting the production process.

Startup, shutdown, and malfunction plan means a plan developed according to the provisions of § 63.6(e)(3).

§ 63.9570 How do I apply for alternative compliance requirements?

(a) If you use a control technique other than a solvent recovery system and/or solvent substitution, you may request approval to use an alternative method of demonstrating compliance with the emission limitations in § 63.9500(a) and (b) according to the procedures in this section.

(b) You can request approval to use an alternative method of demonstrating compliance in the initial notification for existing sources, the notification of construction or reconstruction for new sources, or at any time.

(c) You must submit a description of the proposed testing, monitoring, recordkeeping, and reporting that will be used and the proposed basis for demonstrating compliance.

(1) If you have not previously performed testing, you must submit a proposed test plan. If you are seeking permission to use an alternative method of compliance based on previously performed testing, you must submit the results of testing, a description of the procedures followed in testing, and a description of pertinent conditions during testing.

(2) You must submit a monitoring plan that includes a description of the control technique, test results verifying the performance of the control technique, the appropriate operating parameters that will be monitored, and the frequency of measuring and recording to establish continuous compliance with the emission limitations in § 63.9500(a) and (b). You must also include the proposed performance specifications and quality assurance procedures for the monitors. The monitoring plan is subject to the Administrator's approval. You must install, calibrate, operate, and maintain the monitors in accordance with the monitoring plan approved by the Administrator.

(d) Use of the alternative method of demonstrating compliance must not begin until approval is granted by the Administrator.

§§ 63.9571–63.9579 [Reserved]

TABLE 1 TO SUBPART QQQQQ—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART QQQQQ

[As required in § 63.9505, you must comply with each applicable General Provisions requirement according to the following table]

Citation	Subject	Applies to subpart QQQQQ?	Explanation
§ 63.1	Applicability	Yes.	
§ 63.2	Definitions	Yes.	
§ 63.3	Units and Abbreviations	Yes.	
§ 63.4	Prohibited Activities	Yes.	
§ 63.5	Construction/Reconstruction	Yes.	
§ 63.6(a)–(c), (e)–(f), (i)–(j)	Compliance with Standards and Maintenance Requirements.	Yes.	
§ 63.6(d)	[Reserved].		
§ 63.6(g)	Use of an Alternative Nonopacity Emission Standard.	No	Subpart QQQQQ contains no work practice standards.
§ 63.6(h)	Compliance with Opacity and Visible Emission Standards.	No	Subpart QQQQQ contains no opacity or VE limits.
§ 63.7(a)(1)–(2)	Applicability and Performance Test Dates	No	Subpart QQQQQ includes dates for initial compliance demonstrations.
§ 63.7(a)(3), (b)–(h)	Performance Testing Requirements	No	Subpart QQQQQ does not require performance tests.
§ 63.8(a)(1)–(2), (b), (c)(1)–(3), (f)(1)–(5).	Monitoring Requirements	Yes.	
§ 63.8(a)(3)	[Reserved].		
§ 63.8(a)(4)	Additional Monitoring Requirements for Control Devices in § 63.11.	No	Subpart QQQQQ does not require flares.
§ 63.8(c)(4)	Continuous Monitoring System (CMS) Requirements.	No	Subpart QQQQQ does not require CMS.
§ 63.8(c)(5)	Continuous Opacity Monitoring System (COMS) Minimum Procedures.	No	Subpart QQQQQ does not require COMS.
§ 63.8(c)(6)	Zero and High Level Calibration Check Requirements.	No	Subpart QQQQQ specifies calibration requirements.
§ 63.8(c)(7)–(8)	Out-of-Control Periods	No	Subpart QQQQQ specifies out-of-control periods and reporting requirements.
§ 63.8(d)	CMS Quality Control	No	Subpart QQQQQ requires a monitoring plan that specifies CMS quality control procedures.
§ 63.8(e)	CMS Performance Evaluation	No	Subpart QQQQQ does not require CMS performance evaluations.
§ 63.8(f)(6)	Relative Accuracy Test Audit (RATA) Alternative.	No	Subpart QQQQQ does not require continuous emissions monitoring systems (CEMS).
§ 63.8(g)(1)–(5)	Data Reduction	No	Subpart QQQQQ specifies data reduction requirements.
§ 63.9(a)–(d), (h)–(j)	Notification Requirements	Yes	Except that subpart QQQQQ does not require performance tests or CMS performance evaluations.
§ 63.9(e)	Notification of Performance Test	No	Subpart QQQQQ does not require performance tests.

TABLE 1 TO SUBPART QQQQQ—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART QQQQQ—Continued

[As required in § 63.9505, you must comply with each applicable General Provisions requirement according to the following table]

Citation	Subject	Applies to subpart QQQQQ?	Explanation
§ 63.9(f)	Notification of VE/Opacity Test	No	Subpart QQQQQ contains no opacity or VE limits.
§ 63.9(g)	Additional Notifications When Using CMS	No	Subpart QQQQQ does not require CMS performance evaluations.
§ 63.10(a), (b), (d)(1), (d)(4)–(5), (e)(3), (f).	Recordkeeping and Reporting Requirements	Yes.	
§ 63.10(c)(1)–(6), (9)–(15)	Additional Records for CMS	No	Subpart QQQQQ specifies record requirements.
§ 63.10(c)(7)–(8)	Records of Excess Emissions and Parameter Monitoring Exceedances for CMS.	No	Subpart QQQQQ specifies record requirements.
§ 63.10(d)(2)	Reporting Results of Performance Tests	No	Subpart QQQQQ does not require performance tests.
§ 63.10(d)(3)	Reporting Opacity or VE Observations	No	Subpart QQQQQ contains no opacity or VE limits.
§ 63.10(e)(1)–(2)	Additional CMS Reports	No	Subpart QQQQQ does not require CMS.
§ 63.10(e)(4)	Reporting COMS Data	No	Subpart QQQQQ does not require COMS.
§ 63.11	Control Device Requirements	No	Subpart QQQQQ does not require flares.
§§ 63.12–63.15	Delegation, Addresses, Incorporation by Reference Availability of Information.	Yes.	

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Part III

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7394–7]

RIN 2060–AJ66

National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works; Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule, amendments.

SUMMARY: On October 26, 1999, we promulgated the national emission standards for hazardous air pollutants (NESHAP) for publicly owned treatment works (POTW). In this action, we are promulgating amendments which were proposed pursuant to a settlement agreement with the Pharmaceutical Research and Manufacturers of America (PhRMA) regarding their petition for judicial review of the POTW NESHAP. The amendments will rescind an applicability provision; adopt, for all industrial POTW treatment plants that are area sources of hazardous air pollutants (HAP), the same NESHAP requirements that apply to industrial POTW treatment plants that are major sources of HAP; and exempt industrial POTW treatment plants that are area sources of HAP from the permit requirements in section 502(a) of the Clean Air Act (CAA).

EFFECTIVE DATE: October 21, 2002.

ADDRESSES: *Docket.* The administrative record compiled by EPA for this final rule, including public comments on the proposed rule, is located in public docket No. A–96–46 at the following address: Air and Radiation Docket and Information Center, Mail Code 6102T, U.S. EPA, 1301 Constitution Avenue, NW., Room B108, Washington DC 20460. The docket may be inspected from 8 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. Materials related to the final amendments are available upon request from the Air and Radiation Docket and Information Center by calling (202) 566–1742. The FAX number for the Center is (202) 566–1741. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For information concerning applicability and rule determinations, contact your State or local regulatory agency representative or the appropriate EPA Regional Office representative. For information concerning analyses performed in developing the final amendments, contact Mr. Robert Lucas, Waste and Chemical Processes Group, Emission Standards Division (C439–03), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–0884, facsimile number (919) 541–0246, electronic mail address: *lucas.bob@epa.gov.*

SUPPLEMENTARY INFORMATION:

Public Comments. The amendments for the POTW NESHAP were proposed on March 22, 2002 (67 FR 13496), and two comment letters were received on the proposed amendments. The comment letters are available in Docket No. A–96–46. The regulatory text and other materials related to the final amendments are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of the final amendments will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of today's amendments 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. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Judicial Review. Under CAA section 307(b), judicial review of the final amendments is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit on or before December 20, 2002. Only those objections to the final amendments which were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2)of the CAA, the requirements established by the final amendments may not be challenged separately in any civil or criminal proceeding we bring to enforce such requirements.

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

Category	SIC [a]	NAICS [b]	Regulated entities
Federal Government	4952	22132	Sewage treatment facilities, and federally owned treatment works.
State/local/tribal Governments	4952	22132	Sewage treatment facilities, municipal wastewater treatment facilities, and publicly-owned treatment works.

[a] Standard Industrial Classification.
[b] North American Information 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. This table lists the types of entities that could potentially be regulated by the final amendments. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 63.1580 of the POTW NESHAP and in 40 CFR 63.1. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Outline

The final amendments are organized as follows:

I. What is the background for this action?
II. What changes to the existing rule are we adopting?
III. What were the comments received on the proposed amendments?
IV. What are the administrative requirements?
A. Executive Order 12866, Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
D. Unfunded Mandates Reform Act of 1995
E. Executive Order 13132, Federalism
F. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
H. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act of 1995
J. Congressional Review Act

I. What Is the Background for This Action?

On October 26, 1999 (64 FR 57572), we promulgated the NESHAP for new and existing POTW using our authority under the CAA. In the POTW NESHAP, we required air pollution controls on new or reconstructed treatment plants at POTW that are major sources of HAP. Section 112(a)(1) of the CAA defines a major source as:

> * * * any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants.

The standards also define the requirements for industrial POTW. Industrial POTW treat regulated waste streams from an industry (*e.g.*, pharmaceutical manufacturing) that may be subject to other NESHAP, and this treatment allows the industry to comply with the NESHAP. The standards include a provision in 40 CFR 63.1580(c) stating that if an industrial major source complies with the other NESHAP by using the treatment and controls at a POTW, then the POTW is considered to be a major source.

On March 23, 2001 (66 FR 16140), we published final rule amendments that clarified and corrected errors in the promulgated rule. The PhRMA filed a timely petition for judicial review of the POTW NESHAP. The PhRMA expressed concern regarding the practical effect of the provision classifying an industrial POTW as a major source if the POTW receives wastewater for treatment from a major source. In particular, PhRMA was concerned that industrial POTW might be subject to permitting requirements that would otherwise not apply, and that such POTW might elect not to accept wastewater for treatment in these circumstances. We entered into settlement discussions with PhRMA and executed a settlement agreement with PhRMA on November 14, 2001.

On March 22, 2002 (67 FR 13496), we proposed amendments to the POTW NESHAP pursuant to the agreement with PhRMA. We received two public comment letters on the proposed amendments. The commenters were the Association of Metropolitan Sewerage Agencies (AMSA) and PhRMA. Copies of these letters are found in docket A–96–46. All of the comments have been carefully considered. Because none of the comments submitted requested any substantive changes to the proposed amendments, the final amendments remain unchanged from those which we proposed.

II. What Changes to the Existing Rule Are We Adopting?

In the settlement agreement we reached with PhRMA, we agreed to propose the following three changes: (1) Rescind the applicability provision set forth in 40 CFR 63.1580(c); (2) adopt, for all industrial POTW treatment plants that are area sources of HAP, the same NESHAP requirements that apply to industrial POTW treatment plants that are major sources of HAP; and (3) exempt industrial POTW treatment plants that are area sources of HAP from the permit requirements in section 502(a) of the CAA. Area sources of HAP are those stationary sources that emit, or have the potential to emit, less than 10 tons per year of any one HAP or less than 25 tons per year of a combination of HAP.

The CAA gives us the authority to adopt an alternative definition of major source in appropriate circumstances. Our original intent in adopting the alternate definition in 40 CFR 63.1580(c) of the POTW NESHAP was to make all industrial POTW subject to direct enforcement under the CAA, thereby providing additional assurance that they would adhere to the treatment and control limits of the applicable industrial NESHAP. The final amendments will still accomplish this goal because all POTW that meet our definition of industrial POTW will remain subject to direct enforcement and will be required to meet the control limits of the applicable industrial NESHAP.

III. What Were the Comments Received on the Proposed Amendments?

Two comment letters were received on the proposed amendments. This section summarizes the comments and provides our response.

The comments on the proposed amendments to the POTW NESHAP supported the following amendments to the POTW NESHAP for area source POTW: the proposal to set generally available control technology under the CAA section 112(k) urban air toxics program at no control for area source new or existing non-industrial POTW and to exempt these area source POTW from the POTW NESHAP notifications requirements at 40 CFR 63.1590; the proposal to require area source industrial POTW to comply with the same maximum achievable control technology (MACT) requirements as are required for major source industrial POTW, accompanied by an exemption from the CAA's title V permitting requirements.

One of the commenters did raise some additional issues. The AMSA questioned whether we have the statutory authority to apply regulations under the urban air toxics section of the CAA (section 112(k)) to rural area source POTW. The AMSA did not oppose our use of a national standard in this particular instance, but stated that it might oppose such a construction of the CAA in the context of a future rulemaking.

We find nothing in the statute to prevent the application of rules promulgated pursuant to CAA section 112(k) to the entire nation. We believe that we have the authority, in appropriate circumstances, to limit such a rule to particular geographic regions, but we do not believe that such an approach would have been appropriate for this situation. As for the effect our construction of the CAA might have in a future rulemaking, that is a hypothetical question beyond the scope of this proceeding.

The AMSA also suggested that we consider adding a provision to the POTW NESHAP amendments to encourage the discharging industry and the receiving POTW to enter into a written agreement in which the parties clearly state that the POTW will fulfill the discharging industry's NESHAP wastewater treatment obligations. We believe that the POTW NESHAP clearly defines an industrial POTW treatment plant. We think that a detailed written agreement between the discharging party and the POTW will generally be beneficial, and we encourage the routine use of such agreements. While we believe that the parties will elect to make a specific contractual agreement in most instances, the final rule does not require such an agreement for a POTW to be considered an industrial POTW.

IV. What Are the Administrative Requirements?

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and, therefore, subject to review of the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy,

productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that the final amendments are not a "significant regulatory action" under the terms of Executive Order 12866 and are, therefore, not subject to OMB review.

B. Paperwork Reduction Act

An Information Collection Request (ICR) document was prepared for the October 26, 1999 POTW NESHAP by the EPA and was submitted to and approved by OMB. A copy of this ICR (OMB control number 2060–0428) may be obtained from Susan Auby by mail at the Office of Environmental Information, Collection Strategies Division, U.S. EPA (2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded off the Internet at *http://www.epa.gov/icr*.

Burden means 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 the EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The final amendments will not require additional burden on the affected entities.

C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The 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 on small entities, small entity is defined as: (1) A small business according to the Small Business Administration (SBA) size standards by NAICS code; (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.

The EPA determined that it is not necessary to prepare a regulatory flexibility analysis in connection with these final amendments. The EPA also determined that the amendments will not impose a significant economic impact on a substantial number of small entities. The amendments impose no new requirements on new or existing POTW treatment plants. In addition, by eliminating title V permit requirements, these amendments decrease the compliance costs for a few smaller facilities. Therefore, pursuant to the provisions of 5 U.S.C. 605(b), I certify that this action will not have a significant economic impact on a substantial number of small entities.

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, we generally must prepare a written statement, including 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 with other than the least costly, most cost-effective, or least burdensome alternative if we publish 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 our regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that the final amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or the private sector in any 1 year. The regulatory revisions in the final amendments have no associated costs and do not contain requirements that apply to small governments or impose obligations upon them. Therefore, the final amendments are not a "significant" regulatory action within the meaning of Executive Order 12866 and do not impose any additional Federal mandate on State, local and tribal governments or the private sector within the meaning of the UMRA. Thus, today's final amendments are not subject to the requirements of sections 202, 203, and 205 of the UMRA.

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."

The 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. The amendments apply only to POTW and do not pre-exempt States from adopting more stringent standards or otherwise regulate State or local governments. Thus, the requirements of section 6 of the Executive Order do not apply to the 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." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

The final rule amendments do not have tribal implications, as specified in Executive Order 13175. The amendments impose no new requirements on new or existing POTW. Thus, Executive Order 13175 does not apply to the final amendments.

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 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 rule is preferable to other potentially effective and reasonably feasible alternatives that we considered.

The final rule amendments are not subject to Executive Order 13045 because they are not an economically significant regulatory action as defined by Executive Order 12866. In addition, EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health and safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. The final rule 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

The final amendments are not subject to Executive Order 13211 (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

Under section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, all Federal agencies are required to use voluntary consensus standards (VCS) in their regulatory and procurement 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, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA requires Federal agencies to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable VCS.

The final amendments do not involve any additional technical standards. Therefore, the requirements of the NTTAA do not apply to this action.

J. 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. The EPA will submit a report containing the 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**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). The final amendments will be effective on October 21, 2002.

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: October 11, 2002.

Christine Todd Whitman,

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, *et seq.*

2. Section 63.1580 is revised to read as follows:

§ 63.1580 Am I subject to this subpart?

(a) You are subject to this subpart if the following are all true:

(1) You own or operate a publicly owned treatment works (POTW) that includes an affected source (§ 63.1595);

(2) The affected source is located at a POTW which is a major source of HAP emissions, or at any industrial POTW regardless of whether or not it is a major source of HAP; and

(3) Your POTW is required to develop and implement a pretreatment program as defined by 40 CFR 403.8 (for a POTW owned or operated by a municipality, State, or intermunicipal or interstate agency), or your POTW would meet the general criteria for development and implementation of a pretreatment program (for a POTW owned or operated by a department, agency, or instrumentality of the Federal government).

(b) If your existing POTW treatment plant is not located at a major source as of October 26, 1999, but thereafter becomes a major source for any reason other than reconstruction, then, for the purpose of this subpart, your POTW treatment plant would be considered an existing source. Note to Paragraph (b): See § 63.2 of the national emission standards for hazardous air pollutants (NESHAP) General Provisions in subpart A of this part for the definitions of major source and area source.

(c) If you reconstruct your POTW treatment plant, then the requirements for a new or reconstructed POTW treatment plant, as defined in § 63.1595, apply.

3. Section 63.1586 introductory text is revised to read as follows:

§ 63.1586 What are the emission points and control requirements for a non-industrial POTW treatment plant?

There are no control requirements for an existing non-industrial POTW treatment plant. There are no control requirements for any new or reconstructed area source non-industrial POTW treatment plant which is not a major source of HAP. The control requirements for a new or reconstructed major source non-industrial POTW treatment plant which is a major source of HAP are as follows:

* * * * *

4. Section 63.1590 is amended by revising paragraph (a)(1) introductory text to read as follows:

§ 63.1590 What reports must I submit?

(a)(1) If you have an existing non-industrial POTW treatment plant, or a new or reconstructed area source non-industrial POTW treatment plant, you are not required to submit a notification of compliance status. If you have a new or reconstructed non-industrial POTW treatment plant which is a major source of HAP, you must submit to the Administrator a notification of compliance status, signed by the responsible official who must certify its accuracy, attesting to whether your POTW treatment plant has complied with this subpart. This notification must be submitted initially, and each time a notification of compliance status is required under this subpart. At a minimum, the notification must list—

* * * * *

5. Section 63.1591 is amended by revising paragraph (a) to read as follows:

§ 63.1591 What are my notification requirements?

(a) If you have an industrial POTW treatment plant or a new or reconstructed non-industrial POTW which is a major source of HAP, and your State has not been delegated authority, you must submit notifications to the appropriate EPA Regional Office. If your State has been delegated authority you must submit notifications to your State and a copy of each notification to the appropriate EPA Regional Office. The Regional Office may waive this requirement for any notifications at its discretion.

* * * * *

6. Section 63.1592 is revised to read as follows:

§ 63.1592 Which General Provisions apply to my POTW treatment plant?

(a) Table 1 to this subpart lists the General Provisions (40 CFR part 63, subpart A) which do and do not apply to POTW treatment plants.

(b) Unless a permit is otherwise required by law, the owner or operator of an industrial POTW which is not a major source is exempt from the permitting requirements established by 40 CFR part 70.

7. Table 1 to subpart VVV is amended by revising the entries "§ 63.1(c)(2)(i)" and "§ 63.9(b)" to read as follows:

TABLE 1 TO SUBPART VVV OF PART 63.—APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART VVV

General provisions reference	Applicable to subpart VVV	Explanation
* * *	*	* * * *
§ 63.1(c)(2)(i)	No	State options regarding title V permit. Unless required by the State, area sources subject to subpart VVV are exempted from permitting requirements.
* * *	*	* * * *
§ 63.9(b)	Yes	Applicability of notification requirements. Existing major non-industrial POTW treatment plants, and existing and new or reconstructed area non-industrial POTW treatment plants are not subject to the notification requirements.
* * *	*	* * * *

[FR Doc. 02–26576 Filed 10–18–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7406–6]

RIN 2060–AE78

National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction of effective date.

SUMMARY: On September 24, 2002, EPA promulgated final rule amendments to the national emission standards for hazardous air pollutants for secondary aluminum production at 65 FR 59787. Due to errors in the composition of the notice, an incorrect effective date of November 25, 2002 was published. However, under Clean Air Act (CAA) section 112(d)(10), the final rule amendments published on September 24, 2002 were legally effective upon promulgation, and the correct effective date for those amendments was September 24, 2002. This document corrects the erroneous effective date.

EFFECTIVE DATE: November 8, 2002.

ADDRESSES: Docket A–2002–06, containing supporting information used in developing the final rule to which this correction notice refers, is available for public inspection and copying between 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding Federal holidays, at the following address: U.S. EPA, Air and Radiation Docket and Information Center, Room B–108, 1301 Constitution Avenue, NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. John Schaefer, U.S. EPA, Minerals and Inorganic Chemicals Group (C504–05), Emission Standards Division, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541–0296, facsimile number (919) 541–5600, electronic mail address: *schaefer.john@epa.gov.*

SUPPLEMENTARY INFORMATION: *Docket.* The docket is an organized and complete file of the administrative record compiled by EPA in the development of the final rule to which this correction document refers. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so they can effectively participate in the rulemaking process. Along with the proposed and promulgated rules and their preambles, the contents of the docket will serve as the record in the case of judicial review. Other material related to this rulemaking is available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this action will also be available through the WWW. Following signature, a copy of this action will be posted on EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules: *http://www.epa.gov/ttn/oarpg.* The TTN at EPA's web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN help line at (919) 541–5384.

Regulated Entities. Regulated categories and entities are secondary aluminum production facilities and include:

Category	NAICS code	SIC code	Examples of regulated entities
Industry	331314	3341	Secondary smelting and alloying of aluminum facilities.
			Secondary aluminum production facility affected sources that are collocated at:
	331312	3334	Primary aluminum production facilities.
	331315	3353	Aluminum sheet, plate, and foil manufacturing facilities.
	331316	3354	Aluminum extruded product manufacturing facilities.
	331319	3355	Other aluminum rolling and drawing facilities.
	331521	3363	Aluminum die casting facilities.
	331524	3365	Aluminum foundry facilities.
State/local/tribal governments	.....	.....	Not affected.
Federal government	.....	.....	Not affected.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the Agency is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 63.1500 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

SUPPLEMENTARY INFORMATION: We promulgated final rule amendments to the national emission standards for hazardous air pollutants for secondary aluminum production, 40 CFR part 63, subpart RRR, on September 24, 2002 at 65 FR 59787. However, due to errors in the composition of the those amendments, an incorrect effective date of November 25, 2002 was published in two places. Under CAA section 112(d)(10), those amendments became legally effective on the date of promulgation—September 24, 2002. Today's document corrects the effective date of those amendments.

In the **EFFECTIVE DATE** section of the published document, the date was published as November 25, 2002. The correct effective date is September 24, 2002. We also incorrectly identified the effective date in the *Congressional Review Act* section of the final rule. The correct language for that section should have read as follows:

"J. *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. The EPA will submit a report containing this 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**. These final rule amendments are not a "major rule" as defined by 5 U.S.C. 804(2). These amendments will be effective on September 24, 2002."

We are taking this action to correct the erroneous effective date in the September 24, 2002 notice in part because the rule as it existed prior to the amendments might have been construed to impose certain compliance obligations on affected sources prior to November 25, 2002. Since one of the stated purposes of the amendments was to eliminate confusion concerning these same compliance obligations, failure to correct the erroneous effective date would frustrate this purpose. We do not believe that any affected source will be adversely impacted by correction of the effective date.

Administrative Requirements

Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 5173, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in standards that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this correction notice does not constitute a "significant regulatory action" because it does not meet any of the above criteria. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: November 4, 2002.

Jeffrey R. Holmstead,

Assistant Administrator for Air and Radiation.

[FR Doc. 02–28501 Filed 11–7–02; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[FRL–7406–1]

Withdrawal of Federal Human Health and Aquatic Life Water Quality Criteria for Toxic Pollutants Applicable to Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to amend the Federal regulations to withdraw water quality criteria applicable to Michigan. In 1992, EPA promulgated Federal regulations establishing water quality criteria for priority toxic pollutants for 12 States and two territories, including Michigan, that had not fully complied with Clean Water Act (CWA); these regulations are known as the "National Toxics Rule" or "NTR". Thereafter, EPA published regulations pursuant to section 118 of the CWA to establish consistent enforceable protections for the Great Lakes system (Water Quality Guidance for the Great Lakes System). In compliance with the Water Quality Guidance for the Great Lakes System, Michigan adopted water quality standards on July 29, 1997, which included numeric water quality criteria and methodologies for deriving numeric criteria for the same priority toxic pollutants included in the NTR. EPA approved these standards on August 4, 2000. Since Michigan now has criteria, effective under the CWA, for the same priority toxic pollutants in the NTR, EPA has determined that the Federally promulgated criteria are no longer needed. In this direct final rule, EPA is withdrawing Michigan from the NTR without prior proposal because EPA views this action as noncontroversial and does not anticipate adverse comment.

DATES: This rule is effective on February 6, 2003 without further notice, unless EPA receives adverse comment by December 9, 2002. If EPA receives such comment, EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** informing the public that this rule will not take effect. Comments postmarked after this date may not be considered.

ADDRESSES: Please send an original and three copies of comments and enclosures (including references) to W–01–15, WQCR Comment Clerk; Water Docket, U.S. EPA, 1200 Pennsylvania Ave NW, MC–4101T, Washington, DC 20460. Alternatively, comments may be submitted electronically in ASCII or Word Perfect 5.1, 5.2, 6.1, or 8.0 formats avoiding the use of special characters and any form of encryption to *OW-Docket@epa.gov*. Identify electronic comments by the docket number W–01–15. Submit hand delivered comments to W–01–15, EPA's Water Docket, U.S. EPA, EPA West, 1301 Constitution Ave NW, Room B135, Washington DC 20460. No facsimiles (faxes) will be accepted. Comments will be available at the Water Docket, 202–566–2426, Monday through Friday, excluding legal holidays, during normal business hours of 8:30 a.m. to 4:30 p.m.

The supporting record for this rulemaking may be inspected at EPA Region 5, Office of Water, 77 West Jackson Boulevard, 16th Floor, Chicago, IL 60604–3507, Monday through Friday, excluding legal holidays, during normal business hours of 9 a.m. to 5 p.m.. Please contact Dave Pfeifer, as listed in the **FOR FURTHER INFORMATION CONTACT** section, before arriving.

A copy of Michigan's water quality standards may be obtained electronically from EPA's Water Quality Standards Repository, at *http://www.epa.gov/waterscience/standards/wqslibrary/mi/mi.html*.

FOR FURTHER INFORMATION CONTACT: Manjali Gupta Vlcan at EPA Headquarters, Office of Water (4305T), 1200 Pennsylvania Ave NW., Washington, DC., 20460 (tel: 202–566–0373, fax 202–566–0409) or email at *vlcan.manjali@epa.gov* , or Dave Pfeifer in EPA's Region 5 at 312–353–9024 or e-mail at *pfeifer.david@epa.gov*.

SUPPLEMENTARY INFORMATION:

Potentially Regulated Entities

No one is regulated by this rule. This rule merely withdraws Federal water quality criteria applicable to Michigan.

Background

In 1992, EPA promulgated a final rule known as the "National Toxics Rule," or "NTR," to establish numeric water quality criteria for 12 States and two Territories, including Michigan, (hereafter "States") that had not complied fully with section 303(c)(2)(B) of the CWA (57 FR 60848). The criteria, codified at 40 CFR 131.36, became the applicable water quality standards in



Federal Register

Wednesday,
December 4, 2002

Part III

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating; Final Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7385–5]

RIN 2060–AG58

National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes national emission standards for hazardous air pollutants (NESHAP) for facilities that coat paper and other web substrates and are major sources of hazardous air pollutants (HAP) emissions. The standards implement section 112(d) of the Clean Air Act (CAA) to protect public health and the environment by reducing HAP emissions from new and existing facilities. The CAA requires these sources to achieve the maximum degree of reduction in HAP emissions that is achievable. The final standards will eliminate approximately 80 percent of nationwide HAP emissions from facilities that coat paper and other web substrates.

EFFECTIVE DATE: December 4, 2002. The incorporation by reference of certain publications listed in today's final rule is approved by the Director of the Federal Register as of December 4, 2002.

ADDRESSES: *Docket.* Docket No. A–99–09 contains supporting information used in developing the standards for the paper and other web coating source category. The docket is located at the Environmental Protection Agency, Office of Air & Radiation Docket & Information Center, Mail Code 6102T, 1301 Constitution Avenue, NW, Room B108, Washington, DC 20460, and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Almodovar, Coating and Consumer Products Group (C539–03), Emission Standards Division, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–0283, facsimile number (919) 541–5689, electronic mail (e-mail) address: *almodovar.paul@epa.gov.*

SUPPLEMENTARY INFORMATION: *Docket.* The docket is an organized and complete file of all the information considered by the EPA in the development of rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (*See* section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air and Radiation Docket and Information Center by calling (202) 566–1742. A reasonable fee may be charged for copying docket materials.

WorldWide Web (WWW). In addition to being available in the docket, an electronic copy of today's final rule will also be available on the WWW through the EPA's Technology Transfer Network (TTN). Following signature by the EPA Administrator, a copy of the rule will be posted 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. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. Categories and entities potentially regulated by this action include those listed on the following table. This table is not intended to be exhaustive, but is just a guide to entities likely to be regulated by these standards. It lists the types of entities that may be regulated, but you should examine the applicability criteria in §§ 63.3290 and 63.3300 of the rule to decide whether your facility is regulated by the standards. If you have any questions about whether your facility is subject to the standards, call the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

CATEGORIES AND ENTITIES POTENTIALLY REGULATED BY THE STANDARDS

Category	NAICS Codes	Examples of Potentially Regulated Entities
Paper and Other Web Coating ..	322211 322212 [a] 322221 322222 [a] 322223 [a] 322224 322225 322226 [a] 322299 323111 323116 325992 326111 326112 [a] 326113 32613 326192 [a] 32791 332999 339944	Those facilities with web coating operations [b] that coat substrate used in products including, but not limited to: corrugated and solid fiber boxes; folding paperboard boxes, including sanitary; flexible packaging (packing paper and plastics film, coated and laminated); pressure sensitive tape and labels, medical tape, duct tape, coated and laminated paper, not elsewhere classified (nec); plastics, foil, and coated paper bags; bags: uncoated paper and multiwall; die-cut paper and board; converted paper and paperboard products, nec (gift wrap, paper wallpaper, cigarette paper); commercial printing, gravure; manifold business forms; plastic aseptic packaging; unsupported plastics film and sheet; laminated plastics plate, sheet, and profile shapes; abrasive products; laminated aluminum (metal) foil and leaf, flexible packaging; photographic equipment and supplies; carbon paper and inked ribbons; linoleum, asphalted-felt base, and other hard surface floor coverings.

[a] Facilities in these NAICS codes are expected to be primarily covered under the printing and publishing NESHAP.

[b] Web coating operations refer to the application of a continuous layer of coating material across the entire width or any portion of the width of a web substrate, and any associated curing/drying equipment between an unwind or feed station and a rewind or cutting station where the continuous web substrate is flexible enough to be wound or unwound as rolls.

Judicial Review. Under section 307(b) of the 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 February 3, 2003. Under section 307(d)(7)(B) of the CAA, only an objection to the rule which 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 today's final action may not be challenged separately in any civil or criminal proceeding we bring to enforce these requirements.

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

I. What Are the Subject and Purpose of the Rule?
II. Does This Rule Apply to Me?
A. What Facilities Are Subject to the Rule?
B. What Is the Affected Source?
III. What Are the Emission Standards?
A. Emission Limits
B. Interaction with Other Regulations
IV. When Do I Show Initial Compliance with the Rule?
V. What Testing and Monitoring Must I Do?
A. Test Methods and Procedures
B. Monitoring Requirements
VI. What Notification, Recordkeeping, and Reporting Requirements Must I Follow?
A. Initial Notification
B. Notification of Performance Tests
C. Notification of Compliance Status
D. Recordkeeping Requirements
E. Periodic Reports
VII. What Major Changes Have We Made to the Rule Since Proposal?
A. Applicability
B. New Source Emission Limit
C. Solvent Retained in the Web
D. Monitoring
VIII. What Are the Environmental, Energy, and Economic Impacts of the Rule?
A. Emission Reductions
B. Secondary Environmental Impacts
C. Energy Impacts
D. Cost Impacts
E. Economic Impacts
IX. Administrative Requirements
A. Executive Order 12866, Regulatory Planning and Review
B. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
C. Executive Order 13132, Federalism
D. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
E. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, and Use
F. Unfunded Mandates Reform Act of 1995
G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1966 (SBREFA), 5 U.S.C. 601, *et seq.*
H. Paperwork Reduction Act
I. National Technology Transfer and Advancement Act
J. Congressional Review Act

I. What Are the Subject and Purpose of the Rule?

The CAA requires us to establish standards to control HAP emissions from source categories identified under section 112(c) of the CAA. An initial source category list was published in the **Federal Register** on July 16, 1992 (57 FR 31576). The source category list identifies "Paper and Other Web Coating (Surface Coating)" as a source category because it contains major sources of HAP emissions. Under the CAA, a major source is defined as "* * * any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year (tpy) or more of any one HAP or 25 tpy or more of any combination of HAP." We have estimated that there are over 400 existing paper and other web coating facilities with approximately 203 estimated to be major sources of HAP emissions.

The purpose of the rule is to reduce emissions of HAP from paper and other web coating major sources. The source category is for major sources only. Area sources are not included in this source category and, therefore, are not subject to the standards. We estimate that annual baseline organic HAP emissions from this source category are approximately 37,800 megagrams per year (Mg/yr) (42,000 tpy). The final rule will eliminate approximately 31,300 Mg/yr (34,500 tpy) of these organic HAP emissions (about an 80 percent reduction).

The organic HAP emitted from the paper and other web coating process include toluene, methanol, methyl ethyl ketone, xylenes, phenol, methylene chloride, ethylene glycol, glycol ethers, hexane, methyl isobutyl ketone, cresols and cresylic acid, dimethylformamide, vinyl acetate, formaldehyde, and ethyl benzene. These pollutants can cause reversible or irreversible toxic effects following sufficient exposure. The potential toxic effects include eye, nose, throat, and skin irritation, and blood cell, heart, liver, kidney damage, and possibly cancer.

The degree of adverse effects to human health from exposure to HAP can range from mild to severe. The extent and degree to which the human health effects may be experienced are dependent upon (1) the ambient concentration observed in the area (as influenced by emission rates, meteorological conditions, and terrain); (2) the frequency and duration of exposures; (3) characteristics of exposed individuals (genetics, age, preexisting health conditions, and lifestyle) which vary significantly with the population; and (4) pollutant-specific characteristics (toxicity, half-life in the environment, bioaccumulation, and persistence).

II. Does the Rule Apply to Me?

A. What Facilities Are Subject to the Rule?

The paper and other web coating source category includes any facility that is located at a major source and is engaged in the coating of paper, plastic film, metallic foil, and other web surfaces. Paper and other web coating may be simply referred to as "web coating" since paper is one of several web substrates in the paper and other web coating source category. The source category does not include printing operations covered under the Printing and Publishing NESHAP (40 CFR part 63, subpart KK) or web coating lines subject to the Magnetic Tape Manufacturing NESHAP (40 CFR part 63, subpart EE). The source category does not include coil coating, *i.e.*, the application of a coating to the surface of any metal strip at least 0.15 millimeter (0.006 inch) thick that is packaged in a roll or coil, which is being regulated as a separate source category. However, we have identified facilities that coat metal webs greater than 0.15 millimeter thick that are coated for use in flexible packaging. These web coating lines are part of the paper and other web coating source category and, therefore, are not subject to the Coil Coating NESHAP. Fabric coating operations are also being regulated as a separate source category, except for fabric coating for use in pressure sensitive tape and abrasive materials.

The rule applies to you if you own or operate any web coating lines at a facility that is a major source of HAP emissions. This means that the web coating lines at a major source would be subject to the standards without regard to the relative proportion of HAP emissions from the web coating lines to total HAP emissions at the source.

If your facility is a nonmajor (area) source, *i.e.*, actual and potential annual emissions are less than 10 tons of any single HAP and less than 25 tons of all HAP combined, you would not be subject to the rule.

If your facility is a major source, you would be required to meet the emission limits for all the web coating lines at your facility. We have defined a web to be a continuous substrate (*e.g.*, paper, plastic film, foil) that is capable of being rolled at any point during the coating

process. We have defined a web coating line to be any number of work stations, of which one or more applies a continuous layer of coating material along the entire width of a continuous web substrate or any portion of the width of the web substrate, and any associated curing/drying equipment between an unwind (or feed) station and a rewind (or cutting) station. As stated before, printing presses subject to the Printing and Publishing NESHAP (40 CFR part 63, subpart KK) are not web coating lines.

B. What Is the Affected Source?

We define an affected source as a stationary source, group of stationary sources, or part of a stationary source to which a specific NESHAP applies. Within a source category, we select the specific emission sources (emission points or groupings of emission points) that will make up the affected source for that category. To select these emission sources, we mainly consider the constituent HAP and quantity emitted from individual or groups of emission points.

For the Paper and Other Web Coating NESHAP, the affected source is the collection of all the web coating lines at a facility. As previously stated, a web coating line is defined as any number of work stations, of which one or more applies a continuous layer of coating material across the entire width or any portion of the width of a web substrate, and any associated curing/drying equipment between an unwind or feed station and a rewind or cutting station.

Affiliated operations such as mixing or dissolving of coating ingredients prior to application; coating mixing for viscosity adjustment, color tint or additive blending, or pH adjustment; cleaning of coating lines and coating line parts; handling and storage of coatings and solvent; and conveyance and treatment of wastewater are part of the paper and other web surface coating source category. The final distinction between these affiliated operations and other activities that go beyond the affiliated operations described above will be resolved in the context of the Miscellaneous Organic Chemical Manufacturing NESHAP or the Miscellaneous Coating Manufacturing NESHAP, both currently under development. Review of the industry survey data reflected that only a small portion of the surveyed facilities reported any data concerning affiliated operations, and only some of these facilities reported that HAP emissions from affiliated operations were controlled. For facilities that reported control of HAP emissions from these sources, the data were not sufficiently detailed to determine if the reported control represented the facility level of control or the control for one unit operation of this type out of several in the facility. For example, mixing may be performed in a mix room and at the application station. It was not clear from the reported data if a facility reporting capture and control of emissions from mixing operations conducted all mixing at controlled application stations or possibly just a single mix room was controlled. When these operations occur inside a permanent total enclosure, emissions reductions can be achieved at the overall control efficiency of the capture and control system. We were not able to identify emissions reductions for affiliated operations with the available data. Since we were not able to identify emissions reductions for affiliated operations, we believe it is not appropriate at this time to include them in the affected source in the final rule.

The requirements of the future Miscellaneous Organic Chemical Manufacturing NESHAP and the Miscellaneous Coating Manufacturing NESHAP will not apply to affiliated operations located at a facility subject to the rule. Activities which go beyond the affiliated operations described above may, however, be subject to the requirements of the Miscellaneous Organic Chemical Manufacturing NESHAP and the Miscellaneous Coating Manufacturing NESHAP. Language will be added to both of these rules to clarify their applicability.

Coating lines and equipment that are not in the source category and thus, not in the affected source, include those that perform both coating and printing and are subject to the national emission standards for the printing and publishing industry (40 CFR part 63, subpart KK); metal coil coating operations, except for the coating of metal webs greater than 0.15 millimeter thick that are used in flexible packaging; and fabric coating operations, except for fabric coating for use in pressure sensitive tape and abrasive materials.

Many industrial facilities perform both coating and printing operations. Within the printing industry, the product and packaging rotogravure and wide-web flexographic industry segment (that includes the flexible packaging industry as a major subsector) does the most coating, with material use distributed almost equally between inks and other types of coatings. Printing operations are covered under the NESHAP for the printing and publishing industry (40 CFR part 63, subpart KK). The Printing and Publishing NESHAP also include an option for facilities that perform both printing and coating to include certain coating operations as affected sources subject to that rule. Therefore, many facilities that could potentially be subject to the Paper and Other Web Coating NESHAP may have coating lines already subject to the Printing and Publishing NESHAP. Such web coating lines included in compliance demonstrations under the Printing and Publishing NESHAP are not subject to the Paper and Other Web Coating NESHAP. A detailed discussion of the printing and publishing industry is included in the background information document for that industry (Docket No. A–92–42, National Emission Standards for Hazardous Air Pollutants: Printing and Publishing Industry—Background Information for Proposed Standards (EPA–453/R–95–002a)).

III. What Are the Emission Standards?

A. Emission Limits

In the rule, we expressed the emission limit in three formats based on whether HAP emissions are measured in terms of mass of organic HAP applied, mass of coating material applied, or mass of coating solids applied. You may choose to comply with any of these formats (referred to as the "emission limits"). The HAP emission limits are based on emission capture and control technology that can reduce total organic HAP emissions by 95 percent at existing affected sources and 98 percent at new affected sources. The HAP emission limits reflect this level of control by limiting organic HAP emissions to no more than 5 percent and 2 percent of the organic HAP applied each month at existing and new affected sources, respectively; and by equivalently limiting emissions based on the mass of the solids part of your coatings or the mass of your total coating materials. We believe expressing emission limits in this way is appropriately based on the maximum achievable control technology (MACT) level of control and offers flexibility to reduce emissions through the use of control technology, pollution prevention, or a combination of the two.

The three HAP emission limits for existing affected sources are: (1) Limit emissions to no more than 5 percent of the mass of organic HAP applied each month (95 percent reduction); (2) limit the total mass of organic HAP in your coating materials, or the total mass of organic HAP emitted, to no more than 4 mass percent of the total mass of coating materials applied to the web substrate each month; or (3) limit the total mass of organic HAP in your

coatings, or the total mass of organic HAP emitted, to no more than 20 mass percent of the total mass of coating solids applied to web substrates each month.

The three HAP emission limits for new affected sources are: (1) Limit emissions to no more than 2 percent of the mass of organic HAP applied each month (98 percent reduction); (2) limit the total mass of organic HAP in your coating materials, or the total mass of organic HAP emitted, to no more than 1.6 mass percent of the total mass of coating material applied to the web substrate each month; or (3) limit the total mass of organic HAP in your coatings, or the total mass of organic HAP emitted, to no more than 8 mass percent of the total mass of coating solids applied to web substrates each month.

Alternatively, the owners or operators of both existing and new affected sources using a thermal oxidizer to control organic HAP emissions may choose to operate the oxidizer such that an outlet HAP concentration of no greater than 20 parts per million by volume (ppmv) by compound on a dry basis is achieved. If 100 percent capture efficiency is achieved and this outlet concentration is achieved on a continuous basis, then the source will be deemed to be in compliance with the emission limit. Our rationale for including this alternative emission limit is included in section VII.B of this preamble.

If your facility is subject to today's rule, the General Provisions (40 CFR part 63, subpart A) also apply to you. The General Provisions codify procedures and criteria we use to carry out all part 63 NESHAP promulgated under the CAA. The General Provisions contain administrative procedures, preconstruction review procedures, and procedures for conducting compliance-related activities such as notifications, recordkeeping and reporting, performance testing, and monitoring. The rule refers to individual sections of the General Provisions that we believe will be of particular interest to you. However, unless specifically overridden in Table 2 of the rule, all of the General Provisions requirements apply to you.

B. Interaction With Other Regulations

You may be subject to both the Paper and Other Web Coating NESHAP and other future or existing rules, such as new source performance standards (NSPS) and State rules requiring reasonably available control technology limits on volatile organic compounds (VOC) emissions. You must comply with all applicable rules. Duplicative recordkeeping and reporting requirements and differences in emission limitations may be resolved through your title V permit.

IV. When Do I Show Initial Compliance With the Rule?

Existing affected sources must comply with the rule no later than 3 years after December 4, 2002. The effective date is December 4, 2002. New or reconstructed affected sources must comply upon start-up or December 4, 2002, whichever is later. Details of the compliance requirements can be found in the General Provisions, as outlined in Table 1 of today's rule.

Before your initial compliance demonstration, you must choose which of the three emission limit options you will use for your affected source. In your initial compliance certification, you must notify the Administrator of your choice and after that, you must monitor and report compliance results accordingly. If you decide to change to other emission limit options, you are also required to notify the Administrator, as with other changes at the facility, as discussed in section VI of this preamble.

V. What Testing and Monitoring Must I Do?

In addition to the specific testing and monitoring requirements specified below for the affected source, the rule adopts the testing requirements specified in § 63.7 of 40 CFR part 63.

A. Test Methods and Procedures

You may comply with the standards by applying materials meeting the organic HAP emission rate limits, by using capture and control equipment to reduce organic HAP emissions by 95 percent at existing affected sources and by 98 percent at new affected sources, or by using a combination of low-organic-HAP materials and capture and control equipment to meet the organic HAP emission rate limits.

If you demonstrate compliance based on the coating materials applied on your web coating lines, you must determine the organic HAP content of materials applied using either EPA Method 311 of appendix A of 40 CFR part 63, an alternative method for determining the organic HAP content (but only after obtaining EPA approval), or the volatile organic content of the coating materials applied as the value for the organic HAP content. The volatile organic content must be determined by EPA Method 24 of appendix A of 40 CFR part 60 (or an approved alternative method). If you are demonstrating compliance by applying coating materials that meet the emission limit based on coating solids applied, the coating solids content of the materials must be determined using EPA Method 24.

You may rely on formulation data to determine the organic HAP content, volatile matter content, or coating solids content as an alternative to performing Method 311 or Method 24 testing.

To demonstrate compliance, you must calculate the average mass of organic HAP in the coating materials applied on the web coating lines and show that it is less than the organic HAP emission limits specified.

If you use an emission capture and control system to comply with the standards, you must demonstrate that the overall control efficiency reduces total organic HAP emissions by at least 95 percent at existing sources and 98 percent at new sources. Alternatively, you may use capture and control equipment in combination with low-organic-HAP materials and demonstrate you meet one of the other organic HAP emission limits. To comply using this combined approach, you must determine the overall control efficiency of the capture and control equipment and the organic HAP content of the materials applied on the web coating lines. If you choose to demonstrate compliance with the emission limit based on coating solids applied, then you must also determine the coating solids content of each coating material used on the web coating lines. These values must be determined for each monthly period.

To determine the capture system efficiency, you must either confirm that your capture system is a permanent total enclosure using EPA Method 204 of 40 CFR part 51, appendix M, in which case you may assume 100 percent capture; or use EPA Methods 204A through F to measure capture efficiency. You may also use any capture efficiency protocol or test method that satisfies either the data quality objectives or lower confidence limit approach as described in appendix A of 40 CFR part 63, subpart KK.

You must determine the emission destruction or removal efficiency of a control device by conducting a performance test or using a continuous emission monitoring system (CEMS). If you use a CEMS, you must determine the inlet and outlet concentration to calculate the control efficiency. The CEMS must comply with performance specification 8 or 9 in 40 CFR part 60, appendix B.

If you conduct a performance test, the destruction or removal efficiency of a control device must be determined based on three runs, each run lasting 1

hour. Method 1 or 1A of 40 CFR part 60, appendix A, must be used for selection of the sampling sites. Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A, must be used to determine the gas volumetric flow rate. Method 3, 3A, or 3B of 40 CFR part 60, appendix A, must be used for gas analysis to determine dry molecular weight. Method 4 of 40 CFR part 60, appendix A, must be used to determine stack moisture. Method 25 or 25A of 40 CFR part 60, appendix A, must be used to determine organic volatile matter concentration, although the use of Method 25A is limited as detailed in the rule. Alternatively, any other test method or data that have been validated according to the applicable procedures in Method 301 of 40 CFR part 63, appendix A, may be used if approved by the Administrator.

If you use a solvent recovery system to comply with the requirements of the rule, you may alternatively determine the overall control efficiency using a liquid-liquid material balance. If you demonstrate compliance by using the material balance, you must measure the amount of all coating materials applied during each month to the web coating lines and determine the volatile matter content of these materials. You must also measure the amount of volatile matter recovered by the solvent recovery system during the month and calculate the overall solvent recovery efficiency.

If you so choose, you may also take into account any amount of organic HAP retained in the coated web or otherwise not emitted to the atmosphere, as discussed in section VII.C of this preamble. The final rule requires you to develop a testing protocol for determining the mass of volatile matter retained or otherwise not emitted to the atmosphere. This protocol would have to be submitted and approved as part of your site-specific test plan.

The test methods we require, as discussed above, are existing EPA methods that are familiar to the industry, readily available, and appropriate to the device or the parameter being measured. The selected tests are expected to establish whether the facility is complying with the standards.

B. Monitoring Requirements

According to paragraph (a)(3) of section 114 of the CAA, monitoring of stationary sources is required to determine the compliance status of the sources, and whether compliance is continuous or intermittent. For affected sources complying with the standards by using capture and control systems, initial compliance is determined through an initial performance test and ongoing compliance through continuous monitoring. We specify the operating parameters that need to be monitored for certain control devices used in the paper and other web coating industry (thermal and catalytic oxidizers). You must set the values of these parameters, which demonstrate compliance with the standards, during your initial performance test. These values are your "operating limits." If future monitoring shows that capture and control equipment is operating outside the range of values established during the initial performance test, then you are deviating from the operating limits.

If you use a capture and control system to meet the standards, you are required to develop and maintain a plan identifying the operating limit and monitoring procedures for the capture system. You must monitor in accordance with your plan.

If you use a thermal or catalytic oxidizer to comply with the standards, you must monitor temperature using a continuous parameter monitoring system. If you use a thermal oxidizer to comply with the standards, you must establish the average combustion temperature recorded during the performance test as the operating limit. If you use a catalytic oxidizer to comply with the standards , you must establish as the operating limits the average inlet gas temperature and temperature rise across the catalyst bed recorded during the performance test. Alternatively, you may establish as the operating limits for a catalytic oxidizer the average gas temperature at the inlet of the catalyst bed and the average catalyst activity level.

If you use a solvent recovery system to comply with the emission limits, you must conduct monthly liquid-liquid material balances or operate continuous emission monitors.

VI. What Notification, Recordkeeping, and Reporting Requirements Must I Follow?

The rule requires you to comply with notification, recordkeeping, and reporting requirements, generally as described in the General Provisions (*see* Table 2 of the rule) and specifically as designed to support demonstration of compliance with the rule. We believe that these requirements are necessary and sufficient to ensure that you comply with the requirements in the rule (40 CFR part 63 subpart JJJJ).

A. Initial Notification

If the NESHAP apply to you, you must send an initial notification to the EPA Regional Office in the region where your facility is located and to your State agency. If you have an existing affected source, you must submit the initial notification no later than 1 year before the compliance date, which is December 5, 2005. If you have a new or reconstructed affected source, you must submit the notification no later than 120 days after either the date of initial start-up or December 4, 2002, whichever is later.

The initial notification notifies us and your State agency that you have an existing affected source that is subject to the standards or that you have constructed a new affected source. Thus, it allows you and the Federal or State enforcement agency to plan for compliance activities. The General Provisions specify the information you must include in the initial notification and other reporting requirements for both existing affected sources and new or reconstructed affected sources.

B. Notification of Performance Tests

If the rule applies to you, you will have several options for demonstrating compliance. If you demonstrate compliance by using a capture and control system to reduce HAP emissions, you must conduct a performance test as described in the rule. Prior to conducting the performance test, you must notify us or the delegated State or local agency at least 60 calendar days before the performance test is scheduled to begin, as indicated in the General Provisions.

C. Notification of Compliance Status

You are required to send a notice of compliance status within 180 days after the compliance date as specified in the General Provisions. This report must include your compliance certification, the results of any performance tests and monitoring, and a description of how you will demonstrate continuing compliance.

In conformance with 40 CFR 63.9(h), the notification of compliance status must identify whether low-HAP materials, emission capture and control systems, or a combination of low-HAP materials and capture and control systems were used to comply with the standards. For capture and control systems, it must also identify the operating limits established during the performance test. Specific reporting requirements are dependent upon how you choose to comply with the standards.

D. Recordkeeping Requirements

Records of the organic HAP, volatile organic content and solids content of

each coating applied, and the amount of each coating applied on paper and other web coating lines each month must be maintained to comply with the standards based on organic HAP content or organic HAP emissions on a mass basis.

If capture and control technology is used, you are required to keep records of the equipment monitoring parameter measurements as specified in the final rule. You must also develop a start-up, shutdown, and malfunction plan. You would have to make the plan available for inspection if the Administrator requests to see it. It must stay in your records for the life of the affected source or until the source is no longer required to meet the standards.

E. Periodic Reports

Each reporting year is divided into two semiannual reporting periods. If no deviations occur during a semiannual reporting period, you would submit a semiannual compliance report stating that the affected source has been in compliance. A deviation is any instance in which you fail to meet any requirement or obligation of the standards or any term or condition adopted to meet the standards. The following information would be required in semiannual compliance reports when deviations occur:

- If you are complying by using add-on control devices, report all deviations from the control device operating parameters.
- If you are complying by using solvent recovery systems and liquid-liquid material balance, report material balance calculations for all months when the material balances deviated from the emission limit.
- If you are complying by using add-on controls or solvent recovery systems with continuous emission monitors, report all deviations from the operating parameter values established for the capture system and all deviations from the emission limit.
- If you are complying by using low-HAP coating materials, report all deviations from the emission limit.
- If you are complying by using a combination of capture and control systems with low-HAP coating materials, report all deviations from the emission limit and all deviations from operating parameters described above.

You would also have to send us reports for each semiannual reporting period in which the following occur:

- A change occurs at your facility or within your process that might affect its compliance status.
- A change from what was reported in the initial notice occurs at your facility or within your process.
- You decide to change to another emission limitation option.
- You had a startup, shutdown, or malfunction of an emission control device during the semiannual period and the actions taken were consistent with your startup, shutdown, and malfunction plan (SSMP).

VII. What Major Changes Have We Made to the Rule Since Proposal?

We requested comments from the public on the proposed rule in general, as well as several specific areas. We received 28 comment letters from industry representatives, industry trade groups, and individuals. In response to these comments, we made several changes for the final rule. Many of these changes are clarifications designed to make our intentions clearer. However, some of the changes affect the requirements specified in the proposed rule. The more significant changes to the proposed rule are summarized in the following sections. Our complete responses to public comments for the final rule are contained in the document "National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Category: Paper and Other Web Coating, Summary of Public Comments and Responses on the Proposed Rule" (EPA–453/R–02–005).

A. Applicability

Several comments were received on the potential applicability overlap between the proposed rule and other coating standards. The affected source section has been revised to exclude web coating lines subject to the Magnetic Tape Manufacturing NESHAP (40 CFR part 63, subpart EE) and the Printing and Publishing NESHAP (40 CFR part 63, subpart KK) from the requirements of the final rule (40 CFR part 63, subpart JJJJ). The affected source section has also been revised to exclude web coating lines that will be an affected source under the NESHAP for metal coil surface coating operations currently under development. The final rule has been revised to exclude web coating lines that are engaged in the coating of both fabric and other webs on the same fabric coating line and that will be an affected source under the NESHAP for fabric and other textiles printing, coating, and dyeing operations currently under development. Finally, the rule has been revised to clarify that certain web coating lines engaged in fabric coating for use in pressure sensitive tape and abrasive materials are part of the Paper and Other Web Coating source category. While most of these products are commonly produced using a paper web, product applications that require higher performance or unique characteristics may necessitate the use of a fabric web. The coating equipment, the coating solutions, and the emissions are essentially the same whether the coated web is fabric or paper. Therefore, we are regulating these web coating processes under today's final rule.

B. New Source Emission Limit

We received a comment expressing doubt that new sources could consistently achieve 98 percent control efficiency using an oxidizer. The commenter stated that the data we used to develop the new source emission limit were based on short-term performance tests. Over the long term, according to the commenter, oxidizer performance can vary due to coating process variabilities. The commenter requested that we adopt the existing source control efficiency requirement of 95 percent for new sources. While the commenter did not explain what was meant by "coating process variabilities," we assumed that this was a reference to fluctuating organic HAP inlet concentrations during periods of reduced coating application. We recognize that oxidizer performance may decrease when the inlet concentration decreases. While we believe the 98 percent organic HAP overall control efficiency for new sources is achievable based on information provided by the paper and other web coating industry, we added an alternative emission limit based on outlet organic HAP concentration that should account for any variable or low inlet concentrations. The MACT floor analysis for the rule determined that the emission control of the best controlled source in this category was 98 percent. Therefore, we have retained the 98 percent overall control of organic HAP emissions for new affected sources. As stated in the preamble to the proposed rule (65 FR 55339), although some facilities reported more than 98 percent overall control of organic HAP emissions, this higher level of control may not be achievable on a continuous basis under all normal operating conditions applicable to new sources. In order to provide additional flexibility and ensure consistency with other coating-related NESHAP in development, we added an alternate emission limit based on outlet organic HAP concentration. Owners or operators of both existing and new affected sources using a thermal oxidizer to control organic HAP emissions may choose to operate the oxidizer such that

an outlet organic HAP concentration of no greater than 20 ppmv is achieved as long as 100 percent capture efficiency is achieved.

The 20 ppmv by compound organic HAP limit is based on previous EPA studies of available oxidizer technology, cost, and energy use. The dual requirement of meeting a minimum control efficiency value or a 20 ppmv by compound limit accounts for a fall-off of oxidizer efficiency at lower inlet concentrations. For example, if an inlet concentration is only 200 ppmv, even if an outlet concentration of 20 ppmv is achieved, the control efficiency is only 90 percent. This is less than the existing source limit of 95 percent and the new source limit of 98 percent. We recognize this problem for oxidizers with low inlet concentrations and, consequently, have included the alternate 20 ppmv by compound organic HAP emission limit.

Previous EPA studies have shown that new oxidizers can achieve the 20 ppmv by compound emission limit even when the inlet organic HAP concentration is low. We believe that most existing oxidizers could also reach the emission limit with moderate adjustments. The combustion temperature and residence time used in the previous EPA studies to achieve the 20 ppmv by compound emission limit (870 degrees Celsius (1600 degrees Fahrenheit) and 0.75 second) are typical of the necessary operating conditions. We believe these operating conditions are achievable by both new and existing sources.

C. Solvent Retained in the Web

Numerous commenters provided information concerning volatile materials that may be retained in the coated web even after the drying/curing operation. Most of these commenters were concerned that a source using solvent recovery and demonstrating compliance by means of a liquid-liquid material balance would be at a disadvantage because the compliance demonstration procedures in the proposed rule assumed that all volatile materials in the coatings are emitted. Thus, the emissions would be overestimated when volatile material is retained in the coated web. The commenters requested that an "as-emitted" compliance option be added to the final rule.

Volatile HAP may be retained in the web due to reactive coatings in which the volatiles are consumed or changed in a chemical reaction during the drying/curing operation, or where a portion of the volatiles is physically retained within the coated web. Volatile HAP may also be recovered from the web coating process and recycled, therefore, not being emitted to the atmosphere. Under the proposed rule, sources using solvent recovery devices and demonstrating compliance through the use of a liquid-liquid material balance would have no means of accounting for the volatile HAP retained in the coated web and not emitted to the atmosphere. Even a small percentage of volatile HAP retained in the coated web would restrict the ability of such a source to comply with the emission limitations in the proposed rule.

In response to these comments, we have added paragraph (g) to § 63.3360, the performance testing section of the final rule. This paragraph allows a source to take into account the mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere. It also requires the source to develop a testing protocol for determining the mass of volatile matter retained or otherwise not emitted to the atmosphere. This protocol would have to be submitted and approved as part of a site-specific test plan. This added paragraph applies to any means of demonstrating compliance, not just liquid-liquid material balances.

In conjunction with the new paragraph in § 63.3360, we revised Equations 4, 5, 6, 7, 8, 12, 14, and 15 of § 63.3370 by adding a term (M_{vret}) to account for volatile matter not emitted from the coating operation. This term may be used to account for reactive coatings, volatile matter chemically bound in the dried coating, incomplete curing, or other situations. These modifications have the same effect as the commenters' request for adding an "as-emitted" compliance option.

D. Monitoring

We received numerous comments indicating that the performance specifications (PS) for parameter monitoring of control devices were overly burdensome, particularly the temperature monitor requirements for oxidizers. While we believe the requirements in the proposed rule were appropriate, we have reviewed these requirements and made modifications where continuous compliance assurance will not be compromised. For example, the temperature monitor requirements for oxidizers no longer require monthly inspection of the electrical connections of the temperature monitoring system because we believe the industry adequately performs such monitoring in the absence of specific requirements as part of their routine maintenance. If you wish to monitor an alternative parameter for an oxidizer, or choose to use a control device other than an oxidizer, then you must apply for and receive approval of an alternative monitoring method under § 63.8(f) of the General Provisions. Through this procedure, you have the option of selecting monitoring appropriate to your specific facility that is the most efficient for your needs while still assuring that continuous compliance is maintained.

A related change concerns control devices equipped with an automatic system that shuts down the control device when the temperature falls below the minimum set point. We received comments requesting that hourly averages of temperature readings not be required when such a system is installed. We agree that such a system is an adequate monitor of control device performance and will assure continuous compliance. The final rule specifies that you have the option of using such a system after receiving approval under § 63.8(f) of the General Provisions.

We clarified the minimum data availability requirements for calculating a valid hourly value from continuous monitoring system data, as well as for calculating values for the 3-hour averages derived from the hourly values. These changes were in response to comments indicating that the proposed rule did not clearly indicate what constituted a valid set of data for an hourly reading.

As an alternative to measuring the inlet temperature and temperature rise across the catalyst bed of a catalytic oxidizer to demonstrate continuous compliance, the rule includes a provision that allows you to monitor the temperature at the inlet to the catalyst bed and the catalyst activity level.

The proposed rule did not take into account that some existing facilities may already have CEMS in place. In order to allow such a facility to use the CEMS for compliance purposes, a provision was added to the final rule which allows the use of CEMS to monitor the organic HAP concentration in an exhaust stream from an emission source that is controlled by means other than solvent recovery. However, in order to use the CEMS data for compliance purposes, the emission source must also be operated within a permanent total enclosure.

VIII. What Are the Environmental, Energy, and Economic Impacts of the Rule?

We developed model facilities to represent the paper and other web coating industry based on the data we collected. We estimated environmental, energy, and economic impacts based upon what these modeled facilities must do to meet the rule. There are several options for demonstrating compliance

with these standards, and each facility has flexibility to adopt the compliance option which has the least economic impact for their individual situation. Most of the existing major source facilities in this industry apply solvent-based coatings and utilize thermal oxidation to reduce HAP emissions. Therefore, in estimating the impacts associated with the rule, we assumed that most facilities would install a permanent total enclosure and either install a new thermal oxidizer or upgrade the mechanical components of an existing one. If, instead, a facility complies with the rule by applying coatings that meet the emission limitation, the capital and operating costs and other impacts would be lower than estimated. Hence, the estimates presented below may overestimate the costs and other impacts as some facilities may comply with the rule by applying low-HAP coatings.

A. Emission Reductions

For existing affected sources in the paper and other web coating industry (approximately 203 major sources), the nationwide baseline organic HAP emissions are estimated to be 35,000 Mg/yr (39,000 tpy). We estimate that implementation of the final rule would reduce emissions from existing major sources by approximately 29,000 Mg/yr (32,000 tpy), or approximately 80 percent.

We have projected the growth of the paper and other web coating industry and anticipate that 32 new affected sources (individual facilities with one or more web coating lines) will be constructed over the next 5 years. In the absence of this rule, these new sources would be required to comply with the NSPS in 40 CFR part 60 for VOC. Because nearly all the VOC used by the paper and other web coating industry are also organic HAP, the NSPS would reduce organic HAP emissions as well as VOC emissions. Based on the analysis performed to develop model plants to assess the impacts of the proposed rule on the industry, it was determined that the NSPS represents a 90 percent reduction of organic HAP emissions. Therefore, this level of control was used to estimate the baseline organic HAP emissions for new sources (*i.e.*, the level of emissions from new sources in the absence of this rule). We estimated that nationwide organic HAP baseline emissions from new sources will be about 2,800 Mg/yr (3,000 tpy). We estimate that implementation of the final rule will reduce emissions from new affected sources by about 2,300 Mg/yr (2,535 tpy), or approximately 80 percent.

B. Secondary Environmental Impacts

Secondary environmental impacts are considered to be any air, water, or solid waste impacts, positive or negative, associated with the implementation of the final standards. These impacts are exclusive of the direct organic HAP air emissions reductions discussed in the previous section.

We estimate that more than 99 percent of the organic HAP emissions from paper and other web coating are VOC. Therefore, the capture and control of organic HAP that are presently emitted will result in a decrease in VOC emissions. Consequently, we estimate the current nationwide VOC emissions from the paper and other web coating source category to be at least 35,000 mg/yr (39,000 tpy), the nationwide organic HAP estimate. The emission controls for organic HAP will reduce non-HAP VOC emissions as well.

Emissions of VOC have been associated with a variety of health and welfare impacts. The VOC emissions, together with nitrogen oxides, are precursors to the formation of ground-level ozone, or smog. Exposure to ambient ozone is responsible for a series of public health impacts, such as alterations in lung capacity and aggravation of existing respiratory disease. Ozone exposure can also damage forests and crops.

The use of newly installed or upgraded control devices to meet the standards would result in greater electricity consumption. Increases in emissions of nitrogen oxides, sulfur dioxide, carbon monoxide, and carbon dioxide, as well as certain HAP, from electric utilities could result. The operation of newly installed or upgraded control devices would also require combustion of supplemental fuel, typically natural gas, resulting in additional emissions of nitrogen oxides, carbon monoxide, and carbon dioxide.

It is expected that some paper and other web coating facilities will comply with the standards by substituting non-HAP materials for organic HAP presently in use. In some cases, the non-HAP materials may be VOC, however, in other cases, non-VOC materials (*e.g.*, water) may be used. Facilities converting to waterborne materials as a means or partial means of compliance may have reduced Resource Conservation and Recovery Act hazardous waste disposal if the status of the waste material changes from hazardous to nonhazardous. An increase in wastewater discharge may then occur if this waste material and waterborne wash up materials are discharged to publicly owned treatment works. However, we do not expect any significant increases in wastewater discharge to result from the standards.

New and upgraded catalytic oxidizers will require catalysts. Catalyst life is estimated to be more than 10 years. Spent catalysts will represent a small amount of solid waste, and sometimes the spent catalyst will be regenerated by the manufacturer for reuse. Activated carbon used in solvent recovery systems is typically returned to the manufacturer at the end of its useful life and converted to other products. Little solid waste impact is expected from this.

C. Energy Impacts

The operation of new and upgraded control devices will require additional energy. Capture of previously uncontrolled solvent-laden air will require fan horsepower. Operation of oxidizers, particularly thermal oxidizers, may require supplemental fuel (typically natural gas) to increase the combustion temperature and improve destruction efficiency.

The total additional electrical energy required to meet the standards is estimated to be 313 million kilowatt-hours per year. Additional fuel requirements total 3.7 billion British thermal units per year. These fuel impacts are based on the use of thermal oxidizers at all facilities, which is the control scenario expected to result in the highest energy impacts.

D. Cost Impacts

The total nationwide capital and annualized costs (1998 dollars) attributable to compliance with the standards have been estimated for existing and new affected sources. Costs are based on the use of permanent total enclosures, thermal oxidizers, and monitoring equipment (*i.e.*, CEMS for solvent recovery systems). The capital costs with other methods of control (*e.g.*, applying low-HAP coatings) are expected to be significantly lower.

It is expected that any new facility using solvent-based coatings will install control systems to comply with applicable State and Federal regulations for reducing VOC emissions from this source category (*e.g.*, the standards of performance for new stationary sources in 40 CFR part 60). The data we gathered on this industry indicate that thermal oxidation is the most common control technology installed to meet the requirements of these existing State and Federal regulations. Thermal oxidation is capable of achieving a 98 percent reduction of HAP emissions. Therefore, the additional costs to a new facility resulting from the standards were estimated based on the costs of

constructing a permanent total enclosure to deliver all HAP emissions to the existing thermal oxidizer.

Capital costs would be incurred by installing capture and control systems at existing facilities presently without capture and control systems, and upgrading capture and control systems at existing facilities that do not meet the standards. Additionally, we estimated the cost for the purchase of monitoring equipment needed as a capital investment to meet the monitoring, recordkeeping, and reporting requirements of the standards. Total nationwide capital costs are estimated to be $222 million with the cost for existing sources and new sources estimated to be $204 million and $18 million, respectively.

Total nationwide annualized costs of the standards have been estimated at $69 million with the annualized cost for existing and new sources estimated to be $64 million and $5 million, respectively. These costs include capital recovery over a 10-year period, operating costs for the newly installed and upgraded capture and control systems, and costs for monitoring, recordkeeping, and reporting. These are net costs after taking into account the costs presently being incurred for the baseline control level.

E. Economic Impacts

The economic impact analysis (EIA) shows that the expected price increases for affected output would range from only 0.1 to 1.1 percent as a result of the standards. The expected change in production of affected output is a reduction of 0.1 to 1.1 percent as a result of the standards. The economic impact analysis predicts three plant closures among the facilities included in the analysis. Although any facility closure is cause for concern, it should be noted that the baseline economic condition of the facilities predicted to close affects the closure estimate provided by the economic model. Facilities which are already experiencing adverse economic conditions for reasons unconnected to the final rule are more vulnerable to the impact of any new costs than those that are not. The facilities predicted to close appear to currently have low profitability levels. While the final rule may adversely impact the three facilities predicted to close, we do not predict an adverse economic impact to the industry as a whole.

IX. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. 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 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 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.

The 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 rule is not subject to Executive Order 13045 because it is based on technology performance and not on an assessment of health or safety risks. Furthermore, the rule has been determined not to be "economically significant" as defined under Executive Order 12866.

C. 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" 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."

The 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. Thus, Executive Order 13132 does not apply to the rule. Although section 6 of Executive Order 13132 does not apply to the rule, EPA did consult with State and local officials to enable them to provide timely input in the development of the rule.

D. 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 rule does not have tribal implications, as specified in Executive Order 13175. No tribal governments own or operate paper and other web coating lines. Thus, Executive Order 13175 does not apply to the rule.

E. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, and Use

The final rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

F. 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 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 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.

The EPA has determined that the rule does not contain a Federal mandate that may result in expenditures of $100 million or more to State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annual cost of the rule for any year has been estimated to be about $69 million. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that the standards 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. Therefore, today's rule is not subject to the requirements of section 203 of the UMRA.

G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1966 (SBREFA), 5 U.S.C. 601, et seq.

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final rule. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business ranging from 500 to 750 employees, according to Small Business Administration size standards established under the NAICS for the industries affected by today's rule; (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, EPA has concluded that this action will not have a significant impact on a substantial number of small entities. We have determined that 50 of the 103 companies owning affected facilities are small businesses. Although small businesses represent 49 percent of the companies within the source category, they are expected to incur 25 percent of the total industry compliance costs of $64 million. There are six small firms with compliance costs equal to or greater than 3 percent of their sales. In addition, there are four small firms with cost-to-sales ratios between 1 and 3 percent.

We performed an EIA to estimate the changes in product price and production quantities for the firms affected by the final rule. The analysis shows that of the 54 facilities owned by affected small firms, one would be expected to shut down rather than incur the cost of compliance with the final rule. Although any facility closure is cause for concern, it should be noted that the baseline economic condition of the facility predicted to close affects the closure estimate provided by the economic model. Facilities which are already experiencing adverse economic conditions for reasons unconnected to the rule are more vulnerable to the impact of any new costs than those that are not. The facility predicted to close appears to have low profitability levels currently. The EPA also notes that, while economies of scale will require individual small firms to pay a somewhat higher proportion of revenues than large firms for compliance, the burden on most small firms is quite low nevertheless. The median compliance cost is well below 1 percent of sales for both small and large firms affected by these standards (0.16 and 0.03 percent of sales for small and large firms, respectively).

In summary, while a few small firms may experience significant impacts, there will not be a substantial number incurring such a burden. For more information, consult the docket for this project.

H. Paperwork Reduction Act

The information collection requirements in the rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1951.02) and a copy may be obtained from Susan Auby by mail at the Collection Strategies Division (2822T), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded off the internet at *http://www.epa.gov/icr*. The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. 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 Agency policies set forth in 40 CFR part 2, subpart B.

The annual monitoring, recordkeeping, and reporting burden for this collection (averaged over the first 3 years after the effective date of the rule) for existing web coating facilities is estimated to be 38,708 labor hours at a total annual cost of $2,914,796. For new sources, the annual burden for the same 3-year period is estimated to be 2,754 labor hours at a total annual cost of $206,283. This estimate covers all monitoring, recordkeeping, and reporting activities, including a one-time submission of a SSMP with semiannual reports for any event when the procedures in the plan were not followed; semiannual compliance reports; notifications; and recordkeeping. The total annual capital/startup cost component (including purchase of services component) for

existing sources over the 3-year period is estimated to be $2,015,800. The annual operation and maintenance costs component for existing sources is estimated to be $649,779. For new sources, the estimated annual capital/startup cost component is $233,500 and the estimated annual operation and maintenance cost component is $28,520. 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 are listed in 40 CFR part 9 and 48 CFR, chapter 15. The OMB control number for the information collection requirements in this rule will be listed in an amendment to 40 CFR part 9 in a subsequent **Federal Register** document after OMB approves the ICR.

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 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 decides not to use available and applicable VCS.

The final rule involves technical standards. The EPA cites the following standards: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 24, 25, 25A, 204, 204A through F, and 311; and PS 6, 8, and 9. Consistent with the NTTAA, EPA conducted searches to identify VCS in addition to these EPA methods/PS. No applicable VCS were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 204, 204A through F, and 311, and PS 6, 8, and 9. The search and review results have been documented and are placed in docket A–99–09 for the rule.

The VCS described below was identified as an acceptable alternative to EPA test methods for the purposes of the rule.

The VCS ANSI/ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]," is cited in the rule for its manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas. This part of ASME PTC 19.10–1981–Part 10 is an acceptable alternative to Method 3B.

Six VCS are already incorporated by reference (IBR) in EPA Method 24: ASTM D1475–90, ASTM D2369–95, ASTM D3792–91, ASTM D4017–96a, ASTM D4457–85 (Reapproved 1991), and ASTM D5403–93. Five VCS are IBR in EPA Method 311: ASTM D1979–91, ASTM D3432–89, ASTM D4747–87, ASTM D4827–93, and ASTM PS9–94.

In addition to the VCS EPA uses in the rule, the search for emissions measurement procedures identified 14 other VCS. The EPA determined that 11 of these 14 standards identified for measuring emissions of the HAP or surrogates subject to emission standards in the rule were impractical alternatives to EPA test methods for the purposes of the rule. Therefore, EPA does not intend to adopt these standards for this purpose. Three of the 14 VCS identified in this search were not available at the time the review was conducted for the purposes of the final rule.

The VCS ASTM D3154–00, "Standard Method for Average Velocity in a Duct (Pitot Tube Method)," is impractical as an alternative to EPA Methods 1, 2, 2C, 3, 3B, and 4 for the purposes of the final rule since the standard appears to lack in quality control and quality assurance requirements. Specifically, ASTM D3154–00 does not include the following: (1) Proof that openings of standard pitot tube have not plugged during the test; (2) if differential pressure gauges other than inclined manometers (*e.g.*, magnehelic gauges) are used, their calibration must be checked after each test series; and (3) the frequency and validity range for calibration of the temperature sensors.

The VCS ASTM D3464–96 (2001), "Standard Test Method Average Velocity in a Duct Using a Thermal Anemometer," is impractical as an alternative to EPA Method 2 for the purposes of the final rule primarily because applicability specifications are not clearly defined, *e.g.*, range of gas composition, temperature limits. Also, the lack of supporting quality assurance data for the calibration procedures and specifications, and certain variability issues that are not adequately addressed by the standard limit EPA's ability to make a definitive comparison of the method in these areas.

The VCS ISO 10780:1994, "Stationary Source Emissions–Measurement of Velocity and Volume Flowrate of Gas Streams in Ducts," is impractical as an alternative to EPA Method 2 in the final rule. The standard recommends the use of an L-shaped pitot which historically has not been recommended by EPA. The EPA specifies the S-type design which has large openings that are less likely to plug up with dust.

The VCS CAN/CSA Z223.2–M86(1986), "Method for the Continuous Measurement of Oxygen, Carbon Dioxide, Carbon Monoxide, Sulphur Dioxide, and Oxides of Nitrogen in Enclosed Combustion Flue Gas Streams," is unacceptable as a substitute for EPA Method 3A since it does not include quantitative specifications for measurement system performance, most notably the calibration procedures and instrument performance characteristics. The instrument performance characteristics that are provided are nonmandatory and also do not provide the same level of quality assurance as the EPA methods. For example, the zero and span/calibration drift is only checked weekly, whereas the EPA methods require drift checks after each run.

Two very similar standards, ASTM D5835–95, "Standard Practice for Sampling Stationary Source Emissions for Automated Determination of Gas Concentration," and ISO 10396:1993, "Stationary Source Emissions: Sampling for the Automated Determination of Gas Concentrations," are impractical alternatives to EPA Method 3A for the purposes of the final rule because they lack in detail and quality assurance/quality control requirements. Specifically, these two standards do not include the following: (1) Sensitivity of the method; (2) acceptable levels of analyzer calibration error; (3) acceptable levels of sampling system bias; (4) zero drift and calibration drift limits, time span, and required testing frequency; (5) a method to test the interference response of the analyzer; (6) procedures to determine the minimum sampling time per run and minimum measurement time; and (7) specifications for data recorders in terms of resolution (all types) and recording intervals (digital and analog recorders, only).

The VCS ISO 12039:2001, "Stationary Source Emissions—Determination of Carbon Monoxide, Carbon Dioxide, and Oxygen—Automated Methods," is not acceptable as an alternative to EPA Method 3A. This ISO standard is similar to EPA Method 3A, but is missing some key features. In terms of sampling, the hardware required by ISO 12039:2001 does not include a 3-way calibration valve assembly or equivalent to block the sample gas flow while calibration gases are introduced. In its calibration procedures, ISO 12039:2001 only specifies a two-point calibration while EPA Method 3A specifies a three-point calibration. Also, ISO 12039:2001 does not specify performance criteria for calibration error, calibration drift, or sampling system bias tests as in the EPA method, although checks of these quality control features are required by the ISO standard.

The VCS ISO 11890–1 (2000) part 1, "Paints and Varnishes—Determination of Volatile Organic Compound (VOC) Content-Difference Method," is impractical as an alternative to EPA Method 24 because measured nonvolatile matter content can vary with experimental factors such as temperature, length of heating period, size of weighing dish, and size of sample. The standard ISO 11890–1 allows for different dish weights and sample sizes than the one size (58 millimeters in diameter and sample size of 0.5 gram) of EPA Method 24. The standard ISO 11890–1 also allows for different oven temperatures and heating times depending on the type of coating, whereas EPA Method 24 requires 60 minutes heating at 110 degrees Celcius at all times. Because the EPA Method 24 test conditions and procedures "define" volatile matter, ISO 11890–1 is unacceptable as an alternative because of its different test conditions.

The VCS ISO 11890–2 (2000) part 2, "Paints and Varnishes—Determination of Volatile Organic Compound (VOC) Content-Gas Chromatographic Method," is impractical as an alternative to EPA Method 24 because ISO 11890–2 only measures the VOC added to the coating and would not measure any VOC generated from the curing of the coating. The EPA Method 24 does measure "cure" VOC which can be significant in some cases and, therefore, ISO 11890–2 is not an acceptable alternative to this EPA method.

Two VCS, EN 12619:1999 "Stationary Source Emissions—Determination of the Mass Concentration of Total Gaseous Organic Carbon at Low Concentrations in Flue Gases—Continuous Flame Ionization Detector Method" and ISO 14965:2000(E) "Air Quality-Determination of Total Nonmethane Organic Compounds—Cryogenic Preconcentration and Direct Flame Ionization Method," are impractical alternatives to EPA Method 25 and 25A for the purposes of the final rule because the standards do not apply to solvent process vapors in concentrations greater than 40 parts per million (ppm) (EN 12619) and 10 ppm carbon (ISO 14965). Methods whose upper limits are this low are too limited to be useful in measuring source emissions, which are expected to be much higher.

Three of the 14 VCS identified in this search were not available at the time the review was conducted for the purposes of the final rule because they are under development by a VCS body: ASME/BSR MFC 13M, "Flow Measurement by Velocity Traverse," for EPA Method 2 (and possibly 1); ASME/BSR MFC 12M, "Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters," for EPA Method 2; and ISO/CD 17895, "Paints and Varnishes-Determination of the Volatile Organic Compound Content of Water-based Emulsion Paints," for EPA Method 24.

Sections 63.3320 and 63.3360 of the final rule list the EPA testing methods and PS included in the final rule. Under §§ 63.7(f) and 63.8(f) of subpart A of the General Provisions, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any of the EPA testing methods, PS, or procedures.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the 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 United States. The EPA will submit a report containing the 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**. 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). The rule will be effective December 4, 2002.

List of Subjects in 40 CFR Part 63

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

Dated: November 8, 2002.

Christine T. Whitman,

Administrator.

For 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.*

2. Part 63 is amended by revising § 63.14(i). The revision reads as follows:

§ 63.14 Incorporations by reference.

* * * * *

(i) The following material is available for purchase from at least one of the following addresses: ASME International, Orders/Inquiries, P.O. Box 2300, Fairfield, NJ 07007–2300; or Global Engineering Documents, Sales Department, 15 Inverness Way East, Englewood, CO 80112: ANSI/ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]," IBR approved for § 63.3360(e)(1)(iii), § 63.4166(a)(3), and § 63.5160(d)(1)(iii).

* * * * *

3. Part 63 is amended by adding subpart JJJJ to read as follows:

Subpart JJJJ—National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating

Sec.

What This Subpart Covers

63.3280 What is in this subpart?
63.3290 Does this subpart apply to me?
63.3300 Which of my emission sources are affected by this subpart?
63.3310 What definitions are used in this subpart?

Emission Standards and Compliance Dates

63.3320 What emission standards must I meet?
63.3321 What operating limits must I meet?
63.3330 When must I comply?

General Requirements for Compliance With the Emission Standards and for Monitoring and Performance Tests

63.3340 What general requirements must I meet to comply with the standards?
63.3350 If I use a control device to comply with the emission standards what monitoring must I do?
63.3360 What performance tests must I conduct?

Requirements for Showing Compliance

63.3370 How do I demonstrate compliance with the emission standards?

Notifications, Reports, and Records

63.3400 What notifications and reports must I submit?
63.3410 What records must I keep?

Delegation of Authority

63.3420 What authorities may be delegated to the States?

Tables to Subpart JJJJ of Part 63

Table 1 to Subpart JJJJ of Part 63. Operating Limits if Using Add-On Control Devices and Capture System
Table 2 to Subpart JJJJ of Part 63. Applicability of 40 CFR Part 63 General Provisions to Subpart JJJJ

What This Subpart Covers

63.3280 What is in this subpart?

This subpart describes the actions you must take to reduce emissions of organic hazardous air pollutants (HAP) from paper and other web coating operations. This subpart establishes emission standards for web coating lines and specifies what you must do to comply if you own or operate a facility with web coating lines that is a major source of HAP. Certain requirements apply to all who are subject to this subpart; others depend on the means you use to comply with an emission standard.

§ 63.3290 Does this subpart apply to me?

The provisions of this subpart apply to each new and existing facility that is a major source of HAP, as defined in § 63.2, at which web coating lines are operated.

§ 63.3300 Which of my emission sources are affected by this subpart?

The affected source subject to this subpart is the collection of all web coating lines at your facility. This includes web coating lines engaged in the coating of metal webs that are used in flexible packaging, and web coating lines engaged in the coating of fabric substrates for use in pressure sensitive tape and abrasive materials. Web coating lines specified in paragraphs (a) through (g) of this section are not part of the affected source of this subpart.

(a) Any web coating line that is stand-alone coating equipment under subpart KK of this part (national emission standards for the printing and publishing industry) which the owner or operator includes in the affected source under subpart KK.

(b) Any web coating line that is a product and packaging rotogravure or wide-web flexographic press under subpart KK of this part (national emission standards for the printing and publishing industry) which is included in the affected source under subpart KK.

(c) Web coating in lithography, screenprinting, letterpress, and narrow-web flexographic printing processes.

(d) Any web coating line subject to subpart EE of this part (national emission standards for magnetic tape manufacturing operations).

(e) Any web coating line that will be subject to the national emission standards for hazardous air pollutants (NESHAP) for surface coating of metal coil currently under development.

(f) Any web coating line that will be subject to the NESHAP for the printing, coating, and dyeing of fabric and other textiles currently under development. This would include any web coating line that coats both a paper or other web substrate and a fabric or other textile substrate, except for a fabric substrate used for pressure sensitive tape and abrasive materials.

(g) Any web coating line that is defined as research or laboratory equipment in § 63.3310.

§ 63.3310 What definitions are used in this subpart?

All terms used in this subpart that are not defined in this section have the meaning given to them in the Clean Air Act (CAA) and in subpart A of this part.

Always-controlled work station means a work station associated with a dryer from which the exhaust is delivered to a control device with no provision for the dryer exhaust to bypass the control device unless there is an interlock to interrupt and prevent continued coating during a bypass. Sampling lines for analyzers, relief valves needed for safety purposes, and periodic cycling of exhaust dampers to ensure safe operation are not considered bypass lines.

Applied means, for the purposes of this subpart, the amount of organic HAP, coating material, or coating solids (as appropriate for the emission standards in § 63.3320(b)) used by the affected source during the compliance period.

As-applied means the condition of a coating at the time of application to a substrate, including any added solvent.

As-purchased means the condition of a coating as delivered to the user.

Capture efficiency means the fraction of all organic HAP emissions generated by a process that is delivered to a control device, expressed as a percentage.

Capture system means a hood, enclosed room, or other means of collecting organic HAP emissions into a closed-vent system that exhausts to a control device.

Car-seal means a seal that is placed on a device that is used to change the position of a valve or damper (*e.g.*, from open to closed) in such a way that the position of the valve or damper cannot be changed without breaking the seal.

Coating material(s) means all inks, varnishes, adhesives, primers, solvents, reducers, and other coating materials applied to a substrate via a web coating line. Materials used to form a substrate are not considered coating materials.

Control device means a device such as a solvent recovery device or oxidizer which reduces the organic HAP in an exhaust gas by recovery or by destruction.

Control device efficiency means the ratio of organic HAP emissions recovered or destroyed by a control device to the total organic HAP emissions that are introduced into the control device, expressed as a percentage.

Day means a 24-consecutive-hour period.

Deviation means any instance in which an affected source, subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart including, but not limited to, any emission limitation (including any operating limit) or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation (including any operating limit) or work practice standard in this subpart during start-up, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Existing affected source means any affected source the construction or reconstruction of which is commenced on or before September 13, 2000, and has not undergone reconstruction as defined in § 63.2.

Fabric means any woven, knitted, plaited, braided, felted, or non-woven material made of filaments, fibers, or yarns including thread. This term includes material made of fiberglass, natural fibers, synthetic fibers, or composite materials.

Facility means all contiguous or adjoining property that is under common ownership or control, including properties that are separated only by a road or other public right-of-way.

Flexible packaging means any package or part of a package the shape of which can be readily changed. Flexible packaging includes, but is not limited to, bags, pouches, labels, liners

and wraps utilizing paper, plastic, film, aluminum foil, metalized or coated paper or film, or any combination of these materials.

Formulation data means data on the organic HAP mass fraction, volatile matter mass fraction, or coating solids mass fraction of a material that is generated by the manufacturer or means other than a test method specified in this subpart or an approved alternative method.

HAP means hazardous air pollutants.

HAP applied means the organic HAP content of all coating materials applied to a substrate by a web coating line at an affected source.

Intermittently-controlled work station means a work station associated with a dryer with provisions for the dryer exhaust to be delivered to or diverted from a control device through a bypass line, depending on the position of a valve or damper. Sampling lines for analyzers, relief valves needed for safety purposes, and periodic cycling of exhaust dampers to ensure safe operation are not considered bypass lines.

Metal coil means a continuous metal strip that is at least 0.15 millimeter (0.006 inch) thick which is packaged in a roll or coil prior to coating. After coating, it may or may not be rewound into a roll or coil. Metal coil does not include metal webs that are coated for use in flexible packaging.

Month means a calendar month or a pre-specified period of 28 days to 35 days to allow for flexibility in recordkeeping when data are based on a business accounting period.

Never-controlled work station means a work station that is not equipped with provisions by which any emissions, including those in the exhaust from any associated dryer, may be delivered to a control device.

New affected source means any affected source the construction or reconstruction of which is commenced after September 13, 2000.

Overall organic HAP control efficiency means the total efficiency of a capture and control system.

Pressure sensitive tape means a flexible backing material with a pressure-sensitive adhesive coating on one or both sides of the backing. Examples include, but are not limited to, duct/duct insulation tape and medical tape.

Research or laboratory equipment means any equipment for which the primary purpose is to conduct research and development into new processes and products where such equipment is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for commercial sale in commerce except in a *de minimis* manner.

Rewind or cutting station means a unit from which substrate is collected at the outlet of a web coating line.

Uncontrolled coating line means a coating line consisting of only never-controlled work stations.

Unwind or feed station means a unit from which substrate is fed to a web coating line.

Web means a continuous substrate (*e.g.*, paper, film, foil) which is flexible enough to be wound or unwound as rolls.

Web coating line means any number of work stations, of which one or more applies a continuous layer of coating material across the entire width or any portion of the width of a web substrate, and any associated curing/drying equipment between an unwind or feed station and a rewind or cutting station.

Work station means a unit on a web coating line where coating material is deposited onto a web substrate.

Emission Standards and Compliance Dates

§ 63.3320 What emission standards must I meet?

(a) If you own or operate any affected source that is subject to the requirements of this subpart, you must comply with these requirements on and after the compliance dates as specified in § 63.3330.

(b) You must limit organic HAP emissions to the level specified in paragraph (b)(1), (2), (3), or (4) of this section.

(1) No more than 5 percent of the organic HAP applied for each month (95 percent reduction) at existing affected sources, and no more than 2 percent of the organic HAP applied for each month (98 percent reduction) at new affected sources; or

(2) No more than 4 percent of the mass of coating materials applied for each month at existing affected sources, and no more than 1.6 percent of the mass of coating materials applied for each month at new affected sources; or

(3) No more than 20 percent of the mass of coating solids applied for each month at existing affected sources, and no more than 8 percent of the coating solids applied for each month at new affected sources.

(4) If you use an oxidizer to control organic HAP emissions, operate the oxidizer such that an outlet organic HAP concentration of no greater than 20 parts per million by volume (ppmv) by compound on a dry basis is achieved and the efficiency of the capture system is 100 percent.

(c) You must demonstrate compliance with this subpart by following the procedures in § 63.3370.

§ 63.3321 What operating limits must I meet?

(a) For any web coating line or group of web coating lines for which you use add-on control devices, unless you use a solvent recovery system and conduct a liquid-liquid material balance, you must meet the operating limits specified in Table 1 to this subpart or according to paragraph (b) of this section. These operating limits apply to emission capture systems and control devices, and you must establish the operating limits during the performance test according to the requirements in § 63.3360(e)(3). You must meet the operating limits at all times after you establish them.

(b) If you use an add-on control device other than those listed in Table 1 to this subpart or wish to monitor an alternative parameter and comply with a different operating limit, you must apply to the Administrator for approval of alternative monitoring under § 63.8(f).

§ 63.3330 When must I comply?

(a) If you own or operate an existing affected source subject to the provisions of this subpart, you must comply by the compliance date. The compliance date for existing affected sources in this subpart is December 5, 2005. You must complete any performance test required in § 63.3360 within the time limits specified in § 63.7(a)(2).

(b) If you own or operate a new affected source subject to the provisions of this subpart, your compliance date is immediately upon start-up of the new affected source or by December 4, 2002, whichever is later. You must complete any performance test required in § 63.3360 within the time limits specified in § 63.7(a)(2).

(c) If you own or operate a reconstructed affected source subject to the provisions of this subpart, your compliance date is immediately upon startup of the affected source or by December 4, 2002, whichever is later. Existing affected sources which have undergone reconstruction as defined in § 63.2 are subject to the requirements for new affected sources. The costs associated with the purchase and installation of air pollution control equipment are not considered in determining whether the existing affected source has been reconstructed. Additionally, the costs of retrofitting and replacing of equipment that is installed specifically to comply with this subpart are not considered reconstruction costs. You must

complete any performance test required in § 63.3360 within the time limits specified in § 63.7(a)(2).

General Requirements for Compliance With the Emission Standards and for Monitoring and Performance Tests

§ 63.3340 What general requirements must I meet to comply with the standards?

Table 2 to this subpart specifies the provisions of subpart A of this part that apply if you are subject to this subpart, such as startup, shutdown, and malfunction plans (SSMP) in § 63.6(e)(3) for affected sources using a control device to comply with the emission standards.

§ 63.3350 If I use a control device to comply with the emission standards, what monitoring must I do?

(a) A summary of monitoring you must do follows:

If you operate a web coating line, and have the following:	Then you must:
(1) Intermittently-controlled work stations	Record parameters related to possible exhaust flow bypass of control device and to coating use (§ 63.3350(c)).
(2) Solvent recovery unit	Operate continuous emission monitoring system and perform quarterly audits or determine volatile matter recovered and conduct a liquid-liquid material balance (§ 63.3350(d)).
(3) Control Device	Operate continuous parameter monitoring system (§ 63.3350(e)).
(4) Capture system	Monitor capture system operating parameter (§ 63.3350(f)).

(b) Following the date on which the initial performance test of a control device is completed to demonstrate continuing compliance with the standards, you must monitor and inspect each capture system and each control device used to comply with § 63.3320. You must install and operate the monitoring equipment as specified in paragraphs (c) and (f) of this section.

(c) *Bypass and coating use monitoring.* If you own or operate web coating lines with intermittently-controlled work stations, you must monitor bypasses of the control device and the mass of each coating material applied at the work station during any such bypass. If using a control device for complying with the requirements of this subpart, you must demonstrate that any coating material applied on a never-controlled work station or an intermittently-controlled work station operated in bypass mode is allowed in your compliance demonstration according to § 63.3370(n) and (o). The bypass monitoring must be conducted using at least one of the procedures in paragraphs (c)(1) through (4) of this section for each work station and associated dryer.

(1) *Flow control position indicator.* Install, calibrate, maintain, and operate according to the manufacturer's specifications a flow control position indicator that provides a record indicating whether the exhaust stream from the dryer was directed to the control device or was diverted from the control device. The time and flow control position must be recorded at least once per hour as well as every time the flow direction is changed. A flow control position indicator must be installed at the entrance to any bypass line that could divert the exhaust stream away from the control device to the atmosphere.

(2) *Car-seal or lock-and-key valve closures.* Secure any bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism must be performed at least once every month to ensure that the valve or damper is maintained in the closed position, and the exhaust stream is not diverted through the bypass line.

(3) *Valve closure continuous monitoring.* Ensure that any bypass line valve or damper is in the closed position through continuous monitoring of valve position when the emission source is in operation and is using a control device for compliance with the requirements of this subpart. The monitoring system must be inspected at least once every month to verify that the monitor will indicate valve position.

(4) *Automatic shutdown system.* Use an automatic shutdown system in which the web coating line is stopped when flow is diverted away from the control device to any bypass line when the control device is in operation. The automatic system must be inspected at least once every month to verify that it will detect diversions of flow and would shut down operations in the event of such a diversion.

(d) *Solvent recovery unit.* If you own or operate a solvent recovery unit to comply with § 63.3320, you must meet the requirements in either paragraph (d)(1) or (2) of this section depending on how control efficiency is determined.

(1) *Continuous emission monitoring system (CEMS).* If you are demonstrating compliance with the emission standards in § 63.3320 through continuous emission monitoring of a control device, you must install, calibrate, operate, and maintain the CEMS according to paragraphs (d)(1)(i) through (iii) of this section.

(i) Measure the total organic volatile matter mass flow rate at both the control device inlet and the outlet such that the reduction efficiency can be determined. Each continuous emission monitor must comply with performance specification 6, 8, or 9 of 40 CFR part 60, appendix B, as appropriate.

(ii) You must follow the quality assurance procedures in procedure 1, appendix F of 40 CFR part 60. In conducting the quarterly audits of the monitors as required by procedure 1, appendix F, you must use compounds representative of the gaseous emission stream being controlled.

(iii) You must have valid data from at least 90 percent of the hours during which the process is operated.

(2) *Liquid-liquid material balance.* If you are demonstrating compliance with the emission standards in § 63.3320 through liquid-liquid material balance, you must install, calibrate, maintain, and operate according to the manufacturer's specifications a device that indicates the cumulative amount of volatile matter recovered by the solvent recovery device on a monthly basis. The device must be certified by the manufacturer to be accurate to within ±2.0 percent by mass.

(e) *Continuous parameter monitoring system (CPMS).* If you are using a control device to comply with the emission standards in § 63.3320, you must install, operate, and maintain each CPMS specified in paragraphs (e)(9) and (10) and (f) of this section according to the requirements in paragraphs (e)(1) through (8) of this section. You must install, operate, and maintain each CPMS specified in paragraph (c) of this section according to paragraphs (e)(5) through (7) of this section.

(1) Each CPMS must complete a minimum of one cycle of operation for each successive 15-minute period. You must have a minimum of four equally spaced successive cycles of CPMS operation to have a valid hour of data.

(2) You must have valid data from at least 90 percent of the hours during which the process operated.

(3) You must determine the hourly average of all recorded readings according to paragraphs (e)(3)(i) and (ii) of this section.

(i) To calculate a valid hourly value, you must have at least three of four equally spaced data values from that hour from a continuous monitoring system (CMS) that is not out-of-control.

(ii) Provided all of the readings recorded in accordance with paragraph (e)(3) of this section clearly demonstrate continuous compliance with the standard that applies to you, then you are not required to determine the hourly average of all recorded readings.

(4) You must determine the rolling 3-hour average of all recorded readings for each operating period. To calculate the average for each 3-hour averaging period, you must have at least two of three of the hourly averages for that period using only average values that are based on valid data (*i.e.*, not from out-of-control periods).

(5) You must record the results of each inspection, calibration, and validation check of the CPMS.

(6) At all times, you must maintain the monitoring system in proper working order including, but not limited to, maintaining necessary parts for routine repairs of the monitoring equipment.

(7) Except for monitoring malfunctions, associated repairs, or required quality assurance or control activities (including calibration checks or required zero and span adjustments), you must conduct all monitoring at all times that the unit is operating. Data recorded during monitoring malfunctions, associated repairs, out-of-control periods, or required quality assurance or control activities shall not be used for purposes of calculating the emissions concentrations and percent reductions specified in § 63.3370. You must use all the valid data collected during all other periods in assessing compliance of the control device and associated control system. A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(8) Any averaging period for which you do not have valid monitoring data and such data are required constitutes a deviation, and you must notify the Administrator in accordance with § 63.3400(c).

(9) *Oxidizer.* If you are using an oxidizer to comply with the emission standards, you must comply with paragraphs (e)(9)(i) through (iii) of this section.

(i) Install, calibrate, maintain, and operate temperature monitoring equipment according to the manufacturer's specifications. The calibration of the chart recorder, data logger, or temperature indicator must be verified every 3 months or the chart recorder, data logger, or temperature indicator must be replaced. You must replace the equipment whether you choose not to perform the calibration or the equipment cannot be calibrated properly.

(ii) For an oxidizer other than a catalytic oxidizer, install, calibrate, operate, and maintain a temperature monitoring device equipped with a continuous recorder. The device must have an accuracy of ±1 percent of the temperature being monitored in degrees Celsius, or ±1° Celsius, whichever is greater. The thermocouple or temperature sensor must be installed in the combustion chamber at a location in the combustion zone.

(iii) For a catalytic oxidizer, install, calibrate, operate, and maintain a temperature monitoring device equipped with a continuous recorder. The device must be capable of monitoring temperature with an accuracy of ±1 percent of the temperature being monitored in degrees Celsius or ± 1 degree Celsius, whichever is greater. The thermocouple or temperature sensor must be installed in the vent stream at the nearest feasible point to the inlet and outlet of the catalyst bed. Calculate the temperature rise across the catalyst.

(10) *Other types of control devices.* If you use a control device other than an oxidizer or wish to monitor an alternative parameter and comply with a different operating limit, you must apply to the Administrator for approval of an alternative monitoring method under § 63.8(f).

(f) *Capture system monitoring.* If you are complying with the emission standards in § 63.3320 through the use of a capture system and control device for one or more web coating lines, you must develop a site-specific monitoring plan containing the information specified in paragraphs (f)(1) and (2) of this section for these capture systems. You must monitor the capture system in accordance with paragraph (f)(3) of this section. You must make the monitoring plan available for inspection by the permitting authority upon request.

(1) The monitoring plan must:

(i) Identify the operating parameter to be monitored to ensure that the capture efficiency determined during the initial compliance test is maintained; and

(ii) Explain why this parameter is appropriate for demonstrating ongoing compliance; and

(iii) Identify the specific monitoring procedures.

(2) The monitoring plan must specify the operating parameter value or range of values that demonstrate compliance with the emission standards in § 63.3320. The specified operating parameter value or range of values must represent the conditions present when the capture system is being properly operated and maintained.

(3) You must conduct all capture system monitoring in accordance with the plan.

(4) Any deviation from the operating parameter value or range of values which are monitored according to the plan will be considered a deviation from the operating limit.

(5) You must review and update the capture system monitoring plan at least annually.

§ 63.3360 What performance tests must I conduct?

(a) The performance test methods you must conduct are as follows:

If you control organic HAP on any individual web coating line or any group of web coating lines by:	You must:
(1) Limiting organic HAP or volatile matter content of coatings.	Determine the organic HAP or volatile matter and coating solids content of coating materials according to procedures in § 63.3360(c) and (d). If applicable, determine the mass of volatile matter retained in the coated web or otherwise not emitted to the atmosphere according to § 63.3360(g).

If you control organic HAP on any individual web coating line or any group of web coating lines by:	You must:
(2) Using a capture and control system.	Conduct a performance test for each capture and control system to determine: the destruction or removal efficiency of each control device other than solvent recovery according to § 63.3360(e), and the capture efficiency of each capture system according to § 63.3360(f). If applicable, determine the mass of volatile matter retained in the coated web or otherwise not emitted to the atmosphere according to § 63.3360(g).

(b) If you are using a control device to comply with the emission standards in § 63.3320, you are not required to conduct a performance test to demonstrate compliance if one or more of the criteria in paragraphs (b)(1) through (3) of this section are met.

(1) The control device is equipped with continuous emission monitors for determining inlet and outlet total organic volatile matter concentration and capture efficiency has been determined in accordance with the requirements of this subpart such that an overall organic HAP control efficiency can be calculated, and the continuous emission monitors are used to demonstrate continuous compliance in accordance with § 63.3350; or

(2) You have met the requirements of § 63.7(h) (for waiver of performance testing; or

(3) The control device is a solvent recovery system and you comply by means of a monthly liquid-liquid material balance.

(c) *Organic HAP content.* If you determine compliance with the emission standards in § 63.3320 by means other than determining the overall organic HAP control efficiency of a control device, you must determine the organic HAP mass fraction of each coating material "as-purchased" by following one of the procedures in paragraphs (c)(1) through (3) of this section, and determine the organic HAP mass fraction of each coating material "as-applied" by following the procedures in paragraph (c)(4) of this section. If the organic HAP content values are not determined using the procedures in paragraphs (c)(1) through (3) of this section, the owner or operator must submit an alternative test method for determining their values for approval by the Administrator in accordance with § 63.7(f). The recovery efficiency of the test method must be determined for all of the target organic HAP and a correction factor, if necessary, must be determined and applied.

(1) *Method 311.* You may test the coating material in accordance with Method 311 of appendix A of this part. The Method 311 determination may be performed by the manufacturer of the coating material and the results provided to the owner or operator. The organic HAP content must be calculated according to the criteria and procedures in paragraphs (c)(1)(i) through (iii) of this section.

(i) Include each organic HAP determined to be present at greater than or equal to 0.1 mass percent for Occupational Safety and Health Administration (OSHA)-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and greater than or equal to 1.0 mass percent for other organic HAP compounds.

(ii) Express the mass fraction of each organic HAP you include according to paragraph (c)(1)(i) of this section as a value truncated to four places after the decimal point (for example, 0.3791).

(iii) Calculate the total mass fraction of organic HAP in the tested material by summing the counted individual organic HAP mass fractions and truncating the result to three places after the decimal point (for example, 0.763).

(2) *Method 24.* For coatings, determine the volatile organic content as mass fraction of nonaqueous volatile matter and use it as a substitute for organic HAP using Method 24 of 40 CFR part 60, appendix A. The Method 24 determination may be performed by the manufacturer of the coating and the results provided to you.

(3) *Formulation data.* You may use formulation data to determine the organic HAP mass fraction of a coating material. Formulation data may be provided to the owner or operator by the manufacturer of the material. In the event of an inconsistency between Method 311 (appendix A of 40 CFR part 63) test data and a facility's formulation data, and the Method 311 test value is higher, the Method 311 data will govern. Formulation data may be used provided that the information represents all organic HAP present at a level equal to or greater than 0.1 percent for OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and equal to or greater than 1.0 percent for other organic HAP compounds in any raw material used.

(4) *As-applied organic HAP mass fraction.* If the as-purchased coating material is applied to the web without any solvent or other material added, then the as-applied organic HAP mass fraction is equal to the as-purchased organic HAP mass fraction. Otherwise, the as-applied organic HAP mass fraction must be calculated using Equation 1a of § 63.3370.

(d) *Volatile organic and coating solids content.* If you determine compliance with the emission standards in § 63.3320 by means other than determining the overall organic HAP control efficiency of a control device and you choose to use the volatile organic content as a surrogate for the organic HAP content of coatings, you must determine the as-purchased volatile organic content and coating solids content of each coating material applied by following the procedures in paragraph (d)(1) or (2) of this section, and the as-applied volatile organic content and coating solids content of each coating material by following the procedures in paragraph (d)(3) of this section.

(1) *Method 24.* You may determine the volatile organic and coating solids mass fraction of each coating applied using Method 24 (40 CFR part 60, appendix A.) The Method 24 determination may be performed by the manufacturer of the material and the results provided to you. If these values cannot be determined using Method 24, you must submit an alternative technique for determining their values for approval by the Administrator.

(2) *Formulation data.* You may determine the volatile organic content and coating solids content of a coating material based on formulation data and may rely on volatile organic content data provided by the manufacturer of the material. In the event of any inconsistency between the formulation data and the results of Method 24 of 40 CFR part 60, appendix A, and the Method 24 results are higher, the results of Method 24 will govern.

(3) *As-applied volatile organic content and coating solids content.* If the as-purchased coating material is applied to the web without any solvent or other material added, then the as-applied volatile organic content is equal to the as-purchased volatile content and the as-applied coating solids content is equal to the as-purchased coating solids content. Otherwise, the as-applied volatile organic content must be

calculated using Equation 1b of § 63.3370 and the as-applied coating solids content must be calculated using Equation 2 of § 63.3370.

(e) *Control device efficiency.* If you are using an add-on control device other than solvent recovery, such as an oxidizer, to comply with the emission standards in § 63.3320, you must conduct a performance test to establish the destruction or removal efficiency of the control device according to the methods and procedures in paragraphs (e)(1) and (2) of this section. During the performance test, you must establish the operating limits required by § 63.3321 according to paragraph (e)(3) of this section.

(1) An initial performance test to establish the destruction or removal efficiency of the control device must be conducted such that control device inlet and outlet testing is conducted simultaneously, and the data are reduced in accordance with the test methods and procedures in paragraphs (e)(1)(i) through (ix) of this section. You must conduct three test runs as specified in § 63.7(e)(3), and each test run must last at least 1 hour.

(i) Method 1 or 1A of 40 CFR part 60, appendix A, must be used for sample and velocity traverses to determine sampling locations.

(ii) Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A, must be used to determine gas volumetric flow rate.

(iii) Method 3, 3A, or 3B of 40 CFR part 60, appendix A, must be used for gas analysis to determine dry molecular weight. You may also use as an alternative to Method 3B the manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas in ANSI/ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]," (incorporated by reference, see § 63.14).

(iv) Method 4 of 40 CFR part 60, appendix A, must be used to determine stack gas moisture.

(v) The gas volumetric flow rate, dry molecular weight, and stack gas moisture must be determined during each test run specified in paragraph (f)(1)(vii) of this section.

(vi) Method 25 or 25A of 40 CFR part 60, appendix A, must be used to determine total gaseous non-methane organic matter concentration. Use the same test method for both the inlet and outlet measurements which must be conducted simultaneously. You must submit notice of the intended test method to the Administrator for approval along with notification of the performance test required under § 63.7(b). You must use Method 25A if any of the conditions described in paragraphs (e)(1)(vi)(A) through (D) of this section apply to the control device.

(A) The control device is not an oxidizer.

(B) The control device is an oxidizer but an exhaust gas volatile organic matter concentration of 50 ppmv or less is required to comply with the emission standards in § 63.3320; or

(C) The control device is an oxidizer but the volatile organic matter concentration at the inlet to the control system and the required level of control are such that they result in exhaust gas volatile organic matter concentrations of 50 ppmv or less; or

(D) The control device is an oxidizer but because of the high efficiency of the control device the anticipated volatile organic matter concentration at the control device exhaust is 50 ppmv or less, regardless of inlet concentration.

(vii) Except as provided in § 63.7(e)(3), each performance test must consist of three separate runs with each run conducted for at least 1 hour under the conditions that exist when the affected source is operating under normal operating conditions. For the purpose of determining volatile organic compound concentrations and mass flow rates, the average of the results of all the runs will apply.

(viii) Volatile organic matter mass flow rates must be determined for each run specified in paragraph (e)(1)(vii) of this section using Equation 1 of this section:

$$M_f = Q_{sd} C_c [12][0.0416][10^{-6}] \quad \text{Eq. 1}$$

Where:

M_f = Total organic volatile matter mass flow rate, kilograms (kg)/hour (h).

Q_{sd} = Volumetric flow rate of gases entering or exiting the control device, as determined according to § 63.3360(e)(1)(ii), dry standard cubic meters (dscm)/h.

C_c = Concentration of organic compounds as carbon, ppmv.

12.0 = Molecular weight of carbon.

0.0416 = Conversion factor for molar volume, kg-moles per cubic meter (mol/m^3) (@ 293 Kelvin (K) and 760 millimeters of mercury (mmHg)).

(ix) For each run, emission control device destruction or removal efficiency must be determined using Equation 2 of this section:

$$E = \frac{M_{fi} - M_{fo}}{M_{fi}} \times 100 \quad \text{Eq. 2}$$

Where:

E = Organic volatile matter control efficiency of the control device, percent.

M_{fi} = Organic volatile matter mass flow rate at the inlet to the control device, kg/h.

M_{fo} = Organic volatile matter mass flow rate at the outlet of the control device, kg/h.

(x) The control device destruction or removal efficiency is determined as the average of the efficiencies determined in the test runs and calculated in Equation 2 of this section.

(2) You must record such process information as may be necessary to determine the conditions in existence at the time of the performance test. Operations during periods of startup, shutdown, and malfunction will not constitute representative conditions for the purpose of a performance test.

(3) *Operating limits.* If you are using one or more add-on control device other than a solvent recovery system for which you conduct a liquid-liquid material balance to comply with the emission standards in § 63.3320, you must establish the applicable operating limits required by § 63.3321. These operating limits apply to each add-on emission control device, and you must establish the operating limits during the performance test required by paragraph (e) of this section according to the requirements in paragraphs (e)(3)(i) and (ii) of this section.

(i) *Thermal oxidizer.* If your add-on control device is a thermal oxidizer, establish the operating limits according to paragraphs (e)(3)(i)(A) and (B) of this section.

(A) During the performance test, you must monitor and record the combustion temperature at least once every 15 minutes during each of the three test runs. You must monitor the temperature in the firebox of the thermal oxidizer or immediately downstream of the firebox before any substantial heat exchange occurs.

(B) Use the data collected during the performance test to calculate and record the average combustion temperature maintained during the performance test. This average combustion temperature is the minimum operating limit for your thermal oxidizer.

(ii) *Catalytic oxidizer.* If your add-on control device is a catalytic oxidizer, establish the operating limits according to paragraphs (e)(3)(ii)(A) and (B) or paragraphs (e)(3)(ii)(C) and (D) of this section.

(A) During the performance test, you must monitor and record the temperature just before the catalyst bed and the temperature difference across

the catalyst bed at least once every 15 minutes during each of the three test runs.

(B) Use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed and the average temperature difference across the catalyst bed maintained during the performance test. These are the minimum operating limits for your catalytic oxidizer.

(C) As an alternative to monitoring the temperature difference across the catalyst bed, you may monitor the temperature at the inlet to the catalyst bed and implement a site-specific inspection and maintenance plan for your catalytic oxidizer as specified in paragraph (e)(3)(ii)(D) of this section. During the performance test, you must monitor and record the temperature just before the catalyst bed at least once every 15 minutes during each of the three test runs. Use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed during the performance test. This is the minimum operating limit for your catalytic oxidizer.

(D) You must develop and implement an inspection and maintenance plan for your catalytic oxidizer(s) for which you elect to monitor according to paragraph (e)(3)(ii)(C) of this section. The plan must address, at a minimum, the elements specified in paragraphs (e)(3)(ii)(D)(*1*) through (*3*) of this section.

(*1*) Annual sampling and analysis of the catalyst activity (*i.e.*, conversion efficiency) following the manufacturer's or catalyst supplier's recommended procedures,

(*2*) Monthly inspection of the oxidizer system including the burner assembly and fuel supply lines for problems, and

(*3*) Annual internal and monthly external visual inspection of the catalyst bed to check for channeling, abrasion, and settling. If problems are found, you must take corrective action consistent with the manufacturer's recommendations and conduct a new performance test to determine destruction efficiency in accordance with this section.

(f) *Capture efficiency.* If you demonstrate compliance by meeting the requirements of § 63.3370(e), (f), (g), (h), (i)(2), (k), (n)(2) or (3), or (p), you must determine capture efficiency using the procedures in paragraph (f)(1), (2), or (3) of this section, as applicable.

(1) You may assume your capture efficiency equals 100 percent if your capture system is a permanent total enclosure (PTE). You must confirm that your capture system is a PTE by demonstrating that it meets the requirements of section 6 of EPA Method 204 of 40 CFR part 51, appendix M, and that all exhaust gases from the enclosure are delivered to a control device.

(2) You may determine capture efficiency according to the protocols for testing with temporary total enclosures that are specified in Methods 204 and 204A through F of 40 CFR part 51, appendix M. You may exclude never-controlled work stations from such capture efficiency determinations.

(3) You may use any capture efficiency protocol and test methods that satisfy the criteria of either the Data Quality Objective or the Lower Confidence Limit approach as described in appendix A of subpart KK of this part. You may exclude never-controlled work stations from such capture efficiency determinations.

(g) *Volatile matter retained in the coated web or otherwise not emitted to the atmosphere.* You may choose to take into account the mass of volatile matter retained in the coated web after curing or drying or otherwise not emitted to the atmosphere when determining compliance with the emission standards in § 63.3320. If you choose this option, you must develop a testing protocol to determine the mass of volatile matter retained in the coated web or otherwise not emitted to the atmosphere and submit this protocol to the Administrator for approval. You must submit this protocol with your site-specific test plan under § 63.7(f). If you intend to take into account the mass of volatile matter retained in the coated web after curing or drying or otherwise not emitted to the atmosphere and demonstrate compliance according to § 63.3370(c)(3), (c)(4), (c)(5), or (d), then the test protocol you submit must determine the mass of organic HAP retained in the coated web or otherwise not emitted to the atmosphere. Otherwise, compliance must be shown using the volatile organic matter content as a surrogate for the HAP content of the coatings.

(h) *Control devices in series.* If you use multiple control devices in series to comply with the emission standards in § 63.3320, the performance test must include, at a minimum, the inlet to the first control device in the series, the outlet of the last control device in the series, and all intermediate streams (*e.g.*, gaseous exhaust to the atmosphere or a liquid stream from a recovery device) that are not subsequently treated by any of the control devices in the series.

Requirements for Showing Compliance

§ 63.3370 How do I demonstrate compliance with the emission standards?

(a) A summary of how you must demonstrate compliance follows:

If you choose to demonstrate compliance by:	Then you must demonstrate that:	To accomplish this:
(1) Use of "as-purchased" compliant coating materials.	(i) Each coating material used at an existing affected source does not exceed 0.04 kg organic HAP per kg coating material, and each coating material used at a new affected source does not exceed 0.016 kg organic HAP per kg coating material as-purchased; or.	Follow the procedures set out in § 63.3370(b).
	(ii) Each coating material used at an existing affected source does not exceed 0.2 kg organic HAP per kg coating solids, and each coating material used at a new affected source does not exceed 0.08 kg organic HAP per kg coating solids as-purchased.	Follow the procedures set out in § 63.3370(b).
(2) Use of "as-applied" compliant coating materials.	(i) Each coating material used at an existing affected source does not exceed 0.04 kg organic HAP per kg coating material, and each coating material used at a new affected source does not exceed 0.016 kg organic HAP per kg coating material as-applied; or.	Follow the procedures set out in § 63.3370(c)(1). Use either Equation 1a or b of § 63.3370 to determine compliance with § 63.3320(b)(2) in accordance with § 63.3370(c)(5)(i).

If you choose to demonstrate compliance by:	Then you must demonstrate that:	To accomplish this:
	(ii) Each coating material used at an existing affected source does not exceed 0.2 kg organic HAP per kg coating solids, and each coating material used at a new affected source does not exceed 0.08 kg organic HAP per kg coating solids as-applied; or.	Follow the procedures set out in §63.3370(c)(2). Use Equations 2 and 3 of §63.3370 to determine compliance with §63.3320(b)(3) in accordance with §63.3370(c)(5)(i).
	(iii) Monthly average of all coating materials used at an existing affected source does not exceed 0.04 kg organic HAP per kg coating material, and monthly average of all coating materials used at a new affected source does not exceed 0.016 kg organic HAP per kg coating material as-applied on a monthly average basis; or.	Follow the procedures set out in §63.3370(c)(3). Use Equation 4 of §63.3370 to determine compliance with §63.3320(b)(2) in accordance with §63.3370(c)(5)(ii).
	(iv) Monthly average of all coating materials used at an existing affected source does not exceed 0.2 kg organic HAP per kg coating solids, and monthly average of all coating materials used at a new affected source does not exceed 0.08 kg organic HAP per kg coating solids as-applied on a monthly average basis.	Follow the procedures set out in §63.3370(c)(4). Use Equation 5 of §63.3370 to determine compliance with §63.3320(b)(3) in accordance with §63.3370(c)(5)(ii).
(3) Tracking total monthly organic HAP applied	Total monthly organic HAP applied does not exceed the calculated limit based on emission limitations.	Follow the procedures set out in §63.3370(d). Show that total monthly HAP applied (Equation 6 of §63.3370) is less than the calculated equivalent allowable organic HAP (Equation 13a or b of §63.3370).
(4) Use of a capture system and control device	(i) Overall organic HAP control efficiency is equal to 95 percent at an existing affected source and 98 percent at a new affected source on a monthly basis; or oxidizer outlet organic HAP concentration is no greater than 20 ppmv by compound and capture efficiency is 100 percent; or operating parameters are continuously monitored; or.	Follow the procedures set out in §63.3370(e) to determine compliance with §63.3320(b)(1) according to §63.3370(i) if using a solvent recovery device, or §63.3370(j) if using a control device and CPMS, or §63.3370(k) if using an oxidizer.
	(ii) Overall organic HAP emission rate does not exceed 0.2 kg organic HAP per kg coating solids for an existing affected source or 0.08 kg organic HAP per kg coating solids for a new affected source on a monthly average as-applied basis;.	Follow the procedures set out in §63.3370(f) to determine compliance with §63.3320(b)(3) according to §63.3370(i) if using a solvent recovery device, or §63.3370(k) if using an oxidizer.
	(iii) Overall organic HAP emission rate does not exceed 0.04 kg organic HAP per kg coating material for an existing affected source or 0.016 kg organic HAP per kg coating material for a new affected source on a monthly average as-applied basis; or.	Follow the procedures set out in §63.3370(g) to determine compliance with §63.3320(b)(2) according to §63.3370(i) if using a solvent recovery device, or §63.3370(k) if using an oxidizer.
	(iv) Overall organic HAP emission rate does not exceed the calculated limit based on emission limitations.	Follow the procedures set out in §63.3370(h). Show that the monthly organic HAP emission rate is less than the calculated equivalent allowable organic HAP emission rate (Equation 13a or b of §63.3370). Calculate the monthly organic HAP emission rate according to §63.3370(i) if using a solvent recovery device, or §63.3370(k) if using an oxidizer.
(5) Use of multiple capture and/or control devices.	(i) Overall organic HAP control efficiency is equal to 95 percent at an existing affected source and 98 percent at a new affected source on a monthly basis; or.	Follow the procedures set out in §63.3370(e) to determine compliance with §63.3320(b)(1) according to §63.3370(e)(1) or (2).
	(ii) Average equivalent organic HAP emission rate does not exceed 0.2 kg organic HAP per kg coating solids for an existing affected source or 0.08 kg organic HAP per kg coating solids for a new affected source on a monthly average as-applied basis; or.	Follow the procedures set out in §63.3370(f) to determine compliance with §63.3320(b)(3) according to §63.3370(n).
	(iii) Average equivalent organic HAP emission rate does not exceed 0.04 kg organic HAP per kg coating material for an existing affected source or 0.016 kg organic HAP per kg coating material for a new affected source on a monthly average as-applied basis; or.	Follow the procedures set out in §63.3370(g) to determine compliance with §63.3320(b)(2) according to §63.3370(n).

If you choose to demonstrate compliance by:	Then you must demonstrate that:	To accomplish this:
	(iv) Average equivalent organic HAP emission rate does not exceed the calculated limit based on emission limitations.	Follow the procedures set out in § 63.3370(h). Show that the monthly organic HAP emission rate is less than the calculated equivalent allowable organic HAP emission rate (Equation 13a or b of § 63.3370) according to § 63.3370(n).
(6) Use of a combination of compliant coatings and control devices.	(i) Average equivalent organic HAP emission rate does not exceed 0.2 kg organic HAP per kg coating solids for an existing affected source or 0.08 kg organic HAP per kg coating solids for a new affected source on a monthly average as-applied basis; or.	Follow the procedures set out in § 63.3370(f) to determine compliance with § 63.3320(b)(3) according to § 63.3370(n).
	(ii) Average equivalent organic HAP emission rate does not exceed 0.04 kg organic HAP per kg coating material for an existing affected source or 0.016 kg organic HAP per kg coating material for a new affected source on a monthly average as-applied basis; or.	Follow the procedures set out in § 63.3370(g) to determine compliance with § 63.3320(b)(2) according to § 63.3370(n).
	(iii) Average equivalent organic HAP emission rate does not exceed the calculated limit based on emission limitations.	Follow the procedures set out in § 63.3370(h). Show that the monthly organic HAP emission rate is less than the calculated equivalent allowable organic HAP emission rate (Equation 13a or b of § 63.3370) according to § 63.3370(n).

(b) *As-purchased "compliant" coating materials.*

(1) If you comply by using coating materials that individually meet the emission standards in § 63.3320(b)(2) or (3), you must demonstrate that each coating material applied during the month at an existing affected source contains no more than 0.04 mass fraction organic HAP or 0.2 kg organic HAP per kg coating solids, and that each coating material applied during the month at a new affected source contains no more than 0.016 mass fraction organic HAP or 0.08 kg organic HAP per kg coating solids on an as-purchased basis as determined in accordance with § 63.3360(c).

(2) You are in compliance with emission standards in § 63.3320(b)(2) and (3) if each coating material applied at an existing affected source is applied as-purchased and contains no more than 0.04 kg organic HAP per kg coating material or 0.2 kg organic HAP per kg coating solids, and each coating material applied at a new affected source is applied as-purchased and contains no more than 0.016 kg organic HAP per kg coating material or 0.08 kg organic HAP per kg coating solids.

(c) *As-applied "compliant" coating materials.* If you comply by using coating materials that meet the emission standards in § 63.3320(b)(2) or (3) as-applied, you must demonstrate compliance by following one of the procedures in paragraphs (c)(1) through (4) of this section. Compliance is determined in accordance with paragraph (c)(5) of this section.

(1) *Each coating material as-applied meets the mass fraction of coating material standard (§ 63.3320(b)(2)).* You must demonstrate that each coating material applied at an existing affected source during the month contains no more than 0.04 kg organic HAP per kg coating material applied, and each coating material applied at a new affected source contains no more than 0.016 kg organic HAP per kg coating material applied as determined in accordance with paragraphs (c)(1)(i) and (ii) of this section. You must calculate the as-applied organic HAP content of as-purchased coating materials which are reduced, thinned, or diluted prior to application.

(i) Determine the organic HAP content or volatile organic content of each coating material applied on an as-purchased basis in accordance with § 63.3360(c).

(ii) Calculate the as-applied organic HAP content of each coating material using Equation 1a of this section:

$$C_{ahi} = \frac{\left(C_{hi}M_i + \sum_{j=1}^{q} C_{hij}M_{ij}\right)}{M_i + \sum_{j=1}^{q} M_{ij}} \quad \text{Eq. 1a}$$

Where:

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

C_{hi} = Organic HAP content of coating material, i, as-purchased, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = number of different materials added to the coating material.

C_{hij} = Organic HAP content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

or calculate the as-applied volatile organic content of each coating material using Equation 1b of this section:

$$C_{avi} = \frac{\left(C_{vi}M_i + \sum_{j=1}^{q} C_{vij}M_{ij}\right)}{M_i + \sum_{j=1}^{q} M_{ij}} \quad \text{Eq. 1b}$$

Where:

C_{avi} = Monthly average, as-applied, volatile organic content of coating material, i, expressed as a mass fraction, kg/kg.

C_{vi} = Volatile organic content of coating material, i, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{vij} = Volatile organic content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

(2) *Each coating material as-applied meets the mass fraction of coating solids standard (§ 63.3320(b)(3)).* You must demonstrate that each coating material applied at an existing affected source contains no more than 0.20 kg of organic HAP per kg of coating solids applied and each coating material applied at a new affected source contains no more than 0.08 kg of organic HAP per kg of coating solids applied. You must demonstrate compliance in accordance with paragraphs (c)(2)(i) and (ii) of this section.

(i) Determine the as-applied coating solids content of each coating material following the procedure in § 63.3360(d). You must calculate the as-applied coating solids content of coating materials which are reduced, thinned, or diluted prior to application, using Equation 2 of this section:

$$C_{asi} = \frac{\left(C_{si}M_i + \sum_{j=1}^{q} C_{sij}M_{ij}\right)}{M_i + \sum_{j=1}^{q} M_{ij}} \quad \text{Eq. 2}$$

Where:

C_{si} = Coating solids content of coating material, i, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{sij} = Coating solids content of material, j, added to as-purchased coating material, i, expressed as a mass-fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

(ii) Calculate the as-applied organic HAP to coating solids ratio using Equation 3 of this section:

$$H_{si} = \frac{C_{ahi}}{C_{asi}} \quad \text{Eq. 3}$$

Where:

H_{si} = As-applied, organic HAP to coating solids ratio of coating material, i.

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

C_{asi} = Monthly average, as-applied, coating solids content of coating material, i, expressed as a mass fraction, kg/kg.

(3) *Monthly average organic HAP content of all coating materials as-applied is less than the mass percent limit (§ 63.3320(b)(2)).* Demonstrate that the monthly average as-applied organic HAP content of all coating materials applied at an existing affected source is less than 0.04 kg organic HAP per kg of coating material applied, and all coating materials applied at a new affected source are less than 0.016 kg organic HAP per kg of coating material applied, as determined by Equation 4 of this section:

$$H_L = \frac{\sum_{i=1}^{p} C_{hi}M_i + \sum_{j=1}^{q} C_{hij}M_{ij} - M_{vret}}{\sum_{i=1}^{p} M_i + \sum_{j=1}^{q} M_{ij}} \quad \text{Eq. 4}$$

Where:

H_L = Monthly average, as-applied, organic HAP content of all coating materials applied, expressed as kg organic HAP per kg of coating material applied, kg/kg.

p = Number of different coating materials applied in a month.

C_{hi} = Organic HAP content of coating material, i, as-purchased, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{hij} = Organic HAP content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in § 63.3370.

(4) *Monthly average organic HAP content of all coating materials as-applied is less than the mass fraction of coating solids limit (§ 63.3320(b)(3)).* Demonstrate that the monthly average as-applied organic HAP content on the basis of coating solids applied of all coating materials applied at an existing affected source is less than 0.20 kg organic HAP per kg coating solids applied, and all coating materials applied at a new affected source are less than 0.08 kg organic HAP per kg coating solids applied, as determined by Equation 5 of this section:

$$H_S = \frac{\sum_{i=1}^{p} C_{hi}M_i + \sum_{j=1}^{q} C_{hij}M_{ij} - M_{vret}}{\sum_{i=1}^{p} C_{Si}M_i + \sum_{j=1}^{q} C_{Sij}M_{ij}} \quad \text{Eq. 5}$$

Where:

H_s = Monthly average, as-applied, organic HAP to coating solids ratio, kg organic HAP/kg coating solids applied.

p = Number of different coating materials applied in a month.

C_{hi} = Organic HAP content of coating material, i, as-purchased, expressed as a mass fraction, kg/kg.
M_i = Mass of as-purchased coating material, i, applied in a month, kg.
q = Number of different materials added to the coating material.
C_{hij} = Organic HAP content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.
M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.
M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in § 63.3370.
C_{si} = Coating solids content of coating material, i, expressed as a mass fraction, kg/kg.
C_{sij} = Coating solids content of material, j, added to as-purchased coating material, i, expressed as a mass-fraction, kg/kg.

(5) The affected source is in compliance with emission standards in § 63.3320(b)(2) or (3) if:

(i) The organic HAP content of each coating material as-applied at an existing affected source is no more than 0.04 kg organic HAP per kg coating material or 0.2 kg organic HAP per kg coating solids, and the organic HAP content of each coating material as-applied at a new affected source contains no more than 0.016 kg organic HAP per kg coating material or 0.08 kg organic HAP per kg coating solids; or

(ii) The monthly average organic HAP content of all as-applied coating materials at an existing affected source are no more than 0.04 kg organic HAP per kg coating material or 0.2 kg organic HAP per kg coating solids, and the monthly average organic HAP content of all as-applied coating materials at a new affected source is no more than 0.016 kg organic HAP per kg coating material or 0.08 kg organic HAP per kg coating solids.

(d) *Monthly allowable organic HAP applied.* Demonstrate that the total monthly organic HAP applied as determined by Equation 6 of this section is less than the calculated equivalent allowable organic HAP as determined by Equation 13a or b in paragraph (l) of this section:

$$H_m = \sum_{i=1}^{p} C_{hi} M_i + \sum_{j=1}^{q} C_{hij} M_{ij} - M_{vret} \qquad \text{Eq. 6}$$

Where:
H_m = Total monthly organic HAP applied, kg.
p = Number of different coating materials applied in a month.
C_{hi} = Organic HAP content of coating material, i, as-purchased, expressed as a mass fraction, kg/kg.
M_i = Mass of as-purchased coating material, i, applied in a month, kg.
q = Number of different materials added to the coating material.
C_{hij} = Organic HAP content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.
M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.
M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in § 63.3370.

(e) *Capture and control to reduce emissions to no more than allowable limit (§ 63.3320(b)(1)).* Operate a capture system and control device and demonstrate an overall organic HAP control efficiency of at least 95 percent at an existing affected source and at least 98 percent at a new affected source for each month, or operate a capture system and oxidizer so that an outlet organic HAP concentration of no greater than 20 ppmv by compound on a dry basis is achieved as long as the capture efficiency is 100 percent as detailed in § 63.3320(b)(4). Unless one of the cases described in paragraph (e)(1), (2), or (3) of this section applies to the affected source, you must either demonstrate compliance in accordance with the procedure in paragraph (i) of this section when emissions from the affected source are controlled by a solvent recovery device, or the procedure in paragraph (k) of this section when emissions are controlled by an oxidizer or demonstrate compliance for a web coating line by operating each capture system and each control device and continuous parameter monitoring according to the procedures in paragraph (j) of this section.

(1) If the affected source has only always-controlled work stations and operates more than one capture system or more than one control device, you must demonstrate compliance in accordance with the provisions of either paragraph (n) or (p) of this section.

(2) If the affected source operates one or more never-controlled work stations or one or more intermittently-controlled work stations, you must demonstrate compliance in accordance with the provisions of paragraph (n) of this section.

(3) An alternative method of demonstrating compliance with § 63.3320(b)(1) is the installation of a PTE around the web coating line that achieves 100 percent capture efficiency and ventilation of all organic HAP emissions from the total enclosure to an oxidizer with an outlet organic HAP concentration of no greater than 20 ppmv by compound on a dry basis. If this method is selected, you must demonstrate compliance by following the procedures in paragraphs (e)(3)(i) and (ii) of this section. Compliance is determined according to paragraph (e)(3)(iii) of this section.

(i) Demonstrate that a total enclosure is installed. An enclosure that meets the requirements in § 63.3360(f)(1) will be considered a total enclosure.

(ii) Determine the organic HAP concentration at the outlet of your total enclosure using the procedures in paragraph (e)(3)(ii)(A) or (B) of this section.

(A) Determine the control device efficiency using Equation 2 of § 63.3360 and the applicable test methods and procedures specified in § 63.3360(e).

(B) Use a CEMS to determine the organic HAP emission rate according to paragraphs (i)(2)(i) through (x) of this section.

(iii) You are in compliance if the installation of a total enclosure is demonstrated and the organic HAP concentration at the outlet of the incinerator is demonstrated to be no

greater than 20 ppmv by compound on a dry basis.

(f) *Capture and control to achieve mass fraction of coating solids applied limit (§ 63.3320(b)(3)).* Operate a capture system and control device and limit the organic HAP emission rate from an existing affected source to no more than 0.20 kg organic HAP emitted per kg coating solids applied, and from a new affected source to no more than 0.08 kg organic HAP emitted per kg coating solids applied as determined on a monthly average as-applied basis. If the affected source operates more than one capture system, more than one control device, one or more never-controlled work stations, or one or more intermittently-controlled work stations, then you must demonstrate compliance in accordance with the provisions of paragraph (n) of this section. Otherwise, you must demonstrate compliance following the procedure in paragraph (i) of this section when emissions from the affected source are controlled by a solvent recovery device or the procedure in paragraph (k) of this section when emissions are controlled by an oxidizer.

(g) *Capture and control to achieve mass fraction limit (§ 63.3320(b)(2)).* Operate a capture system and control device and limit the organic HAP emission rate to no more than 0.04 kg organic HAP emitted per kg coating material applied at an existing affected source, and no more than 0.016 kg organic HAP emitted per kg coating material applied at a new affected source as determined on a monthly average as-applied basis. If the affected source operates more than one capture system, more than one control device, one or more never-controlled work stations, or one or more intermittently-controlled work stations, then you must demonstrate compliance in accordance with the provisions of paragraph (n) of this section. Otherwise, you must demonstrate compliance following the procedure in paragraph (i) of this section when emissions from the affected source are controlled by a solvent recovery device or the procedure in paragraph (k) of this section when emissions are controlled by an oxidizer.

(h) *Capture and control to achieve allowable emission rate.* Operate a capture system and control device and limit the monthly organic HAP emissions to less than the allowable emissions as calculated in accordance with paragraph (l) of this section. If the affected source operates more than one capture system, more than one control device, one or more never-controlled work stations, or one or more intermittently-controlled work stations, then you must demonstrate compliance in accordance with the provisions of paragraph (n) of this section. Otherwise, the owner or operator must demonstrate compliance following the procedure in paragraph (i) of this section when emissions from the affected source are controlled by a solvent recovery device or the procedure in paragraph (k) of this section when emissions are controlled by an oxidizer.

(i) *Solvent recovery device compliance demonstration.* If you use a solvent recovery device to control emissions, you must show compliance by following the procedures in either paragraph (i)(1) or (2) of this section:

(1) *Liquid-liquid material balance.* Perform a monthly liquid-liquid material balance as specified in paragraphs (i)(1)(i) through (v) of this section and use the applicable equations in paragraphs (i)(1)(vi) through (ix) of this section to convert the data to units of the selected compliance option in paragraphs (e) through (h) of this section. Compliance is determined in accordance with paragraph (i)(1)(x) of this section.

(i) Determine the mass of each coating material applied on the web coating line or group of web coating lines controlled by a common solvent recovery device during the month.

(ii) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied, organic HAP emission rate based on coating material applied, or emission of less than the calculated allowable organic HAP, determine the organic HAP content of each coating material as-applied during the month following the procedure in § 63.3360(c).

(iii) Determine the volatile organic content of each coating material as-applied during the month following the procedure in § 63.3360(d).

(iv) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied or emission of less than the calculated allowable organic HAP, determine the coating solids content of each coating material applied during the month following the procedure in § 63.3360(d).

(v) Determine and monitor the amount of volatile organic matter recovered for the month according to the procedures in § 63.3350(d).

(vi) *Recovery efficiency.* Calculate the volatile organic matter collection and recovery efficiency using Equation 7 of this section:

$$R_V = \frac{M_{vr} + M_{vret}}{\sum_{i=1}^{p} C_{vi} M_i + \sum_{i=1}^{q} C_{vij} M_{ij}} \times 100 \quad \text{Eq. 7}$$

Where:

R_v = Organic volatile matter collection and recovery efficiency, percent.

M_{vr} = Mass of volatile matter recovered in a month, kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in § 63.3370.

p = Number of different coating materials applied in a month.

C_{vi} = Volatile organic content of coating material, i, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{vij} = Volatile organic content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

(vii) *Organic HAP emitted.* Calculate the organic HAP emitted during the month using Equation 8 of this section:

$$H_e = \left[1 - \frac{R_v}{100}\right]\left[\sum_{i=1}^{p} C_{hi} M_i + \sum_{j=1}^{q} C_{hij} M_{ij} - M_{vret}\right] \quad \text{Eq. 8}$$

Where:

H_e = Total monthly organic HAP emitted, kg.

R_v = Organic volatile matter collection and recovery efficiency, percent.

p = Number of different coating materials applied in a month.

C_{hi} = Organic HAP content of coating material, i, as-purchased, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{hij} = Organic HAP content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in § 63.3370.

(viii) *Organic HAP emission rate based on coating solids applied.* Calculate the organic HAP emission rate based on coating solids applied using Equation 9 of this section:

$$L = \frac{H_e}{\sum_{i=1}^{p} C_{si} M_i + \sum_{j=1}^{q} C_{sij} M_{ij}} \quad \text{Eq. 9}$$

Where:

L = Mass organic HAP emitted per mass of coating solids applied, kg/kg.

H_e = Total monthly organic HAP emitted, kg.

p = Number of different coating materials applied in a month.

C_{si} = Coating solids content of coating material, i, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{sij} = Coating solids content of material, j, added to as-purchased coating material, i, expressed as a mass-fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

(ix) *Organic HAP emission rate based on coating materials applied.* Calculate the organic HAP emission rate based on coating material applied using Equation 10 of this section:

$$S = \frac{H_e}{\sum_{i=1}^{p} M_i + \sum_{j=1}^{q} M_{ij}} \quad \text{Eq. 10}$$

Where:

S = Mass organic HAP emitted per mass of material applied, kg/kg.

H_e = Total monthly organic HAP emitted, kg.

p = Number of different coating materials applied in a month.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

(x) You are in compliance with the emission standards in § 63.3320(b) if:

(A) The volatile organic matter collection and recovery efficiency is 95 percent or greater at an existing affected source and 98 percent or greater at a new affected source; or

(B) The organic HAP emission rate based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(C) The organic HAP emission rate based on coating material applied is no more than 0.04 kg organic HAP per kg coating material applied at an existing affected source and no more than 0.016 kg organic HAP per kg coating material applied at a new affected source; or

(D) The organic HAP emitted during the month is less than the calculated allowable organic HAP as determined using paragraph (l) of this section.

(2) *Continuous emission monitoring of capture system and control device performance.* Demonstrate initial compliance through a performance test on capture efficiency and continuing compliance through continuous emission monitors and continuous monitoring of capture system operating parameters following the procedures in paragraphs (i)(2)(i) through (vii) of this section. Use the applicable equations specified in paragraphs (i)(2)(viii) through (x) of this section to convert the monitoring and other data into units of the selected compliance option in paragraphs (e) through (h) of this section. Compliance is determined in accordance with paragraph (i)(2)(xi) of this section.

(i) *Control device efficiency.* Continuously monitor the gas stream entering and exiting the control device to determine the total organic volatile matter mass flow rate (*e.g.*, by determining the concentration of the vent gas in grams per cubic meter and the volumetric flow rate in cubic meters per second such that the total organic volatile matter mass flow rate in grams per second can be calculated) such that the control device efficiency of the control device can be calculated for each month using Equation 2 of § 63.3360.

(ii) *Capture efficiency monitoring.* Whenever a web coating line is operated, continuously monitor the operating parameters established in accordance with § 63.3350(f) to ensure capture efficiency.

(iii) Determine the percent capture efficiency in accordance with § 63.3360(f).

(iv) *Control efficiency.* Calculate the overall organic HAP control efficiency achieved for each month using Equation 11 of this section:

$$R = \frac{(E)(CE)}{100} \quad \text{Eq. 11}$$

Where:

R = Overall organic HAP control efficiency, percent.

E = Organic volatile matter control efficiency of the control device, percent.

CE = Organic volatile matter capture efficiency of the capture system, percent.

(v) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied, organic HAP emission rate based on coating materials applied, or emission of less than the calculated allowable organic HAP, determine the mass of each coating material applied on the web coating line or group of web coating lines controlled by a common control device during the month.

(vi) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied, organic HAP emission rate based on coating material applied, or emission of less than the calculated allowable organic HAP, determine the organic HAP content of each coating material as-applied during the month following the procedure in § 63.3360(c).

(vii) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied or emission of less than the calculated allowable organic HAP, determine the coating solids content of each coating material as-applied during the month following the procedure in § 63.3360(d).

(viii) *Organic HAP emitted.* Calculate the organic HAP emitted during the month for each month using Equation 12 of this section:

$$H_e = (1-R)\left(\sum_{i=1}^{p} C_{ahi} M_i\right) - M_{vret} \quad \text{Eq. 12}$$

Where:

H_e = Total monthly organic HAP emitted, kg.

R = Overall organic HAP control efficiency, percent.

p = Number of different coating materials applied in a month.

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in this section.

(ix) *Organic HAP emission rate based on coating solids applied.* Calculate the organic HAP emission rate based on coating solids applied using Equation 9 of this section.

(x) *Organic HAP emission rate based on coating materials applied.* Calculate the organic HAP emission rate based on coating material applied using Equation 10 of this section.

(xi) *Compare actual performance to the performance required by compliance option.* The affected source is in compliance with the emission standards in § 63.3320(b) for each month if the capture system is operated such that the average capture system operating parameter is greater than or less than (as appropriate) the operating parameter value established in accordance with § 63.3350(f); and

(A) The organic volatile matter collection and recovery efficiency is 95 percent or greater at an existing affected source and 98 percent or greater at a new affected source; or

(B) The organic HAP emission rate based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(C) The organic HAP emission rate based on coating material applied is no more than 0.04 kg organic HAP per kg coating material applied at an existing affected source and no more than 0.016 kg organic HAP per kg coating material applied at a new affected source; or

(D) The organic HAP emitted during the month is less than the calculated allowable organic HAP as determined using paragraph (l) of this section.

(j) *Capture and control system compliance demonstration procedures using a CPMS.* If you use an add-on control device, you must demonstrate initial compliance for each capture system and each control device through performance tests and demonstrate continuing compliance through continuous monitoring of capture system and control device operating parameters as specified in paragraphs (j)(1) through (3) of this section. Compliance is determined in accordance with paragraph (j)(4) of this section.

(1) Determine the control device destruction or removal efficiency using the applicable test methods and procedures in § 63.3360(e).

(2) Determine the emission capture efficiency in accordance with § 63.3360(f).

(3) Whenever a web coating line is operated, continuously monitor the operating parameters established according to § 63.3350(e) and (f).

(4) You are in compliance with the emission standards in § 63.3320(b) if the control device is operated such that the average operating parameter value is greater than or less than (as appropriate) the operating parameter value established in accordance with § 63.3360(e) for each 3-hour period, and the capture system operating parameter is operated at an average value greater than or less than (as appropriate) the operating parameter value established in accordance with § 63.3350(f); and

(i) The overall organic HAP control efficiency is 95 percent or greater at an existing affected source and 98 percent or greater at a new affected source; or

(ii) The organic HAP emission rate based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(iii) The organic HAP emission rate based on coating material applied is no more than 0.04 kg organic HAP per kg coating material applied at an existing affected source and no more than 0.016 kg organic HAP per kg coating material applied at a new affected source; or

(iv) The organic HAP emitted during the month is less than the calculated allowable organic HAP as determined using paragraph (l) of this section.

(k) *Oxidizer compliance demonstration procedures.* If you use an oxidizer to control emissions, you must show compliance by following the procedures in paragraph (k)(1) of this section. Use the applicable equations specified in paragraph (k)(2) of this section to convert the monitoring and other data into units of the selected compliance option in paragraph (e) through (h) of this section. Compliance is determined in accordance with paragraph (k)(3) of this section.

(1) Demonstrate initial compliance through performance tests of capture efficiency and control device efficiency and continuing compliance through continuous monitoring of capture system and control device operating parameters as specified in paragraphs (k)(1)(i) through (vi) of this section:

(i) Determine the oxidizer destruction efficiency using the procedure in § 63.3360(e).

(ii) Determine the capture system capture efficiency in accordance with § 63.3360(f).

(iii) *Capture and control efficiency monitoring.* Whenever a web coating line is operated, continuously monitor the operating parameters established in accordance with § 63.3350(e) and (f) to ensure capture and control efficiency.

(iv) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied, organic HAP emission rate based on coating materials applied, or emission of less than the calculated allowable organic HAP, determine the mass of each coating material applied on the web coating line or group of web coating lines controlled by a common oxidizer during the month.

(v) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied, organic HAP emission rate based on coating material applied, or emission of less than the calculated allowable organic HAP, determine the organic HAP content of each coating material as-applied during the month following the procedure in § 63.3360(c).

(vi) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied or emission of less than the calculated allowable organic HAP, determine the coating solids content of each coating

material applied during the month following the procedure in § 63.3360(d).

(2) Convert the information obtained under paragraph (p)(1) of this section into the units of the selected compliance option using the calculation procedures specified in paragraphs (k)(2)(i) through (iv) of this section.

(i) *Control efficiency.* Calculate the overall organic HAP control efficiency achieved using Equation 11 of this section.

(ii) *Organic HAP emitted.* Calculate the organic HAP emitted during the month using Equation 12 of this section.

(iii) *Organic HAP emission rate based on coating solids applied.* Calculate the organic HAP emission rate based on coating solids applied for each month using Equation 9 of this section.

(iv) *Organic HAP based on coating materials applied.* Calculate the organic HAP emission rate based on coating material applied using Equation 10 of this section.

(3) You are in compliance with the emission standards in § 63.3320(b) if the oxidizer is operated such that the average operating parameter value is greater than the operating parameter value established in accordance with § 63.3360(e) for each 3-hour period, and the capture system operating parameter is operated at an average value greater than or less than (as appropriate) the operating parameter value established in accordance with § 63.3350(f); and

(i) The overall organic HAP control efficiency is 95 percent or greater at an existing affected source and 98 percent or greater at a new affected source; or

(ii) The organic HAP emission rate based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(iii) The organic HAP emission rate based on coating material applied is no more than 0.04 kg organic HAP per kg coating material applied at an existing affected source and no more than 0.016 kg organic HAP per kg coating material applied at a new affected source; or

(iv) The organic HAP emitted during the month is less than the calculated allowable organic HAP as determined using paragraph (l) of this section.

(l) *Monthly allowable organic HAP emissions.* This paragraph provides the procedures and calculations for determining monthly allowable organic HAP emissions for use in demonstrating compliance in accordance with paragraph (d), (h), (i)(1)(x)(D), (i)(2)(xi)(D), or (k)(3)(iv) of this section. You will need to determine the amount of coating material applied at greater than or equal to 20 mass percent coating solids and the amount of coating material applied at less than 20 mass percent coating solids. The allowable organic HAP limit is then calculated based on coating material applied at greater than or equal to 20 mass percent coating solids complying with 0.2 kg organic HAP per kg coating solids at an existing affected source or 0.08 kg organic HAP per kg coating solids at a new affected source, and coating material applied at less than 20 mass percent coating solids complying with 4 mass percent organic HAP at an existing affected source and 1.6 mass-percent organic HAP at a new affected source as follows:

(1) Determine the as-purchased mass of each coating material applied each month.

(2) Determine the as-purchased coating solids content of each coating material applied each month in accordance with § 63.3360(d)(1).

(3) Determine the as-purchased mass fraction of each coating material which was applied at 20 mass percent or greater coating solids content on an as-applied basis.

(4) Determine the total mass of each solvent, diluent, thinner, or reducer added to coating materials which were applied at less than 20 mass percent coating solids content on an as-applied basis each month.

(5) Calculate the monthly allowable organic HAP emissions using Equation 13a of this section for an existing affected source:

$$H_a = 0.20\left[\sum_{i=1}^{p} M_i G_i C_{si}\right] + 0.04\left[\sum_{i=1}^{p} M_i (1 - G_i) + \sum_{j=1}^{q} M_{L_j}\right] \quad \text{Eq. 13a}$$

Where:

H_a = Monthly allowable organic HAP emissions, kg.

p = Number of different coating materials applied in a month.

M_i = mass of as-purchased coating material, i, applied in a month, kg.

G_i = Mass fraction of each coating material, i, which was applied at 20 mass percent or greater coating solids content, on an as-applied basis, kg/kg.

C_{si} = Coating solids content of coating material, i, expressed as a mass fraction, kg/kg.

q = Number of different materials added to the coating material.

M_{Lj} = Mass of non-coating-solids-containing coating material, j, added to coating-solids-containing coating materials which were applied at less than 20 mass percent coating solids content, on an as-applied basis, in a month, kg.

or Equation 13b of this section for a new affected source:

$$H_a = 0.08\left[\sum_{i=1}^{p} M_i G_i C_{si}\right] + 0.016\left[\sum_{i=1}^{p} M_i (1 - G_i) + \sum_{j=1}^{q} M_{L_j}\right] \quad \text{Eq. 13b}$$

Where:

H_a = Monthly allowable organic HAP emissions, kg.

p = Number of different coating materials applied in a month.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

G_i = Mass fraction of each coating material, i, which was applied at 20 mass percent or greater coating solids content, on an as-applied basis, kg/kg.

C_{si} = Coating solids content of coating material, i, expressed as a mass fraction, kg/kg.

q = Number of different materials added to the coating material.

M_{Lj} = Mass of non-coating-solids-containing coating material, j, added to coating-solids-containing coating materials which were applied at less than 20 mass percent

coating solids content, on an as-applied basis, in a month, kg.

(m) [Reserved]

(n) *Combinations of capture and control.* If you operate more than one capture system, more than one control device, one or more never-controlled work stations, or one or more intermittently-controlled work stations, you must calculate organic HAP emissions according to the procedures in paragraphs (n)(1) through (4) of this section, and use the calculation procedures specified in paragraph (n)(5) of this section to convert the monitoring and other data into units of the selected control option in paragraphs (e) through (h) of this section. Use the procedures specified in paragraph (n)(6) of this section to demonstrate compliance.

(1) *Solvent recovery system using liquid-liquid material balance compliance demonstration.* If you choose to comply by means of a liquid-liquid material balance for each solvent recovery system used to control one or more web coating lines, you must determine the organic HAP emissions for those web coating lines controlled by that solvent recovery system either:

(i) In accordance with paragraphs (i)(1)(i) through (iii) and (v) through (vii) of this section, if the web coating lines controlled by that solvent recovery system have only always-controlled work stations; or

(ii) In accordance with paragraphs (i)(1)(ii), (iii), (v), and (vi) and (o) of this section, if the web coating lines controlled by that solvent recovery system have one or more never-controlled or intermittently-controlled work stations.

(2) *Solvent recovery system using performance test compliance demonstration and CEMS.* To demonstrate compliance through an initial test of capture efficiency, continuous monitoring of a capture system operating parameter, and a CEMS on each solvent recovery system used to control one or more web coating lines, you must:

(i) For each capture system delivering emissions to that solvent recovery system, monitor the operating parameter established in accordance with § 63.3350(f) to ensure capture system efficiency; and

(ii) Determine the organic HAP emissions for those web coating lines served by each capture system delivering emissions to that solvent recovery system either:

(A) In accordance with paragraphs (i)(2)(i) through (iii), (v), (vi), and (viii) of this section, if the web coating lines served by that capture and control system have only always-controlled work stations; or

(B) In accordance with paragraphs (i)(2)(i) through (iii), (vi), and (o) of this section, if the web coating lines served by that capture and control system have one or more never-controlled or intermittently-controlled work stations.

(3) *Oxidizer.* To demonstrate compliance through performance tests of capture efficiency and control device efficiency, continuous monitoring of capture system, and CPMS for control device operating parameters for each oxidizer used to control emissions from one or more web coating lines, you must:

(i) Monitor the operating parameter in accordance with § 63.3350(e) to ensure control device efficiency; and

(ii) For each capture system delivering emissions to that oxidizer, monitor the operating parameter established in accordance with § 63.3350(f) to ensure capture efficiency; and

(iii) Determine the organic HAP emissions for those web coating lines served by each capture system delivering emissions to that oxidizer either:

(A) In accordance with paragraphs (k)(1)(i) through (vi) of this section, if the web coating lines served by that capture and control system have only always-controlled work stations; or

(B) In accordance with paragraphs (k)(1)(i) through (iii), (v), and (o) of this section, if the web coating lines served by that capture and control system have one or more never-controlled or intermittently-controlled work stations.

(4) *Uncontrolled coating lines.* If you own or operate one or more uncontrolled web coating lines, you must determine the organic HAP applied on those web coating lines using Equation 6 of this section. The organic HAP emitted from an uncontrolled web coating line is equal to the organic HAP applied on that web coating line.

(5) Convert the information obtained under paragraphs (n)(1) through (4) of this section into the units of the selected compliance option using the calculation procedures specified in paragraphs (n)(5)(i) through (iv) of this section.

(i) *Organic HAP emitted.* Calculate the organic HAP emissions for the affected source for the month by summing all organic HAP emissions calculated according to paragraphs (n)(1), (2)(ii), (3)(iii), and (4) of this section.

(ii) *Coating solids applied.* If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied or emission of less than the calculated allowable organic HAP, the owner or operator must determine the coating solids content of each coating material applied during the month following the procedure in § 63.3360(d).

(iii) *Organic HAP emission rate based on coating solids applied.* Calculate the organic HAP emission rate based on coating solids applied for each month using Equation 9 of this section.

(iv) *Organic HAP based on materials applied.* Calculate the organic HAP emission rate based on material applied using Equation 10 of this section.

(6) *Compliance.* The affected source is in compliance with the emission standards in § 63.3320(b) for the month if all operating parameters required to be monitored under paragraphs (n)(1) through (3) of this section were maintained at the values established under §§ 63.3350 and 63.3360; and

(i) The total mass of organic HAP emitted by the affected source based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(ii) The total mass of organic HAP emitted by the affected source based on material applied is no more than 0.04 kg organic HAP per kg material applied at an existing affected source and no more than 0.016 kg organic HAP per kg material applied at a new affected source; or

(iii) The total mass of organic HAP emitted by the affected source during the month is less than the calculated allowable organic HAP as determined using paragraph (l) of this section; or

(iv) The total mass of organic HAP emitted by the affected source was not more than 5 percent of the total mass of organic HAP applied for the month at an existing affected source and no more than 2 percent of the total mass of organic HAP applied for the month at a new affected source. The total mass of organic HAP applied by the affected source in the month must be determined using Equation 6 of this section.

(o) *Intermittently-controlled and never-controlled work stations.* If you have been expressly referenced to this paragraph by paragraphs (n)(1)(ii), (n)(2)(ii)(B), or (n)(3)(iii)(B) of this section for calculation procedures to determine organic HAP emissions for your intermittently-controlled and never-controlled work stations, you must:

(1) Determine the sum of the mass of all coating materials as-applied on intermittently-controlled work stations operating in bypass mode and the mass of all coating materials as-applied on

never-controlled work stations during the month.

(2) Determine the sum of the mass of all coating materials as-applied on intermittently-controlled work stations operating in a controlled mode and the mass of all coating materials applied on always-controlled work stations during the month.

(3) *Liquid-liquid material balance compliance demonstration.* For each web coating line or group of web coating lines for which you use the provisions of paragraph (n)(1)(ii) of this section, you must calculate the organic HAP emitted during the month using Equation 14 of this section:

$$H_e = \left[\sum_{i=1}^{p} M_{Ci} C_{ahi}\right]\left[1 - \frac{R_v}{100}\right] + \left[\sum_{i=1}^{p} M_{Bi} C_{ahi}\right] - M_{vret} \quad \text{Eq. 14}$$

Where:

H_e = Total monthly organic HAP emitted, kg.

p = Number of different coating materials applied in a month.

M_{ci} = Sum of the mass of coating material, i, as-applied on intermittently-controlled work stations operating in controlled mode and the mass of coating material, i, as-applied on always-controlled work stations, in a month, kg.

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

R_v = Organic volatile matter collection and recovery efficiency, percent.

M_{Bi} = Sum of the mass of coating material, i, as-applied on intermittently-controlled work stations operating in bypass mode and the mass of coating material, i, as-applied on never-controlled work stations, in a month, kg.

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in this section.

(4) *Performance test to determine capture efficiency and control device efficiency.* For each web coating line or group of web coating lines for which you use the provisions of paragraph (n)(2)(ii)(B) or (n)(3)(iii)(B) of this section, you must calculate the organic HAP emitted during the month using Equation 15 of this section:

$$H_e = \left[\sum_{i=1}^{p} M_{Ci} C_{ahi}\right]\left[1 - \frac{R}{100}\right] + \left[\sum_{i=1}^{p} M_{Bi} C_{ahi}\right] - M_{vret} \quad \text{Eq. 15}$$

Where:

H_e = Total monthly organic HAP emitted, kg.

p = Number of different coating materials applied in a month.

M_{ci} = Sum of the mass of coating material, i, as-applied on intermittently-controlled work stations operating in controlled mode and the mass of coating material, i, as-applied on always-controlled work stations, in a month, kg.

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

R = Overall organic HAP control efficiency, percent.

M_{Bi} = Sum of the mass of coating material, i, as-applied on intermittently-controlled work stations operating in bypass mode and the mass of coating material, i, as-applied on never-controlled work stations, in a month, kg.

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in this section.

(p) *Always-controlled work stations with more than one capture and control system.* If you operate more than one capture system or more than one control device and only have always-controlled work stations, then you are in compliance with the emission standards in § 63.3320(b)(1) for the month if for each web coating line or group of web coating lines controlled by a common control device:

(1) The volatile matter collection and recovery efficiency as determined by paragraphs (i)(1)(i), (iii), (v), and (vi) of this section is at least 95 percent at an existing affected source and at least 98 percent at a new affected source; or

(2) The overall organic HAP control efficiency as determined by paragraphs (i)(2)(i) through (iv) of this section for each web coating line or group of web coating lines served by that control device and a common capture system is at least 95 percent at an existing affected source and at least 98 percent at a new affected source; or

(3) The overall organic HAP control efficiency as determined by paragraphs (k)(1)(i) through (iii) and (k)(2)(i) of this section for each web coating line or group of web coating lines served by that control device and a common capture system is at least 95 percent at an existing affected source and at least 98 percent at a new affected source.

Notifications, Reports, and Records

§ 63.3400 What notifications and reports must I submit?

(a) Each owner or operator of an affected source subject to this subpart must submit the reports specified in paragraphs (b) through (g) of this section to the Administrator:

(b) You must submit an initial notification as required by § 63.9(b).

(1) Initial notification for existing affected sources must be submitted no later than 1 year before the compliance date specified in § 63.3330(a).

(2) Initial notification for new and reconstructed affected sources must be submitted as required by § 63.9(b).

(3) For the purpose of this subpart, a title V or part 70 permit application may be used in lieu of the initial notification required under § 63.9(b), provided the same information is contained in the permit application as required by § 63.9(b) and the State to which the permit application has been submitted has an approved operating permit program under part 70 of this chapter and has received delegation of authority from the EPA to implement and enforce this subpart.

(4) If you are using a permit application in lieu of an initial notification in accordance with paragraph (b)(3) of this section, the permit application must be submitted by the same due date specified for the initial notification.

(c) You must submit a semiannual compliance report according to paragraphs (c)(1) and (2) of this section.

(1) Compliance report dates.

(i) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.3330 and ending on June 30 or December 31, whichever date is the first date following the end of the calendar half immediately following the compliance date that is specified for your affected source in § 63.3330.

(ii) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the calendar half immediately following the compliance date that is specified for your affected source in § 63.3330.

(iii) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(iv) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(v) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, and the permitting authority has established dates for submitting semiannual reports pursuant to § 70.6(a)(3)(iii)(A) or § 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (c)(1)(i) through (iv) of this section.

(2) The compliance report must contain the information in paragraphs (c)(2)(i) through (vi) of this section:

(i) Company name and address.

(ii) Statement by a responsible official with that official's name, title, and signature certifying the accuracy of the content of the report.

(iii) Date of report and beginning and ending dates of the reporting period.

(iv) If there are no deviations from any emission limitations (emission limit or operating limit) that apply to you, a statement that there were no deviations from the emission limitations during the reporting period, and that no CMS was inoperative, inactive, malfunctioning, out-of-control, repaired, or adjusted.

(v) For each deviation from an emission limitation (emission limit or operating limit) that applies to you and that occurs at an affected source where you are not using a CEMS to comply with the emission limitations in this subpart, the compliance report must contain the information in paragraphs (c)(2)(i) through (iii) of this section, and:

(A) The total operating time of each affected source during the reporting period.

(B) Information on the number, duration, and cause of deviations (including unknown cause), if applicable, and the corrective action taken.

(C) Information on the number, duration, and cause for CPMS downtime incidents, if applicable, other than downtime associated with zero and span and other calibration checks.

(vi) For each deviation from an emission limit occurring at an affected source where you are using a CEMS to comply with the emission limit in this subpart, you must include the information in paragraphs (c)(2)(i) through (iii) and (vi)(A) through (J) of this section.

(A) The date and time that each malfunction started and stopped.

(B) The date and time that each CEMS and CPMS, if applicable, was inoperative except for zero (low-level) and high-level checks.

(C) The date and time that each CEMS and CPMS, if applicable, was out-of-control, including the information in § 63.8(c)(8).

(D) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(E) A summary of the total duration (in hours) of each deviation during the reporting period and the total duration of each deviation as a percent of the total source operating time during that reporting period.

(F) A breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(G) A summary of the total duration (in hours) of CEMS and CPMS downtime during the reporting period and the total duration of CEMS and CPMS downtime as a percent of the total source operating time during that reporting period.

(H) A breakdown of the total duration of CEMS and CPMS downtime during the reporting period into periods that are due to monitoring equipment malfunctions, nonmonitoring equipment malfunctions, quality assurance/quality control calibrations, other known causes, and other unknown causes.

(I) The date of the latest CEMS and CPMS certification or audit.

(J) A description of any changes in CEMS, CPMS, or controls since the last reporting period.

(d) You must submit a Notification of Performance Tests as specified in §§ 63.7 and 63.9(e) if you are complying with the emission standard using a control device and you are required to conduct a performance test of the control device. This notification and the site-specific test plan required under § 63.7(c)(2) must identify the operating parameters to be monitored to ensure that the capture efficiency of the capture system and the control efficiency of the control device determined during the performance test are maintained. Unless EPA objects to the parameter or requests changes, you may consider the parameter approved.

(e) You must submit a Notification of Compliance Status as specified in § 63.9(h).

(f) You must submit performance test reports as specified in § 63.10(d)(2) if you are using a control device to comply with the emission standard and you have not obtained a waiver from the performance test requirement or you are not exempted from this requirement by § 63.3360(b). The performance test reports must be submitted as part of the notification of compliance status required in § 63.3400(e).

(g) You must submit startup, shutdown, and malfunction reports as specified in § 63.10(d)(5), except that the provisions in subpart A of this part pertaining to startups, shutdowns, and malfunctions do not apply unless a control device is used to comply with this subpart.

(1) If actions taken by an owner or operator during a startup, shutdown, or malfunction of an affected source

(including actions taken to correct a malfunction) are not consistent with the procedures specified in the affected source's SSMP required by § 63.6(e)(3), the owner or operator must state such information in the report. The startup, shutdown, or malfunction report must consist of a letter containing the name, title, and signature of the responsible official who is certifying its accuracy and must be submitted to the Administrator.

(2) Separate startup, shutdown, and malfunction reports are not required if the information is included in the report specified in paragraph (c)(2)(vi) of this section.

§ 63.3410 What records must I keep?

(a) Each owner or operator of an affected source subject to this subpart must maintain the records specified in paragraphs (a)(1) and (2) of this section on a monthly basis in accordance with the requirements of § 63.10(b)(1):

(1) Records specified in § 63.10(b)(2) of all measurements needed to demonstrate compliance with this standard, including:

(i) Continuous emission monitor data in accordance with the requirements of § 63.3350(d);

(ii) Control device and capture system operating parameter data in accordance with the requirements of § 63.3350(c), (e), and (f);

(iii) Organic HAP content data for the purpose of demonstrating compliance in accordance with the requirements of § 63.3360(c);

(iv) Volatile matter and coating solids content data for the purpose of demonstrating compliance in accordance with the requirements of § 63.3360(d);

(v) Overall control efficiency determination using capture efficiency and control device destruction or removal efficiency test results in accordance with the requirements of § 63.3360(e) and (f); and

(vi) Material usage, organic HAP usage, volatile matter usage, and coating solids usage and compliance demonstrations using these data in accordance with the requirements of § 63.3370(b), (c), and (d).

(2) Records specified in § 63.10(c) for each CMS operated by the owner or operator in accordance with the requirements of § 63.3350(b).

(b) Each owner or operator of an affected source subject to this subpart must maintain records of all liquid-liquid material balances performed in accordance with the requirements of § 63.3370. The records must be maintained in accordance with the requirements of § 63.10(b).

Delegation of Authority

§ 63.3420 What authorities may be delegated to the States?

(a) In delegating implementation and enforcement authority to a State under 40 CFR part 63, subpart E, the authorities contained in paragraph (b) of this section must be retained by the Administrator and not transferred to a State.

(b) Authority which will not be delegated to States: § 63.3360(c), approval of alternate test method for organic HAP content determination; § 63.3360(d), approval of alternate test method for volatile matter determination.

If you are required to comply with operating limits by § 63.3321, you must comply with the applicable operating limits in the following table:

Tables to Subpart JJJJ of Part 63

TABLE 1 TO SUBPART JJJJ OF PART 63.—OPERATING LIMITS IF USING ADD-ON CONTROL DEVICES AND CAPTURE SYSTEM

For the following device:	You must meet the following operating limit:	And you must demonstrate continuous compliance with operating limits by:
1. Thermal oxidizer	a. The average combustion temperature in any 3-hour period must not fall below the combustion temperature limit established according to § 63.3360(e)(3)(i).	i. Collecting the combustion temperature data according to § 63.3350(e)(9); ii. Reducing the data to 3-hour block averages; and iii. Maintain the 3-hour average combustion temperature at or above the temperature limit.
2. Catalytic oxidizer	a. The average temperature at the inlet to the catalyst bed in any 3-hour period must not fall below the combustion temperature limit established according to § 63.3360(e)(3)(ii).	i. Collecting the catalyst bed inlet temperature data according to § 63.3350(e)(9); ii. Reducing the data to 3-hour block averages; and iii. Maintain the 3-hour average catalyst bed inlet temperature at or above the temperature limit.
	b. The temperature rise across the catalyst bed must not fall below the limit established according to § 63.3360(e)(3)(ii).	i. Collecting the catalyst bed inlet and outlet temperature data according to § 63.3350(e)(9); ii. Reducing the data to 3-hour block averages; and iii. Maintain the 3-hour average temperature rise across the catalyst bed at or above the limit.
3. Emission capture system	Submit monitoring plan to the Administrator that identifies operating parameters to be monitored according to § 63.3350(f).	Conduct monitoring according to the plan (§ 63.3350(f)(3)).

You must comply with the applicable General Provisions requirements according to the following table:

TABLE 2 TO SUBPART JJJJ OF PART 63.—APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART JJJJ

General provisions reference	Applicable to subpart JJJJ	Explanation
§ 63.1(a)(1)–(4)	Yes.	

TABLE 2 TO SUBPART JJJJ OF PART 63.—APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART JJJJ—Continued

General provisions reference	Applicable to subpart JJJJ	Explanation
§ 63.1(a)(5)	No	Reserved.
§ 63.1(a)(6)–(8)	Yes.	
§ 63.1(a)(9)	No	Reserved.
§ 63.1(a)(10)–(14)	Yes.	
§ 63.1(b)(1)	No	Subpart JJJJ specifies applicability.
§ 63.1(b)(2)–(3)	Yes.	
§ 63.1(c)(1)	Yes.	
§ 63.1(c)(2)	No	Area sources are not subject to emission standards of subpart JJJJ.
§ 63.1(c)(3)	No	Reserved.
§ 63.1(c)(4)	Yes.	
§ 63.1(c)(5)	Yes.	
§ 63.1(d)	No	Reserved.
§ 63.1(e)	Yes.	
§ 63.1(e)(4)	No.	
§ 63.2	Yes	Additional definitions in subpart JJJJ.
§ 63.3(a)–(c)	Yes.	
§ 63.4(a)(1)–(3)	Yes.	
§ 63.4(a)(4)	No	Reserved.
§ 63.4(a)(5)	Yes.	
§ 63.4(b)–(c)	Yes.	
§ 63.5(a)(1)–(2)	Yes.	
§ 63.5(b)(1)	Yes.	
§ 63.5(b)(2)	No	Reserved.
§ 63.5(b)(3)–(6)	Yes.	
§ 63.5(c)	No	Reserved.
§ 63.5(d)	Yes.	
§ 63.5(e)	Yes.	
§ 63.5(f)	Yes.	
§ 63.6(a)	Yes	Applies only when capture and control system is used to comply with the standard.
§ 63.6(b)(1)–(5)	No.	
§ 63.6(b)(6)	No	Reserved.
§ 63.6(b)(7)	Yes.	
§ 63.6(c)(1)–(2)	Yes.	
§ 63.6(c)(3)–(4)	No	Reserved.
§ 63.6(c)(5)	Yes.	
§ 63.6(d)	No	Reserved.
§ 63.6(e)	Yes	Provisions pertaining to SSMP, and CMS do not apply unless an add–on control system is used to comply with the emission limitations.
§ 63.6(f)	Yes.	
§ 63.6(g)	Yes.	
§ 63.6(h)	No	Subpart JJJJ does not require continuous opacity monitoring systems (COMS).
§ 63.6(i)(1)–(14)	Yes.	
§ 63.6(i)(15)	No	Reserved.
§ 63.6(i)(16)	Yes.	
§ 63.6(j)	Yes.	
§ 63.7	Yes.	
§ 63.8(a)(1)–(2)	Yes.	
§ 63.8(a)(3)	No	Reserved.
§ 63.8(a)(4)	No.	
§ 63.8(b)	Yes.	
§ 63.8(c)(1)–(3)	Yes	§ 63.8(c)(1)(i) & (ii) only apply if you use capture and control systems and are required to have a start-up, shutdown, and malfunction plan.
§ 63.8(c)(4)	Yes.	
§ 63.8(c)(5)	No	Subpart JJJJ does not require COMS.
§ 63.8(c)(6)–(c)(8)	Yes	Provisions for COMS are not applicable.
§ 63.8(d)–(f)	Yes	§ 63.8(f)(6) only applies if you use CEMS.
§ 63.8(g)	Yes	Only applies if you use CEMS.
§ 63.9(a)	Yes.	
§ 63.9(b)(1)	Yes.	
§ 63.9(b)(2)	Yes	Except § 63.3400(b)(1) requires submittal of initial notification for existing affected sources no later than 1 year before compliance date.
§ 63.9(b)(3)–(5)	Yes.	

TABLE 2 TO SUBPART JJJJ OF PART 63.—APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART JJJJ—Continued

General provisions reference	Applicable to subpart JJJJ	Explanation
§ 63.9(c)–(e)	Yes.	
§ 63.9(f)	No	Subpart JJJJ does not require opacity and visible emissions observations.
§ 63.9(g)	Yes	Provisions for COMS are not applicable.
§ 63.9(h)(1)–(3)	Yes.	
§ 63.9(h)(4)	No	Reserved.
§ 63.9(h)(5)–(6)	Yes.	
§ 63.9(i)	Yes.	
§ 63.9(j)	Yes.	
§ 63.10(a)	Yes.	
§ 63.10(b)(1)–(3)	Yes	§ 63.10(b)(2)(i) through (v) only apply if you use a capture and control system.
§ 63.10(c)(1)	Yes.	
§ 63.10(c)(2)–(4)	No	Reserved.
§ 63.10(c)(5)–(8)	Yes.	
§ 63.10(c)(9)	No	Reserved.
§ 63.10(c)(10)–(15)	Yes.	
§ 63.10(d)(1)–(2)	Yes.	
§ 63.10(d)(3)	No	Subpart JJJJ does not require opacity and visible emissions observations.
§ 63.10(d)(4)–(5)	Yes.	
§ 63.10(e)(1)–(2)	Yes	Provisions for COMS are not applicable.
§ 63.10(e)(3)–(4)	No.	
§ 63.10(f)	Yes.	
§ 63.11	No.	
§ 63.12	Yes.	
§ 63.13	Yes.	
§ 63.14	Yes	Subpart JJJJ includes provisions for alternative ASME test methods that are incorporated by reference.
§ 63.15	Yes.	

[FR Doc. 02–29074 Filed 12–3–02; 8:45 am]
BILLING CODE 6560–50–P

approved plan to remove the State's part 61 National Emission Standards for Hazardous Air Pollutants regulations from the federally-approved SIP (and related update to the part 61 table).

EFFECTIVE DATE: The additions of 40 CFR 52.1820(c)(32) is withdrawn as of December 6, 2002.

FOR FURTHER INFORMATION CONTACT: Amy Platt, Environmental Protection Agency, Region VIII, (303) 312–6449.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule located in the Rules and Regulations section of the October 7, 2002 **Federal Register** (67 FR 62432).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 61

Environmental protection, Air pollution control, Arsenic, Asbestos, Benzene, Beryllium, Hazardous substances, Mercury, and Vinyl chloride.

Accordingly, the addition of 40 CFR 52.1820(c)(32) is withdrawn as of December 6, 2002.

Dated: November 26, 2002.

Robert E. Roberts,

Regional Administrator, Region VIII.

[FR Doc. 02–30941 Filed 12–5–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7416–9]

RIN 2060–AJ57

National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: The EPA is taking final action today on certain amendments to the national emission standards for the portland cement manufacturing industry, which were originally promulgated on June 14, 1999 under the authority of section 112 of the Clean Air Act (CAA). The amendments make improvements to the implementation of the emission standards, primarily in the areas of applicability, testing, and monitoring where issues and questions were raised since promulgation of the rule.

On April 5, 2002, the EPA promulgated amendments to the national emission standards for the portland cement manufacturing industry as a direct final rule with a parallel proposal. On July 2, 2002, we withdrew certain provisions in the direct final rule in order to assess adverse comments. This action promulgates the amendments previously withdrawn based on the parallel proposal published on April 5, 2002.

EFFECTIVE DATE: December 6, 2002.

ADDRESSES: Docket A–92–53, containing supporting information used in developing these amendments, is available for public inspection and copying between 8 a.m. and 5:30 p.m., Monday through Friday (except for Federal holidays) at the following address: U.S. EPA, Air and Radiation Docket and Information Center (6102T), 1301 Constitution Avenue, NW., Washington, DC 20460 in room B–108, or by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Wood, P.E., Minerals and Inorganic Chemicals Group, Emission Standards Division (C504–05), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5446, facsimile number (919) 541–5600, electronic mail address: *wood.joe@epa.gov.*

SUPPLEMENTARY INFORMATION:

Docket. The docket is an organized and complete file of all of the information considered by EPA in the development of these final rule amendments. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so they can effectively participate in the rulemaking process. Along with the proposed and promulgated rules and their preambles, the contents of the docket will serve as the record in the case of judicial review. The docket number for this rulemaking is A–92–53.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this action will also be available through the WWW. Following signature, a copy of this action will be posted on EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules: *http://www.epa.gov/ttn/oarpg.* The TTN at EPA's web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of these final rule amendments is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by February 4, 2003. Under section 307(d)(7)(B) of the CAA, only an objection to these final rule 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 rule amendments may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

Regulated Entities. Entities potentially regulated by this action are those that manufacture portland cement. Regulated categories and entities include:

Category	NAICS	SIC	Examples of regulated entities
Industry	32731	3241	Owners or operators of portland cement manufacturing plants.
Tribal associations	32731	3241	Owners or operators of portland cement associations manufacturing plants.
Federal agencies	(1)	(1)	(1)

[1] None.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the EPA is now aware could potentially be regulated by this action. To determine whether your facility, company, business organization, etc., is regulated by this action, you should carefully examine the applicability criteria in § 63.1340 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Outline. The following outline is provided to aid in reading this preamble to these final rule amendments.

I. Background
II. Response to Comments
A. Applicability of Rule to Crushers Following Raw Material Storage
B. Operating Limits for Kilns and In-Line Kiln/Raw Mills with Alkali Bypasses
C. Performance Test Requirements When Operating Conditions Change
D. Conveying System Transfer Points
E. Visible Emission Monitoring At Highest Load or Capacity
III. Administrative Requirements
A. Executive Order 12866, Regulatory Planning and Review
B. Executive Order 13132, Federalism
C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
E. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
F. Unfunded Mandates Reform Act of 1995
G. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
H. Paperwork Reduction Act
I. National Technology Transfer and Advancement Act of 1995
J. Congressional Review Act

I. Background

On June 14, 1999 (64 FR 31898), we published the final rule entitled "National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry" (40 CFR part 63, subpart LLL). The American Portland Cement Alliance (APCA) petitioned the United States Court of Appeals for the District of Columbia Circuit for review of the final rule under section 307(b)(1) of the CAA. (See 42 U.S.C. 7607(b)(1).) The APCA and the EPA have agreed to the terms of a settlement agreement and its implementation.

Consistent with the settlement agreement, we promulgated amendments to the national emission standards for hazardous air pollutants (NESHAP) on April 5, 2002. We issued the amendments as a direct final rule (67 FR 16614) with a parallel proposal (67 FR 16625) which we would finalize in the event that we received any adverse comments on the direct final rule. The amendments made specific changes to the NESHAP, generally relating to applicability, performance testing, and monitoring.

We received a total of five comment letters on the direct final rule amendments. Three comment letters were from the APCA, one was from an individual cement company, and one was from a private citizen. These commenters mainly requested additional clarification of and corrections to the final rule amendments. In response to some of the comments we received, we published a notice containing corrections and clarifications of two issues arising from explanatory language in the preamble to the direct final rule amendments (67 FR 44766, July 5, 2002).

Two adverse comments on the direct final rule amendments were included in the industry comments, and we also received three adverse comments from the private citizen. Consequently, we withdrew those amendments for which adverse comments were received (67 FR 44371, July 2, 2002). The amendments withdrawn were §§ 63.1340(c), 63.1344(a)(3), 63.1349(e)(3), and 63.1350(a)(4)(v) through (vii), (c)(2)(i), (d)(2)(i), and (e). In the withdrawal document, we stated that the adverse comments would be addressed in a subsequent final rule based on the proposed rule published on April 5, 2002. The remaining amendments not withdrawn became effective July 5, 2002.

After full and careful consideration of the adverse comments, we are promulgating the proposed amendments with a few minor changes summarized as follows. In the amendment related to the exemption from monitoring totally enclosed conveying system transfer points (§ 63.1350(a)(4)(v) through (vii)), we now require that the enclosures for these transfer points be operated and maintained as total enclosures on a continuing basis, as part of the source's operations and maintenance plan. In the amendments related to the daily monitoring of certain affected sources (§ 63.1350(c)(2)(i), (d)(2)(i), and (e)), we are dropping the requirement that the monitoring be conducted in accordance with § 63.7(e).

II. Response to Comments

A. Applicability of Rule to Crushers Following Raw Material Storage

Comment: The proposed amendment to § 63.1340(c) would clarify that primary and secondary crushers are not subject to the rule regardless of their location in the production line relative to raw material storage. One commenter argued that it is inappropriate to exempt crushers because the final rule explicitly qualified the applicability of the rule to crushers that follow raw material storage. Further, the commenter stated that if the present emission limit does not represent maximum achievable control technology (MACT), EPA must use available data to set a standard for crushers, or absent this, the promulgated standard should not be altered. The commenter stated that the new source performance standard (NSPS) applicability is irrelevant because it may not represent MACT, and not all sources are subject to the NSPS.

Response: As discussed in the preamble to the proposed rule (63 FR 14194, March 24, 1998), the final rule (64 FR 31900, June 14, 1999), and the direct final rule amendments that we withdrew (67 FR 16615, April 5, 2002), we never intended for the rule to cover crushers (whether located before or after raw material storage). The phrase "which precedes the raw material storage" was included inadvertently. While most crushers are located before raw material storage, a few may be located after raw material storage. Instead of clarifying that crushers are not covered by the rule, the existing rule language erroneously implies that crushers following raw material could be subject to the rule. Crushers are not included in this source category and it has never been our intent to include them in the rule. Further, we disagree that the applicability of the NSPS for the portland cement manufacturing industry (40 CFR 60, subpart F) is irrelevant. Although we have some discretion in defining the affected sources covered under a rule, we typically try to maintain consistency with previous regulatory history. See CAA section 112(c)(1), which states that EPA should endeavor in the MACT source listing process to be as consistent as possible with the categorization and subcategorization scheme used for issuing NSPS; in this case, EPA is acting consistently with the source category definition used for establishing NSPS. We are, therefore, amending the final rule as we proposed to clarify that primary and secondary crushers are not covered by the final rule regardless of

their location relative to raw material storage.

As to the comments regarding the emission limit and MACT for crushers under this rule, since crushers are not affected sources, there is no emission limit that applies to crushers.

B. Operating Limits for Kilns and In-Line Kiln/Raw Mills With Alkali Bypasses

Comment: Section 63.1344 of the final rule establishes operating limits for kilns and in-line kiln/raw mills. Paragraph (a)(3) of that section pertains to the operating temperature limit of an in-line kiln/raw mill equipped with an alkali bypass. The proposed amendment to § 63.1344(a)(3) would clarify that the operating limit for gas stream temperature at the inlet to the alkali bypass particulate matter (PM) control device may be established during a performance test either with or without the raw mill being in operation. One commenter objected to this amendment because EPA did not provide test data to support the assumption that the raw mill status does not affect alkali bypass emissions.

Response: The EPA does not believe that data are needed to support the Agency's view that the raw mill operating status does not affect the alkali bypass gas emissions, because the portion of the exhaust gas sent through the alkali bypass is directed there before the remaining exhaust gas reaches the raw mill. Thus, the raw mill operating status has no effect on levels of dioxin/furan (D/F; the HAP of concern for this emission point) in the gas stream. In contrast, we believe that the raw mill operational status could affect D/F emission levels in the main exhaust gas stream because, unlike alkali bypass emissions, this gas stream does pass through the raw mill. The rule accounts for these potential emissions. See paragraphs (1) and (2) of § 63.1344(a). But there is no reason to think the alkali bypass emissions would be affected by the raw mill operational status, since, as explained, these emissions do not pass through the raw mill. The amendment, thus, appropriately provides additional flexibility to the facility by allowing the test for D/F emissions from the alkali bypass to be conducted whether or not the raw mill is operating.

C. Performance Test Requirements When Operating Conditions Change

Comment: Paragraphs (1) and (2) of § 63.1349(e) require a new performance test if a plant anticipates making a significant operational change that may adversely affect compliance with an applicable D/F or PM emission limitation. We proposed to add new paragraphs (e)(3)(i) through (iv) allowing a source to operate under the planned operational change conditions for a period not to exceed 360 hours, provided that certain conditions are met. Two industry representatives support the proposed amendment but object to one of the four conditions that would be required—conducting and completing the test within the 360-hour period. The commenters argue that the test requirement should not be automatic because the operator may determine (after operating for 360 hours) that the operational change is not appropriate. They stated that portland cement plants should be allowed to file a notification stating that the operational change will not be implemented.

Response: The additional time allowed under the amendments allows the operator to fine-tune process operations under the new conditions (*e.g.*, a PM control device inlet temperature higher than the current temperature operating limit) and to conduct the test(s). One purpose of requiring that the performance test be conducted is to avoid sources claiming a waiver from their temperature operating limit under the guise of an operational change that they never intend to implement. Without the performance test requirement, a loophole is created whereby sources could take advantage of the 360 hours we give them to operate at a temperature higher than their operating limit any number of times without demonstrating compliance. Additionally, the change suggested by the commenters is outside the scope of what was agreed to under the terms of the settlement agreement. For these reasons, we have decided to promulgate the amendment as proposed, without the change recommended by the commenters.

D. Conveying System Transfer Points

Comment: Section 63.1350(a) of the existing rule establishes informational requirements for the operation and maintenance (O&M) plan. Paragraph (a)(4) of this section deals with procedures for visible emissions monitoring. The proposed amendments would add new paragraphs (a)(4)(v) through (vii) that exempt conveying system transfer points from visible emission monitoring if the transfer points are totally enclosed. One commenter stated that the proposed monitoring exemption must include specific criteria and methods to establish permanent total enclosure status.

Response: As stated in the preamble to the proposed amendments and in background language of the settlement agreement (but not in the rule text), "the enclosures for these transfer points shall be operated and maintained as total enclosures on a continuing basis in accordance with the facility operations and maintenance plan." We agree with the commenter, and because this issue is already discussed in the settlement agreement, we have added this statement to the rule text.

E. Visible Emission Monitoring At Highest Load or Capacity

Comment: Paragraphs (c)(2)(i), (d)(2)(i), and (e) of § 63.1350 of the existing rule require daily visible emission observations for certain affected sources when the emission unit is operating at the highest load or capacity level reasonably expected to occur. The proposed amendments would revise these paragraphs to require that performance tests be conducted under representative conditions in accordance with § 63.7(e). Two industry representatives believe the reference to § 63.7(e) is inappropriate and should be removed.

Response: We agree that the reference to § 63.7(e) is inappropriate because it pertains to performance tests, not monitoring requirements. We have removed the phase "in accordance with § 63.7(e)" from the final rule amendments.

III. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 5173, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in standards that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the

President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that these final rule amendments do not constitute a "significant regulatory action" because they do not meet any of the above criteria. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. 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, because State and local governments do not own or operate any sources that would be subject to the amendments. Thus, Executive Order 13132 does not apply to these final rule amendments.

C. 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 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 rule amendments do not have tribal implications, as specified in Executive Order 13175, because they will not have any substantial direct effects on an Indian tribe, the relationship between the Federal Government and an Indian tribe, 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.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (63 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, we 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.

We interpret 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 rule amendments are not subject to Executive Order 13045 because they are not an economically significant regulatory action as defined by Executive Order 12866, and because they are based on technology performance and not on health or safety risks.

E. 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.

F. 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, the 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 the 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 the 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.

The 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 aggregate, or the private sector in any 1 year, nor do the amendments significantly or uniquely impact small governments, because they contain no requirements that apply to such governments or impose obligations upon them. Thus, the requirements of the UMRA do not apply to these amendments.

G. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The 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 portland cement manufacturing company with less than 750 employees; (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 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 proposed rule on small entities." 5 U.S.C. Sections 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 effect on the small entities subject to the rule. The amendments in today's rule make improvements to the emission standards, primarily by clarifying issues in the areas of applicability, testing, and monitoring. We have, therefore, concluded that today's final rule amendments will have no adverse impacts on any small entities and may relieve burden in some cases.

Although the final rule amendments will not have a significant economic impact on a substantial number of small entities, we worked with the portland cement industry, including small entities, throughout the rulemaking process. Meetings were held on a regular basis with industry representatives in connection with the settlement agreement to discuss the development of the final rule, exchange information, and solicit comments on final rule requirements.

H. Paperwork Reduction Act

The information collection requirements in the existing rule were submitted to and approved by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned OMB control No. 2060–0416. An Information Collection Request (ICR) document was prepared by EPA (ICR No. 1801.02) and a copy may be obtained from Susan Auby by mail at Office of Environmental Information, Collection Strategies Division (2822T), U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded from the Internet at *http://www.epa.gov/icr*.

Today's action makes clarifying changes to the existing rule and imposes no new information collection requirements on industry. Because only clarifying changes are being made, there is no additional burden on industry as a result of these final rule amendments and the ICR has not been revised.

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 purpose of collecting, validating, and verifying information; process and maintain information and disclose and provide information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing 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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

I. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Public Law 104–113, 15 U.S.C. 272 note, directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (such as materials specifications, test methods, sampling procedures, business practices) developed or adopted by voluntary consensus standards bodies. The NTTAA requires Federal agencies to provide Congress, through annual reports to OMB, with explanations when an Agency does not use available and applicable voluntary consensus standards.

Because today's action contains no new test methods, sampling procedures or other technical standards, there is no need to consider the availability of voluntary consensus standards.

J. 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. The EPA will submit a report containing this 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**. These final rule amendments are not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: November 26, 2002.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter 1, 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 LLL—[Amended]

2. Section 63.1340 is amended by revising paragraph (c) to read as follows:

§ 63.1340 Applicability and designation of affected sources.

* * * * *

(c) For portland cement plants with on-site nonmetallic mineral processing facilities, the first affected source in the sequence of materials handling operations subject to this subpart is the raw material storage, which is just prior to the raw mill. Any equipment of the on-site nonmetallic mineral processing plant which precedes the raw material storage is not subject to this subpart. In addition, the primary and secondary crushers of the on-site nonmetallic mineral processing plant, regardless of whether they precede the raw material storage, are not subject to this subpart. Furthermore, the first conveyor transfer point subject to this subpart is the transfer point associated with the conveyor transferring material from the raw material storage to the raw mill.

* * * * *

3. Section 63.1344 is amended by revising paragraph (a)(3) to read as follows:

§ 63.1344 Operating limits for kilns and in-line kiln/raw mills.

(a) * * *

(3) If the in-line kiln/raw mill is equipped with an alkali bypass, the applicable temperature limit for the alkali bypass specified in paragraph (b) of this section and established during the performance test, with or without the raw mill operating, is not exceeded.

* * * * *

4. Section 63.1349 is amended by adding new paragraph (e)(3) to read as follows:

§ 63.1349 Performance testing requirements.

* * * * *

(e) * * *

(3) In preparation for and while conducting a performance test required in paragraph (e)(1) of this section, a source may operate under the planned operational change conditions for a period not to exceed 360 hours, provided that the conditions in paragraphs (e)(3)(i) through (iv) of this section are met. The source shall submit temperature and other monitoring data that are recorded during the pretest operations.

(i) The source must provide the Administrator written notice at least 60 days prior to undertaking an operational change that may adversely affect compliance with an applicable standard under this subpart, or as soon as practicable where 60 days advance notice is not feasible. Notice provided under this paragraph shall include a description of the planned change, the emissions standards that may be affected by the change, and a schedule for completion of the performance test required under paragraph (e)(1) of this section, including when the planned operational change period would begin.

(ii) The performance test results must be documented in a test report according to paragraph (a) of this section.

(iii) A test plan must be made available to the Administrator prior to testing, if requested.

(iv) The performance test must be conducted, and it must be completed within 360 hours after the planned operational change period begins.

* * * * *

5. Section 63.1350 is amended by:

a. Adding paragraphs (a)(4)(v) through (vii);

b. Revising paragraph (c)(2)(i);

c. Revising paragraph (d)(2)(i); and

d. Revising paragraph (e) introductory text.

The revisions and additions read as follows:

§ 63.1350 Monitoring requirements.

(a) * * *

(4) * * *

(v) The requirement to conduct Method 22 visible emissions monitoring under this paragraph shall not apply to any totally enclosed conveying system transfer point, regardless of the location of the transfer point. "Totally enclosed conveying system transfer point" shall mean a conveying system transfer point that is enclosed on all sides, top, and bottom. The enclosures for these transfer points shall be operated and maintained as total enclosures on a continuing basis in accordance with the facility operations and maintenance plan.

(vi) If any partially enclosed or unenclosed conveying system transfer point is located in a building, the owner or operator of the portland cement plant shall have the option to conduct a Method 22 visible emissions monitoring test according to the requirements of paragraphs (a)(4)(i) through (iv) of this section for each such conveying system transfer point located within the building, or for the building itself, according to paragraph (a)(4)(vii) of this section.

(vii) If visible emissions from a building are monitored, the requirements of paragraphs (a)(4)(i) through (iv) of this section apply to the monitoring of the building, and you must also test visible emissions from each side, roof and vent of the building for at least 1 minute. The test must be conducted under normal operating conditions.

* * * * *

(c) * * *

(2) * * *

(i) Perform daily visual opacity observations of each stack in accordance with the procedures of Method 9 of appendix A to part 60 of this chapter. The Method 9 test shall be conducted while the affected source is operating at the representative performance conditions. The duration of the Method 9 test shall be at least 30 minutes each day.

* * * * *

(d) * * *

(2) * * *

(i) Perform daily visual opacity observations of each stack in accordance with the procedures of Method 9 of appendix A to part 60 of this chapter. The Method 9 test shall be conducted while the affected source is operating at the representative performance conditions. The duration of the Method 9 test shall be at least 30 minutes each day.

* * * * *

(e) The owner or operator of a raw mill or finish mill shall monitor opacity by conducting daily visual emissions observations of the mill sweep and air separator PMCD of these affected sources in accordance with the procedures of Method 22 of appendix A to part 60 of this chapter. The Method 22 test shall be conducted while the affected source is operating at the representative performance conditions. The duration of the Method 22 test shall be 6 minutes. If visible emissions are observed during any Method 22 visible emissions test, the owner or operator must:

* * * * *

[FR Doc. 02–30844 Filed 12–5–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0237; FRL–7274–8]

Cyromazine; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of cyromazine in or on bean, dry at 3.0 parts per million (ppm). The Interregional Research Project Number 4 (IR-4), requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: This regulation is effective December 6, 2002. Objections and requests for hearings, identified by docket ID number OPP–2002–0237, must be received on or before February 4, 2003.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Sidney Jackson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460–0001; telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov@epa.gov.*

SUPPLEMENTARY INFORMATION:

a separate form to request the individual's TIN or incorporate the request into other forms customarily used by the institution or insurer, such as admission or enrollment forms or financial aid applications.

(4) *Failure to furnish TIN.* The section 6723 penalty may apply to any individual who is required (but fails) to furnish his or her TIN to an institution or insurer. *See* section 6723, and the regulations thereunder, for rules relating to the penalty for failure to furnish a TIN.

(f) *Effective date.* The rules in this section apply to information returns required to be filed, and information statements required to be furnished, after December 31, 2003.

PART 301—PROCEDURE AND ADMINISTRATION

4. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

5. Section 301.6011–2 is amended as follows:

1. In paragraph (b)(1), first sentence, add the language "1098–T," immediately after the language "1098–E,".

2. Revise paragraph (g)(3).

The revision reads as follows:

§ 301.6011–2 Required use of magnetic media.

* * * * *

(g) * * *

(3) This section applies to returns on Forms 1098-E, "Student Loan Interest Statement," and 1098–T, "Tuition Statement," filed after December 31, 2003.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

6. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

7. In § 602.101, paragraph (b) is amended by adding an entry in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current Control OMB No.
* * * * *	
1.6050S–1	1545–1678
* * * * *	

CFR part or section where identified and described	Current Control OMB No.
* * * * *	

David A. Mader,

Assistant Deputy Commissioner—Internal Revenue.

Approved: December 12, 2002.

Pamela F. Olson,

Assistant Secretary of the Treasury.

[FR Doc. 02–31915 Filed 12–18–02; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 63 and 270

[FRL–7424–2]

RIN 2050–AE79

NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors-Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical correction.

SUMMARY: On September 30, 1999, EPA promulgated regulations to control emissions of hazardous air pollutants from incinerators, cement kilns and lightweight aggregate kilns that burn hazardous wastes. EPA subsequently promulgated three rules that revised these regulations: a Direct Final Rule published on July 3, 2001, an Interim Standards Rule published on February 13, 2002, and a Final Amendments Rule published on February 14, 2002. In today's action, we are correcting technical errors in those regulations.

EFFECTIVE DATE: This rule is effective on December 19, 2002.

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Call Center at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). Callers within the Washington Metropolitan Area must dial 703–412–9810 or TDD 703–412–3323 (hearing impaired). The RCRA Call Center is open Monday-Friday, 9 am to 4 pm, Eastern Standard Time. For more information about this technical correction, contact Michael Galbraith at 703–605–0567, or *galbraith.michael@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What Are the Reasons and Basis for Today's Corrections?

The Agency has received comments from the regulated community and States requesting clarification of certain aspects of the September 30, 1999 Rule (64 FR 52828) as revised by three subsequent rules: the July 3, 2001 Direct Final Rule (66 FR 35087), the February 13, 2002 Interim Standards Rule (67 FR 6792), and the February 14, 2002 Final Amendments Rule (67 FR 6968). Today's technical corrections respond to these comments.

II. What Corrections Are We Making to the Standards?

A. Sources That Comply Early Are Not Required To Submit the NOC Within 90 Days of Completing the Comprehensive Performance Test

In the July 3, 2001 Direct Final Rule, we revised the 1999 rule to encourage early compliance with the regulations. See 66 FR at 35098. We indicated that, in developing the 1999 rule, we did not consider situations where sources would conduct performance testing prior to the compliance date. Sources may choose to test prior to the compliance date for reasons including: (1) To begin complying with the regulations prior to the compliance date; (2) to coordinate RCRA and CAA testing; or (3) to ensure compliance with the requirement to commence the test not later than six months after the compliance date. In the Direct Final Rule, we eliminated two impediments

to early compliance: (1) The requirement to stop burning hazardous waste for sources that fail the initial comprehensive performance test if the test is conducted prior to the compliance date; and (2) the requirement for the Documentation of Compliance for sources that submit the Notification of Compliance (NOC) prior to the compliance date.

We intended to eliminate a third impediment for sources that conduct the comprehensive performance test prior to the compliance date (since the purpose of the amendments was to remove impediments to early compliance): The requirement to submit the NOC within 90 days of completion of the performance test. The deadline for submitting the NOC is intended to require sources to document compliance with the emission standards as quickly as possible after the compliance date. The deadline is not necessary for sources that intend to comply early. We inadvertently included that amendment in a proposed Final Amendments Rule, also published on July 3, 2001 (66 FR 35126), rather than the Direct Final Rule. See proposed revisions to § 63.1207(j)(1)(i) and (j)(5), 66 FR at 35153. We also inadvertently did not provide preamble language discussing that regulatory change in the proposed amendments.

We are not amending the rule exactly as we proposed, however. We conclude that we need to revise the proposed regulatory language even though we did not receive adverse comment. Although we intended the waiver of the requirement (to submit the NOC within 90 days of completing the initial comprehensive performance test) to apply only to sources that comply early, the proposed regulatory language inadvertently did not restrict eligibility to early compliers. Accordingly, we have revised the amendment to require that a source that conducts the performance test prior to the compliance date, and that takes advantage of the waiver of the requirement to submit the NOC within 90 days of completing the test, must nonetheless submit the NOC by the compliance date or 90 days after completing the test, whichever is later. This provision ensures that sources using the waiver will begin complying with the emission standards using operating parameter limits documented by a performance test well before the regulatory deadline.[1]

We have apprised key stakeholders of our intent to correct the standard to include this amendment, and did not receive adverse comment. Accordingly, we are amending § 63.1207(j) by revising (j)(1)(i) and adding (j)(5), consistent with this preamble discussion.

B. Conforming Change to the Hydrochloric Acid and Chlorine Gas Emission Standard for New Lightweight Aggregate Kilns

In the Interim Standards Rule, we explained that we were revising the hydrochloric acid/chlorine gas standard for new lightweight aggregate kilns to be 600 ppmv. See 67 FR at 6797. We failed, however, to make the corresponding change to the regulation. Therefore, in today's action, we are revising the regulation at § 63.1205(b)(6) to include the correct standard of 600 ppmv for hydrochloric acid/chlorine gas.

C. Conforming Change To Delete the Minimum Power Requirement for Ionizing Wet Scrubbers

In the Interim Standards Rule, we deleted the limit on minimum total power to an ionizing wet scrubber required under § 63.1209(m)(1)(i)(D). The limit was intended to ensure compliance with the particulate matter standard. We determined, however, that a limit on total power may not ensure that the removal efficiency will be maintained for a multistage ionizing wet scrubber. We explained that until we evaluate other compliance alternatives and promulgate new requirements, sources and permit officials should use the alternative monitoring provisions of § 63.1209(g) to identify appropriate compliance assurance controls for ionizing wet scrubbers on a site-specific basis. See 67 FR at 6802. Although we deleted the limit for compliance with the particulate matter standard, we inadvertently did not make a conforming change to delete § 63.1209(o)(3)(vi), which also requires a limit on minimum total power to an ionizing wet scrubber to ensure compliance with the total chlorine emission standard.[2] To conform with our stated intent to delete the limit on minimum total power to an ionizing wet scrubber, we are today deleting § 63.1209(o)(3)(vi).

D. Conforming Change To Delete the Requirement To Include a Carbon Bed Testing Schedule in the Performance Test Plan

In the Interim Standards Rule, we deleted the requirement to establish a limit on the useful life of a carbon bed or bed segment and associated requirements to conduct testing subsequent to the comprehensive performance test to verify performance of the carbon bed. In lieu of those requirements, the revised rule requires you to monitor performance of the bed according to manufacturer's specifications to ensure the bed has not reached the end of its useful life. See 67 FR at 6803 and § 63.1209(k)(7)(i).

Although we deleted the requirement to confirm the useful life of a carbon bed by testing subsequent to the comprehensive performance test, we inadvertently did not make a conforming change to § 63.1207(f)(1)(xxi)(A). That provision requires you to include in the comprehensive performance test plan a schedule for conducting testing to verify bed performance. Accordingly, we are making that conforming change today by deleting § 63.1207(f)(1)(xxi)(A).

E. Conforming Changes to the Combustion System Leak Requirement

In the proposed Final Amendments Rule (66 FR at 35132, July 3, 2001), we proposed to make changes to §§ 63.1201(a), 63.1206(c)(5), and 63.1209(p) requiring sources to use a pressure monitor and recording frequency that is adequate to detect combustion system leak events. We also clarified that the intent of the combustion system leak requirement is to prevent fugitive emissions that originate from the combustion of hazardous waste, not fugitive emissions that originate from nonhazardous process streams. We also proposed regulatory language for these changes (see pages 35152 and 35154).

In the Final Amendment Rule, we reiterated that we were finalizing these changes. See 67 FR at 6973. We failed, however, to make the necessary regulatory changes to §§ 63.1201(a), 63.1206(c)(5), and 63.1209(p). We are, therefore, correcting these sections of the regulation by including the regulatory language that was set out in the proposed rule.

F. Conforming Changes to the Compliance Date Extension Requirements

Section 63.1206(a)(1) requires existing sources to comply with the Subpart EEE emission standards no later than

[1] Sources are required to: (1) Begin the initial comprehensive performance test not later than six months after the compliance date; (2) to complete testing within 60 days; and (3) to submit the NOC within 90 days of completing the testing. Upon postmark of the NOC, sources must begin complying with the operating parameter limits demonstrated during the performance test.

[2] Notwithstanding, we do not believe that power input to an ionizing wet scrubber is a primary control factor for chlorine emissions; rather, power input primarily controls metals and particulate matter.

September 30, 2003, unless the Administrator or State grants an extension of time under §§ 63.6(i) or 63.1213. The § 63.1213 compliance extension may be granted for a period of up to one year and is designed to allow for the installation of pollution prevention or waste minimization measures that significantly reduce the amount and/or toxicity of hazardous wastes in the feedstream to the combustor. Section 63.6(i)(4) in the Part 63 General Provisions provides for a similar extension should a source need additional time for the installation of controls without which the source would not be able to comply with the emission standards.

Both §§ 63.1213 and 63.6(i)(4) initially required you to submit your extension request in writing no later than 12 months before the compliance date. On April 5, 2002, we amended § 63.6(i)(4)(i)(B) to allow sources to submit their extension requests no later than 120 days (four months) prior to the compliance date. See 67 FR 16582. If the need for an extension arises later than 120 days prior to the compliance date, the amendment further allows sources to request an extension, but only if the need is due to circumstances beyond the reasonable control of the source that came to light after the extension deadline but before the actual compliance date. The amendment further provided that nonfrivolous extension requests would temporarily stay the applicability of the emission standards in question until the Administrator or State grants or denies the request.

The extension provisions of §§ 63.1213 and 63.6(i)(4) are similar in intent; both allow sources to request extensions to the compliance date for the installation of controls. As discussed in the preamble to the March 23, 2001 proposed amendments to the General Provisions (66 FR 16328), we believe that most sources will complete any necessary control installations well before the compliance date; however, we recognize that situations may arise prohibiting this. Sources acting in good faith may not be able to complete the installation, testing and implementation of additional controls due to circumstances or events not of their own making. Work stoppages at a control equipment supplier's factory, shortages of skilled design and construction engineers, and shortages of available technology are some of the examples of circumstances or events that may be beyond the influence of an individual source and that could impact that source's ability to properly install control equipment and measures. Sources that believed they would be able to meet the compliance date without an extension might be unduly penalized should any of these types of events occur within the 12 months prior to the compliance date. We do not believe that it is in the best interest of environmental protection to penalize sources that are actively improving upon their waste minimization and pollution prevention controls because of circumstances and events that are beyond their control occurring prior to the compliance date. Thus, we are making a conforming change to the § 63.1213 compliance date extension requirements to reflect the changes already put in place under § 63.6(i)(4) of the General Provisions.

We are also making a conforming change to the § 63.1213 applicability language to take into consideration the recently promulgated Subpart EEE Interim Standards Rule and our extension of the compliance date. Section 63.1213 requires that a source reasonably document if it cannot install the necessary control measures and comply with the emission standards and operating requirements within three years of the emission standards effective date. This ending phrase corresponded to the September 30, 1999 effective date of the original standards (*i.e.*, the date of publication) and to the September 30, 2002 original compliance date. On December 6, 2001, we extended the compliance date of those 1999 standards by one year, to September 30, 2003. We also promulgated negotiated Interim Standards on February 13, 2002 to temporarily replace the original 1999 standards. The Interim Standards were effective on the date of their promulgation. See 66 FR 63313 and 67 FR 6792. We did not, however, make a conforming change to § 63.1213(a) to address these changes. Therefore, in today's action, we are revising § 63.1213(a) to state that when a source submits a request for an extension, it must document that it cannot install the necessary control measures and comply with the standards and operating requirements by the compliance date.

G. Conforming Changes to the RCRA Permitting Requirements

In the proposed Final Amendments Rule, published on July 3, 2001, we proposed to clarify the applicability and introductory language in 40 CFR 270.19(e), 270.22, 270.62, and 270.66 regarding the reference to the Notification of Compliance (NOC). See 66 FR 35126. These sections currently state that once a source demonstrates compliance with the Subpart EEE standards by conducting a comprehensive performance test and submitting a NOC, the requirements of each section no longer apply (except with respect to certain startup, shutdown, and malfunction requirements). We proposed to specify that in order for the part 270 requirements to no longer apply, the NOC must actually document compliance with the Subpart EEE standards and requirements. While we did receive public comments on other proposed changes to the RCRA permitting requirements in the July 3, 2001 action (which we are not finalizing in today's action), we did not receive any comments on our proposal to specify in part 270 that the NOC must document compliance.

Under §§ 63.1207(j) and 63.1210, sources are required to postmark and submit to the Administrator a Notification of Compliance (NOC). This notification must document compliance or noncompliance with the Subpart EEE standards and requirements. As the regulatory language of part 270 currently states, the RCRA permitting requirements no longer apply only after the source demonstrates compliance. This can only be accomplished by conducting the comprehensive performance test and submitting a NOC that documents compliance. Obviously, the submittal of a NOC that does not document compliance should not constitute an opportunity to be relieved of the RCRA combustion permitting requirements. We should also note that the applicability language in 40 CFR 264.340(b), 265.340(b), and 266.100(b) specify that those sections no longer apply only after the source demonstrates compliance by conducting a comprehensive performance test and submitting a NOC that documents compliance. Therefore, in today's action we are finalizing the correction we proposed in the July 3, 2001 notice to add documenting compliance to the part 270 applicability language.

H. Conforming Change to the Limit on Waste Feedrate for Compliance With the D/F Emission Standard

Section 63.1209(k)(4) of the rule requires you to establish a limit on the maximum waste feedrate to ensure compliance with the dioxin/furan emission standard. Commenters have brought to our attention that preamble discussion explaining the rationale for this requirement refers to a limit on the maximum hazardous waste feedrate. (64 FR at 52937, September 30, 1999) As the preamble states, we intended the limit to apply to the hazardous waste feedrate, not the feedrate of hazardous and nonhazardous waste combined.

Accordingly, we are correcting § 63.1209(k)(4) to conform with the preamble discussion.

I. Conforming Change to the Limit on Maximum Ash Feedrate for Incinerators

Section 63.1209(m)(3) requires owners and operators of hazardous waste incinerators to establish a maximum ash feedrate limit as the average of the test run averages. The preamble discussion states that you must establish a maximum 12-hour rolling average feedrate limit based on operations during the comprehensive performance test. (64 FR at 52955, September 30, 1999.) However, we failed to specify the averaging period for this limit in the regulation. We are correcting § 63.1209(m)(3) to conform with the preamble language by adding a requirement to establish the maximum ash feedrate limit based on a 12-hour rolling average.

J. Conforming Change to the Sampling and Analysis Requirements

Section 63.1209(c)(2)(v) requires you to obtain a representative sample of each feedstream to be analyzed using sampling methods described in Appendix I, Part 26, or an equivalent method. This is an incorrect cite. The correct cite is Appendix IX, Part 266. Also, please note that Appendix IX simply refers you to sampling and analysis methods published in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW–846. Thus, the sampling method for any feedstream must be either that specified in SW–846, or an equivalent method.

III. Good Cause Exemption

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment.[3] EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because it merely corrects errors in the September 30, 1999 Rule (64 FR 52828), as revised by three subsequent rules: the July 3, 2001 Direct Final Rule (66 FR 35087), the February 13, 2002 Interim Standards Rule (67 FR 6792), and the February 14, 2002 Final Amendments Rule (67 FR 6968). These final rules were subject to notice and comment, and the clarified regulatory language reflects the Agency's views already set out during the rulemaking and in past Agency statements (notably the applicable preambles). EPA also provided opportunity for further comment on most of these provisions by means of telephone calls and other communications with key stakeholders before issuing these amendments. Thus, EPA finds that further notice and opportunity for public participation in this action are unnecessary, and hence that good cause exists to issue the rule without further notice and further opportunities for comment.

IV. Rationale for Immediate Effective Date

Today's action does not create any new regulatory requirements; rather, it corrects errors in the September 30, 1999 Rule (64 FR 52828), as revised by three subsequent rules: The July 3, 2001 Direct Final Rule (66 FR 35087), the February 13, 2002 Interim Standards Rule (67 FR 6792), and the February 14, 2002 Final Amendments Rule (67 FR 6968). For this reason, we find that good cause exists under 5 U.S.C. 553(d)(3) to waive the requirement that regulations be published at least 30 days before they become effective.

V. Analytic and Regulatory Requirements

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 (see section III above) that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act 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 UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). 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 interpretive clarification and technical correction action 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, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, 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.*). Our compliance with these statutes and Executive Orders for the underlying rules are discussed in the July 3, 2001, the February 13, 2002, and February 14, 2002 **Federal Register** notices.

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.

Section 808 allows the issuing agency to make 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, and established an effective date of December 19, 2002. EPA will submit a report containing this 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**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

[3] The good cause exemption in 5 U.S.C. section 553 (b) applies here, even though this is a rulemaking otherwise subject to the procedural standards set out in section 307 (d) of the Clean Air Act. See CAA section 307 (d) (1) (final sentence).

List of Subjects

40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

40 CFR Part 270

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: December 12, 2002.

Marianne L. Horinko,

Assistant Administrator, Office of Solid Waste and Emergency Response.

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 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

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

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

2. Section 63.1201 is amended by revising the definition of "Instantaneous monitoring" in paragraph (a) to read as follows:

§ 63.1201 Definitions and acronyms used in this subpart.

(a) * * *

Instantaneous monitoring for combustion system leak control means detecting and recording pressure, without use of an averaging period, at a frequency adequate to detect combustion system leak events from hazardous waste combustion.

* * * * *

3. Section 63.1205 is amended by revising paragraph (b)(6) to read as follows:

§ 63.1205 What are the standards for hazardous waste burning lightweight aggregate kilns?

* * * * *

(b) * * *

(6) Hydrochloric acid and chlorine gas in excess of 600 parts per million by volume, combined emissions, expressed as hydrochloric acid equivalents, dry basis and corrected to 7 percent oxygen; and

* * * * *

4. Section 63.1206 is amended by revising paragraph (c)(5)(ii) to read as follows:.

§ 63.1206 When and how must you comply with the standards and operating requirements?

* * * * *

(c) * * *

(5) * * *

(ii) You must specify in the performance test workplan and Notification of Compliance the method that will be used to control combustion system leaks. If you control combustion system leaks by maintaining the combustion zone pressure lower than ambient pressure using an instantaneous monitor, you must also specify in the performance test workplan and Notification of Compliance the monitoring and recording frequency of the pressure monitor, and specify how the monitoring approach will be integrated into the automatic waste feed cutoff system.

* * * * *

5. Section 63.1207 is amended by:

a. Revising paragraph (f)(1)(xxi).

b. Revising paragraph (j)(1)(i).

c. Adding paragraph (j)(5)

The revisions and addition read as follows:

§ 63.1207 What are the performance testing requirements?

* * * * *

(f) * * *

(1) * * *

(xxi) If your source is equipped with a carbon bed system, and you elect not to specify and use the brand and type of carbon used during the comprehensive performance test, you must include in the comprehensive performance test plan key parameters that affect carbon adsorption, and the operating limits you establish for those parameters based on the carbon used during the performance test, as required by § 63.1209(k)(7)(ii).

* * * * *

(j) * * *

(1) * * *

(i) Except as provided by paragraphs (j)(4) and (j)(5) of this section, within 90 days of completion of a comprehensive performance test, you must postmark a Notification of Compliance documenting compliance with the emission standards and continuous monitoring system requirements, and identifying operating parameter limits under § 63.1209.

* * * * *

(5) *Early compliance.* If you conduct the initial comprehensive performance test prior to the compliance date, you must postmark the Notification of Compliance within 90 days of completion of the performance test or by the compliance date, whichever is later.

* * * * *

6. Section 63.1209 is amended by:

a. Revising paragraph (c)(2)(v).

b. Revising paragraphs (k)(4) introductory text, and (k)(4)(i).

c. Revising paragraph (m)(3).

d. Removing paragraph (o)(3)(vi).

e. Revising paragraph (p).

The revisions read as follows:

§ 63.1209 What are the monitoring requirements?

* * * * *

(c) * * *

(2) * * *

(v) The sampling method which you will use to obtain a representative sample of each feedstream to be analyzed using sampling methods described in appendix IX, part 266 of this chapter, or an equivalent method; and

* * * * *

(k) * * *

(4) *Maximum hazardous waste feedrate.* (i) You must establish limits on the maximum pumpable and total (pumpable and nonpumpable) hazardous waste feedrate for each location where waste is fed.

* * * * *

(m) * * *

(3) *Maximum ash feedrate.* Owners and operators of hazardous waste incinerators must establish a maximum ash feedrate limit as a 12-hour rolling average based on the average of the test run averages.

* * * * *

(p) *Maximum combustion chamber pressure.* If you comply with the requirements for combustion system leaks under § 63.1206(c)(5) by maintaining the maximum combustion chamber zone pressure lower than ambient pressure to prevent combustion systems leaks from hazardous waste combustion, you must perform instantaneous monitoring of pressure and the automatic waste feed cutoff system must be engaged when negative pressure is not adequately maintained.

* * * * *

7. Section 63.1213 is amended by revising paragraphs (a) and (b)(1) introductory text to read as follows:

§ 63.1213 How can the compliance date be extended to install pollution prevention or waste minimization controls?

(a) *Applicability.* You may request from the Administrator or State with an approved Title V program an extension of the compliance date of up to one year. An extension may be granted if you can reasonably document that the

installation of pollution prevention or waste minimization measures will significantly reduce the amount and/or toxicity of hazardous wastes entering the feedstream(s) of the hazardous waste combustor(s), and that you could not install the necessary control measures and comply with the emission standards and operating requirements of this subpart by the compliance date.

(b) * * * (1) You must make your requests for an (up to) one-year extension in writing in accordance with § 63.6(i)(4)(B) and (C). The request must contain the following information:

* * * * *

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

8. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

9. Section 270.19 is amended by revising paragraph (e) to read as follows:

§ 270.19 Specific part B information requirements for incinerators.

* * * * *

(e) When an owner or operator demonstrates compliance with the air emission standards and limitations in part 63, subpart EEE, of this chapter (*i.e.*, by conducting a comprehensive performance test and submitting a Notification of Compliance under §§ 63.1207(j) and 63.1210(b) of this chapter documenting compliance with all applicable requirements of part 63, subpart EEE, of this chapter), the requirements of this section do not apply, except those provisions the Director determines are necessary to ensure compliance with §§ 264.345(a) and 264.345(c) of this chapter if you elect to comply with § 270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k) and 270.32(b)(2).

10. Section 270.22 is amended by revising the introductory text to read as follows:

§ 270.22 Specific part B information requirements for boilers and industrial furnaces burning hazardous waste.

When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations in part 63, subpart EEE, of this chapter (*i.e.*, by conducting a comprehensive performance test and submitting a Notification of Compliance under §§ 63.1207(j) and 63.1210(b) of this chapter documenting compliance with all applicable requirements of part 63, subpart EEE, of this chapter), the requirements of this section do not apply, except those provisions the Director determines are necessary to ensure compliance with §§ 266.102(e)(1) and 266.102(e)(2)(iii) of this chapter if you elect to comply with § 270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k) and 270.32(b)(2).

* * * * *

11. Section 270.62 is amended by revising the introductory text to read as follows:

§ 270.62 Hazardous waste incinerator permits.

When an owner or operator demonstrates compliance with the air emission standards and limitations in part 63, subpart EEE, of this chapter (*i.e.*, by conducting a comprehensive performance test and submitting a Notification of Compliance under §§ 63.1207(j) and 63.1210(b) of this chapter documenting compliance with all applicable requirements of part 63, subpart EEE, of this chapter), the requirements of this section do not apply, except those provisions the Director determines are necessary to ensure compliance with §§ 264.345(a) and 264.345(c) of this chapter if you elect to comply with § 270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k) and 270.32(b)(2).

* * * * *

12. Section 270.66 is amended by revising the introductory text to read as follows:

§ 270.66 Permits for boilers and industrial furnaces burning hazardous waste.

When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations in part 63, subpart EEE, of this chapter (*i.e.*, by conducting a comprehensive performance test and submitting a Notification of Compliance under §§ 63.1207(j) and 63.1210(b) of this chapter documenting compliance with all applicable requirements of part 63, subpart EEE, of this chapter), the requirements of this section do not apply, except those provisions the Director determines are necessary to ensure compliance with §§ 266.102(e)(1) and 266.102(e)(2)(iii) of this chapter if you elect to comply with § 270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k) and 270.32(b)(2).

* * * * *

[FR Doc. 02–31903 Filed 12–18–02; 8:45 am]
BILLING CODE 6560–50–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 50

RIN: 0991–AB21

HHS Exchange Visitor Program; Request for Waiver of the Two-Year Foreign Residence Requirement

AGENCY: Office of the Secretary, HHS.

ACTION: Interim final rule with opportunity for public comment.

SUMMARY: This interim final rule with comment period amends the regulations governing requests for the waiver of the two-year foreign residence requirement of the Health and Human Services (HHS) Exchange Visitor Program. These revisions permit institutions and health care facilities to submit to HHS requests for waiver of the two-year home-country physical presence requirement for physician Exchange Visitors to deliver health care services in underserved areas.

DATES: These interim final regulations are effective December 19, 2002. As discussed below, comments on the regulations are invited but must be received by February 3, 2003.

ADDRESSES: Written comments should be addressed to Dr. William R. Steiger, Office of Global Health Affairs, 200 Independence Ave., SW., Room 639–H, Washington, DC 20201. All comments received will be available for public inspection and copying at the above address, weekdays (Federal holidays excepted) between the hours of 9:00 a.m. and 5:30 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. William R. Steiger, Office of Global



Federal Register

Monday,
December 30, 2002

Part IV

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7430–6]

RIN 2060–AE77

National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: On March 23, 2000, the EPA issued national emission standards for hazardous air pollutants (NESHAP) for secondary aluminum production facilities under section 112 of the Clean Air Act (CAA). This action amends the applicability provisions for aluminum die casters, foundries, and extruders. The amendments also add new provisions governing control of commonly-ducted units; revise the procedures for adoption of operation, maintenance, and monitoring plans; revise the criteria concerning testing of representative emission units; revise the standard for unvented in-line flux boxes; and clarify the control requirements for sidewell furnaces. These changes are being made pursuant to settlement agreements in two cases seeking judicial review of the NESHAP for secondary aluminum production. A separate rule to clarify compliance dates and defer certain early compliance obligations which might have otherwise come due before completion of this rulemaking was published on September 24, 2002.

EFFECTIVE DATE: December 30, 2002.

ADDRESSES: Docket A–2002–05, containing supporting information used in developing these final rule amendments, is available for public inspection and copying between 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding Federal holidays, at the following address: U.S. EPA, Air and Radiation Docket and Information Center, Room B–108, 1301 Constitution Avenue, NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. John Schaefer, U.S. EPA, Minerals and Inorganic Chemicals Group, Emission Standards Division (C504–05), Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711, telephone number (919) 541–0296, electronic mail address, *schaefer.john@epa.gov.*

SUPPLEMENTARY INFORMATION: *Regulated Entities.* The amendments change the applicability provisions of the NESHAP for three types of facilities: aluminum extruded product manufacturing facilities (NAICS 331316), aluminum die casting facilities (NAICS 331521), and aluminum foundry facilities (NAICS 331524). Consequently, categories and entities potentially regulated by this action include:

Category	NAICS*	Examples of regulated entities
Industry	331314	Secondary smelting and alloying of aluminum facilities.
		Secondary aluminum production facility affected sources that are collocated at:
	331312	Primary aluminum production facilities.
	331315	Aluminum sheet, plate, and foil manufacturing facilities.
	331316	Aluminum extruded product manufacturing facilities.
	331319	Other aluminum rolling and drawing facilities.
	331521	Aluminum die casting facilities.
	331524	Aluminum foundry facilities.

* North American Information 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 facility is regulated by this action, you should examine the applicability criteria in § 63.1500 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.

Docket. We have established an official public docket for this action under Docket ID No. A–2002–06 and E-Docket ID No. OAR–2002–0084. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW, Washington, DC. The EPA Docket Center 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 Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

Electronic Docket Access. You may access the final rule electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility in the above paragraph entitled "Docket." Once in the system, select "search," then key in the appropriate docket identification number.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's amendments will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of these actions will be posted on the TTN's policy and guidance page for newly proposed rules or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of these final rule amendments is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by February 28, 2003. Under section 307(d)(7)(B) of the CAA, only an objection to these final rule 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 rule amendments may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

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

I. Background
II. Summary of the Final Amendments
A. How Are We Amending the Applicability provisions?
B. What Amendments Are We Making Concerning Control of Commonly-Ducted Units?
C. How Are We Amending the Procedures for Adoption of an Operation, Maintenance, and Monitoring Plan?
D. How Are We Amending the Provisions Concerning Testing of Representative Emission Units?
E. How Are We Amending the Standards for Unvented In-Line Flux Boxes?
F. How Are We Clarifying the Control Requirements for Sidewell Furnaces?
G. What Other Amendments Are We Making?
III. Response to Comments on Amendments to the NESHAP for Secondary Aluminum Production
IV. Statutory and Executive Order Reviews
A. Executive Order 12866, Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. *et seq.*
D. Unfunded Mandates Reform Act of 1995
E. Executive Order 13132, Federalism
F. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
H. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Congressional Review Act

I. Background

On March 23, 2000 (63 FR 15690), we promulgated the NESHAP for secondary aluminum production (40 CFR part 63, subpart RRR). Those standards were established under the authority of section 112(d) of the CAA to reduce emissions of hazardous air pollutants (HAP) from major and area sources.

After promulgation of the NESHAP for secondary aluminum production, two petitions for judicial review of the standards were filed in the D.C. Circuit Court of Appeals. The first of these petitions was filed by the American Foundrymen's Society, the North American Die Casting Association, and the Non-Ferrous Founders' Society (*American Foundrymen's Society et al.* v. *U.S. EPA*, Civ. No 00–1208 (D.C. Cir.)). A second petition for judicial review was filed by the Aluminum Association (*The Aluminum Association* v. *U.S. EPA*, No. 00–1211 (D.C. Cir.)). There was no significant overlap in the issues presented by the two petitions, and the cases have never been consolidated. However, we did thereafter enter into separate settlement discussions with the petitioners in each case.

The *Foundrymen's* case presented issues concerning the applicability of subpart RRR to aluminum die casters and aluminum foundries which were considered during the initial rulemaking development. Because aluminum die casters and foundries sometimes conduct the same type of operations as other secondary aluminum producers, we originally intended to apply the standards to these facilities, but only in those instances where they conduct such operations. However, representatives of the affected facilities argued that they should not be considered to be secondary aluminum producers and should be wholly exempt from the NESHAP. During the rulemaking development, we decided to permit die casters and foundries to melt contaminated internal scrap without being considered to be secondary aluminum producers, but their representatives insisted that too many facilities would still be subject to the NESHAP. At the time of promulgation of the standards, in response to a request by the die casters and foundries, we announced we would withdraw the standards as applied to die casters and foundries and develop separate maximum achievable control technology (MACT) standards for these facilities.

After the *Foundrymen's* case was filed, we negotiated an initial settlement agreement in that case which established a process to effectuate our commitment to develop new MACT standards. In that first settlement, EPA agreed that it would stay the current standards for these facilities, collect comprehensive data to support alternate standards, and promulgate alternate standards. We then published a proposal to stay the standards for these facilities (65 FR 55491, September 14, 2000) and an advance notice of proposed rulemaking (ANPR) announcing new standards for these facilities (65 FR 55489, September 14, 2000).

During the subsequent process of preparing for information collection, the petitioners concluded that the existing standards were not as sweeping in applicability as they had feared, and the parties then agreed to explore an alternate approach to settlement based on clarifications of the current standards. We subsequently reached agreement with the *Foundrymen's* petitioners on a new settlement which entirely supplanted the prior settlement. Accordingly, we published a notice withdrawing the proposed stay of the existing standards for aluminum die casters and foundries, and announcing that we would take no further action on new standards for those facilities (67 FR 41138, June 14, 2002).

In the new settlement, we agreed to propose some changes in the applicability provisions of the current standards concerning aluminum die casters and foundries. These changes included permitting customer returns without paints or solid coatings to be treated like internal scrap, and permitting facilities operated by the same company at different locations to be aggregated for purposes of determining what is internal scrap. These revisions of the applicability criteria were proposed on June 14, 2002 (67 FR 41125) and are being adopted in today's final rule.

In the *Foundrymen's* settlement, we also agreed to defer the compliance date for new sources constructed or reconstructed at existing aluminum die casters, foundries, and extruders until the compliance date for existing sources, so that the rulemaking on general applicability issues could be completed first. We took final action concerning that element of the *Foundrymen's* settlement in a final rule published on September 24, 2002 (67 FR 59787).

In entirely separate discussions, we also agreed on a settlement of the *Aluminum Association* case. That settlement required that we propose a number of substantive clarifications and revisions of the standards, which we are also adopting in today's final rule. The *Aluminum Association* settlement also required that we clarify and simplify the compliance dates for the standards, and defer certain early compliance obligations which might otherwise come due during the rulemaking process. We took final action concerning those compliance issues in the final rule published on September 24, 2002 (67 FR 59787).

II. Summary of the Final Amendments

A. How Are We Amending the Applicability Provisions?

We originally intended to regulate aluminum die casting facilities,

aluminum foundries, and aluminum extruders under subpart RRR only when they engage in the same types of operations as other secondary aluminum producers. We decided during rulemaking development that such facilities should be permitted to melt their own internally-generated scrap without being automatically treated the same as secondary aluminum producers, who typically process contaminated aluminum scrap obtained from other sources. Thus, § 63.1500(d) in the current standards exempts such facilities if:

- The facility does not melt any materials other than clean charge and materials generated within the facility; and
- The facility does not operate a thermal chip dryer, sweat furnace, or scrap dryer/delacquering kiln/decoating kiln.

However, it became apparent during discussions with representatives of these facilities that some aluminum die casting facilities that do not otherwise engage in secondary aluminum operations might fall within the rule solely because they melt certain materials which do not fit clearly within the phrase "materials generated within the facility." In particular, some facilities routinely have defective or incorrect aluminum castings returned by customers and then remelt them. In addition, some companies conduct operations at multiple locations and may melt scrap initially generated at one location at a different location.

To address these issues, the amendments contain new applicability language which permits aluminum die casters, foundries, and extruders to melt customer returns which contain no paint or other solid coatings without thereby becoming subject to the standards. The amendments also include a new definition of internal scrap which includes all scrap originating from aluminum castings or extrusions that remains at all times within the control of the company that produced the castings or extrusions. We do not regard either of these changes in the applicability language as materially altering our original intent to only cover those aluminum die casters, foundries, and extruders who conduct secondary aluminum operations. Under the new language we are adopting, customer returns would not qualify if they have been painted or are contaminated with other solid coatings because these castings would normally require prior cleaning to avoid excess emissions. Moreover, scrap obtained from an external source does not qualify unless it fits within the definition of clean charge.

The amendments also change the existing definitions of "secondary aluminum production facility," "clean charge," "internal runaround" (now called "runaround scrap"), and "thermal chip dryer," and add new definitions of "customer returns" and "internal scrap." In the aggregate, these revisions clarify the circumstances when aluminum die casters, foundries, and extruders are considered to be secondary aluminum production facilities and, thus, within the applicability of the rule.

We are also adding a new section to the general applicability provisions which permits aluminum die casters, foundries, and extruders which are area sources to operate thermal chip dryers subject to the requirements of the rule without automatically subjecting their furnace operations to the rule. We are making this change to eliminate an incentive which might exist for small facilities, which are otherwise outside the applicability of the rule, to discontinue their use of thermal chip dryers. As long as such chip dryers are operated in conformity with the rule, we think their use will promote safety and lower emissions at some small operations.

We are mindful that some may question why contaminated internal scrap generated by aluminum die casters, foundries, and extruders should be treated differently than external scrap with similar contamination levels which is processed by the secondary aluminum industry. We stress that the decision we made during the original secondary aluminum rulemaking process to make this distinction was based on the qualitative differences in the operations being undertaken by the facilities in question, rather than on any conclusions regarding the likely magnitude of emissions from such operations. Moreover, we think that the additional revisions and clarifications of applicability for aluminum die casters, foundries, and extruders which we have made are reasonable clarifications and fully consistent with that original decision.

B. What Amendments Are We Making Concerning Control of Commonly-Ducted Units?

The current rule permits secondary aluminum producers to combine existing group 1 furnaces and in-line fluxers within a particular facility in a "secondary aluminum processing unit" or SAPU. The facility can then demonstrate compliance by determining the permissible emissions for the entire SAPU and then controlling emissions for the SAPU to that level. This broader definition of the affected source which must be controlled gives a secondary aluminum production facility added flexibility in fashioning the most cost-effective control strategies which will meet the standards.

The existing rule also permits new group 1 furnaces and new in-line fluxers to be included in a new SAPU. However, it does not afford a facility the latitude to combine new and existing sources in the same SAPU. This is because the respective standards for existing sources and new sources are separate legal requirements, and we construe the CAA to require that standards be separately applied to all affected units.

Because the standards for an existing SAPU and the standards for a new SAPU happen to be identical in this instance, the legal constraints on combining existing emission units with new emission units have been understandably frustrating to some facilities. Moreover, in some facilities it may make the most sense from an engineering perspective to manifold emissions from units which are subject to differing standards to the same emission control device. In order to help facilities meet the standards in the most efficient and cost-effective manner, we are adding additional language pertaining to commonly-ducted units. The new language reflects two different approaches to this problem. A facility subject to the standards may use either approach or both approaches if it wishes.

First, the amendments add a new paragraph to § 63.1505(k) for SAPU. The new paragraph (k)(6) allows the owner or operator to redesignate any existing group 1 furnace or in-line fluxer at a secondary aluminum processing facility as a new emission unit. Any redesignated emission unit may then be included in a new SAPU at that facility. Any such redesignation (which requires prior approval of the responsible permitting authority) applies only under subpart RRR and is irreversible.

Second, we are also adding new language which clarifies the procedures by which units which are subject to differing standards but are manifolded to the same control device can demonstrate compliance. We believe that this new language is not required to permit this type of combined compliance demonstration, but we think it will give useful additional guidance to permitting authorities in establishing sound and defensible procedures for documenting compliance when units

are commonly-ducted but subject to separate standards.

We are adding two new paragraphs to § 63.1511 pertaining to compliance demonstrations for commonly-ducted units. The first of these paragraphs simply confirms other provisions of the rule which provide that aggregate emissions can be measured to demonstrate compliance for all emission units within a SAPU.

The second new paragraph covers those situations where commonly-ducted units are not within a single existing or new SAPU. In this instance, the following criteria apply:

- Testing must be designed to verify that each affected source or emission unit individually satisfies all applicable emission requirements.
- Emissions must be tested at the outlet of each individual affected source or emission unit while it is operating under the highest load or capacity reasonably expected to occur, prior to the point that the emissions are combined with those from other affected sources or emission units.
- Combined emissions for the affected sources and emission units must be tested at the outlet of the control device while they are operating simultaneously under the highest load or capacity reasonably expected to occur.
- When determining compliance for a commonly-ducted unit, emissions of a particular pollutant from the individual unit are presumed to be controlled by the same percentage as total emissions of that pollutant from all commonly-ducted units.

C. How Are We Amending the Procedures for Adoption of an Operation, Maintenance, and Monitoring Plan?

In the final rule amendments published on September 24, 2002 (67 FR 59787), we clarified the timing of submission of an operation, maintenance, and monitoring (OM&M) plan to the permitting authority, which is ambiguous in the rule as initially promulgated on March 23, 2000. In this action, we are clarifying the procedures by which a facility submits an OM&M plan to the permitting authority and by which the permitting authority can require any necessary revisions of the plan.

Section 63.1505(k) of the existing rule refers to approval of an OM&M plan by the permitting authority, and the necessary elements of an OM&M plan are described in § 63.1510(b), but the procedures for submission and approval of the plan are not specified. We are amending the existing rule to correct that omission.

Under the amendments, the facility is required to certify that the OM&M plan it is submitting complies with all requirements of the standards and to comply with the OM&M plan as submitted to the permitting authority, unless and until the plan is revised. If the permitting authority determines that any revisions of the plan are necessary to satisfy the requirements of the standards, the facility is required to promptly make all necessary revisions and resubmit the revised plan. If the facility itself determines that revisions of the OM&M plan are necessary, such revisions will not become effective until the owner or operator submits a description of the changes and a revised plan incorporating them to the permitting authority. These same general procedures also apply to the site-specific monitoring plan, which is one element of the OM&M plan.

D. How Are We Amending the Provisions Concerning Testing of Representative Emission Units?

Section 63.1511(f) of the existing rule establishes a procedure which permits a secondary aluminum production facility to test a representative group 1 furnace or in-line flux box in order to determine the emission rate for other units of the same type at that facility. We are clarifying the criteria for demonstrating compliance by testing of representative emission units.

In particular, the existing rule provides that the emission unit being tested must use "identical feed/charge and flux materials in the same proportions" as those emission units it represents. Industry representatives have expressed concern that this language could be given an unduly restrictive construction. To clarify our original intent, we are amending the criteria to require "feed materials and charge rates which are comparable" and "the same type of flux materials in the same proportions" as the emission units the tested unit represents.

E. How Are We Amending the Standards for Unvented In-Line Flux Boxes?

The existing rule requires that all in-line flux boxes meet the same emission standards and be tested in the same manner. Industry representatives have argued that the testing procedures in the rule are not practicable for in-line flux boxes which are unvented (units which have no ventilation ductwork manifolded to an outlet or emission control device). Documenting compliance with the particulate matter (PM) standard for such units might require construction of a temporary enclosure around the unit to capture and measure emissions.

Industry representatives have also argued that the emissions of hydrogen chloride (HCl) and PM from such units are intrinsically low, but we believe it is quite possible for the HCl emissions from such units to exceed the applicable standards. The existing rule provides a procedure by which a facility can demonstrate compliance for HCl by limiting its use of reactive chlorine flux and then assuming that all chlorine used is emitted as HCl. However, because of the greater complexity of the reactions which generate PM emissions, there is no analogous procedure for PM.

While we do not agree with the industry that all emissions from unvented in-line flux boxes are intrinsically low, we do agree that the physical characteristics of these units and the nature of the reactions that generate PM mean that we can reliably conclude that an unvented unit which demonstrates compliance with the emission standards for HCl by limiting reactive chlorine flux will also be in compliance with the emission standards for PM. Therefore, we are adding new language to § 63.1512(h) which permits a facility with an unvented in-line flux box, which elects to demonstrate compliance with the emission standards for HCl by limiting use of reactive chlorine flux, to infer compliance with the emission standards for PM as well. This gives facilities an alternative to testing of actual emissions, which could require costly construction of an enclosure around the unit or other engineering modifications. If a facility infers compliance with the PM standard in this manner, the facility is also required to use the maximum permissible PM emission rate for the flux box when determining the total emissions for any secondary aluminum processing unit which includes the flux box.

F. How Are We Clarifying the Control Requirements for Sidewell Furnaces?

Industry representatives have pointed out that § 63.1506(m)(6) includes language that could require installation of an additional control device on sidewell furnaces whenever the level of molten metal is permitted to fall below the passage between the sidewell and the hearth, or reactive flux is added in the hearth. While we believe that a control device will sometimes be necessary in these circumstances, this result was not our intent.

As indicated in the preamble to our original proposal, we believe that there is a potential for additional emissions if

the level of molten metal is permitted to fall below the top of the passage between the sidewell and the hearth, or if reactive flux is added in the hearth. Therefore, if these events occur, the emissions from both the sidewell and the hearth must be captured and tested in order to demonstrate compliance with the applicable emission standards. If the emission tests show that a control device is necessary to attain compliance, it must be installed. We are revising the language in question to clarify our intent.

In addition, we are amending § 63.1505(i)(7) to correct an erroneous cross-reference. As amended, certain sidewell group 1 furnaces are required to meet the limits in paragraphs (i)(1) through (4) rather than (j)(1) through (4).

G. What Other Amendments Are We Making?

We are amending § 63.1510(w) to clarify the procedures for obtaining approval of alternative monitoring methods. The new language makes it clear that this section refers to alternative monitoring methods other than those which may be separately authorized pursuant to § 63.1510(j)(5) or § 63.1510(v).

We are also clarifying the recordkeeping requirements for in-line fluxers which do not use reactive flux. Section 63.1517(b)(11) is amended to permit the facility to document that a particular in-line fluxer does not use reactive flux through the use of operating logs that show that no source of reactive flux was used, labels that prohibit use of reactive flux, or operating logs which document the type of flux used during each operating cycle.

We are amending § 63.1505(f)(1), which establishes emission standards for sweat furnaces, to correct an erroneous residence time.

We are clarifying the definition of a melting/holding furnace in § 63.1503.

We are amending § 63.1517(b)(16) to clarify that both major and area sources must keep a copy of the OM&M plan on-site by deleting language in § 63.1517(b)(16)(ii) that requires only major sources to keep a copy of the OM&M plan on-site.

We are also making minor amendments to correct printing or technical errors in the final rule. These include:

- Revising Tables 2 and 3 of subpart RRR to correct entries which were inadvertently printed in the wrong columns and an incorrect specification for a weight measurement device.
- Revising Equation 2 of § 63.1505(k)(2) to correct the HCl emission limit (L_{cHCl}).
- Revising the entry for § 63.14 in appendix A to subpart RRR to include incorporation by reference for a second document.

III. Response to Comments on Amendments to the NESHAP for Secondary Aluminum Production

Comment: One commenter opposes the proposed revision of the applicability criteria which would permit facilities to melt customer returns. This commenter argues that there is no reason to conclude that melting scrap contaminated with oils and coating applied outside the facility is less likely to result in dioxin formation than melting purchased scrap with similar contaminants.

Response: In considering this comment, it should be noted that those customer returns which are contaminated with paints or other solid coatings are not included in the proposed applicability change. In any case, our decision to permit melting of certain customer returns is based on a decision to treat this scrap like contaminated internal scrap in deciding whether a facility is engaged in secondary aluminum production. Our decision is not based on any technical assessment regarding the likelihood of dioxin formation.

Comment: One commenter argues that the amendments would allow foundries and die casters, including those facilities which are major sources of HAP, to permanently avoid emission limitations, testing requirements and monitoring requirements.

Response: We recognize that some aluminum foundries and die casters may have the potential to emit more than 10 tons per year of chlorine (a listed HAP), but we do not agree with the conclusion of the commenter that the rule will permit such facilities to escape regulation entirely. We note that the same argument could be made concerning the applicability exclusion in the existing subpart RRR. Our decision to exclude certain aluminum die casters, foundries, and extruders from the applicability of subpart RRR does not constitute a determination that such facilities should be entirely unregulated. We believe that most, if not all, of the excluded facilities are only area sources of HAP. However, if there is any aluminum foundry or die caster which would be entirely exempt under the revised applicability provisions for the secondary aluminum source category and which also has the potential to emit major source quantities of HAP, a separate MACT standard may ultimately be necessary. If the commenter identifies any facility which is a major source of HAP but is not included in any listed source category, EPA has authority to augment the source category list as provided in CAA section 112(c)(5).

Comment: One commenter opposes the provisions permitting redesignation of existing emission units as new, on the basis that uncontrolled or poorly controlled new emission units could comply by averaging their emissions with well-controlled redesignated older units.

Response: We believe the commenter has misconstrued the effect of the new provisions. The existing rule provides that certain types of emission units may be included within a secondary aluminum processing unit or SAPU, which is the affected source to which the standards apply. We construe the statute to prohibit combining new emission units with existing emission units. The final rule amendments pursuant to the settlement provide that existing emission units may be permanently redesignated as new. Because the standard for an existing SAPU and the standard for a new SAPU are identical, this procedure will not alter the basic control requirements which apply to the redesignated units. The final rule amendments also establish a procedure under which multiple units can be ducted to the same control device, but compliance will still be separately demonstrated for each commonly-ducted unit.

Comment: One commenter states that there are no data to support the change in residence time requirements for sweat furnace afterburners.

Response: We established the emission limits for sweat furnaces based on limited performance test data. The EPA established the work practice standards for sweat furnaces on the basis of conditions which were thought to have existed during these performance tests. Upon review of the performance test data, we determined incorrect dimensional data provided in the test report led to an incorrect calculation of afterburner residence time. The amendments do not make the emission limits less stringent but only alter the work practice requirements which are necessary to ensure compliance with the emission limits. We have no further sweat furnace emission data and the commenter has not provided any such data.

Comment: The same commenter who questioned the technical basis for the decreased residence time for sweat furnaces argues that EPA is obligated to

consider longer residence times as a "beyond the floor control option."

Response: We are not aware of any technologies which could decrease the HAP emission rate for sweat furnaces beyond the floor technology and have no data upon which to evaluate any such technologies. While an increase in the residence time for the floor technology may increase the overall control efficiency by a marginal amount, no data are available to make this determination.

Comment: One commenter requests that the amendments include a work practice standard for thermal chip dryers, analogous to the work practice requirement for sweat furnaces.

Response: The amendments requested by the commenter are outside of the scope of these amendments and cannot be considered in this rulemaking. In any event, the commenter supplied no test data in support of a work practice standard for thermal chip dryers, and EPA has no data that would support the suggested change in the standard.

IV. Statutory and Executive Order Review

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and therefore subject to review by the OMB and the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this action is not a "significant regulatory action" and was not submitted to OMB for review.

B. Paperwork Reduction Act

The Office of Management and Budget (OMB) has previously approved the information collection requirements in the existing rule (subpart RRR) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and assigned OMB control No. 2060–0433. This action does not change the information collection requirements in subpart RRR, but does reduce the number of facilities subject to the rule. An amended Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1894.01), and a copy may be obtained from Susan Auby by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded from the Internet at *http://www.epa.gov.icr.*

The information requirements in the existing rule include mandatory notifications, records, and reports required by the NESHAP General Provisions (40 CFR part 63, subpart A). These information requirements are needed to confirm the compliance status of major sources, to identify any nonmajor sources not subject to the standards and any new or reconstructed sources subject to the standards, and to confirm that emission control devices are being properly operated and maintained. Based on the recorded and reported information, EPA can decide which facilities, records, or processes should be inspected. These recordkeeping and reporting requirements are specifically authorized under section 114 of the CAA. All information submitted to EPA for which a claim of confidentiality is made will be safeguarded according to Agency policies in 40 CFR part 2, subpart B.

Under the amendments, fewer facilities would be subject to the testing, monitoring, recordkeeping, and reporting requirements. For this reason, the overall burden estimate for the existing rule will be reduced by approximately 20 percent.

As a result of these amendments, the annual public reporting and recordkeeping burden for this collection of information (averaged over the first 3 years after the effective date of the rule) is estimated to decrease by 28,000 labor hours per year and $8.5 million per year. Total capital costs associated with monitoring requirements over the 3-year period of the ICR remain unchanged at an estimated $1.3 million; this estimate includes the capital and startup costs associated with installation of monitoring equipment.

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 purpose of collecting, validating, and verifying information; process and maintain information and disclose and provide information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing 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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. et seq.

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with these final rule amendments. The EPA has also determined that these final rule amendments 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 whose parent company has fewer than 750 employees; (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.

After considering the economic impacts of today's final rule amendments on small entities, the EPA has concluded that this action will not create any new costs for affected firms, large or small. In fact, the amendments will reduce the economic impact on small businesses because of the revised applicability requirements for die casters, extruders, and foundries. Because these plants will not incur any significant costs or economic impact, EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with these final rule amendments. After

considering the economic impact of today's final rule amendments on small entities, the EPA has concluded that they will not have a significant economic impact on a substantial number of small entities.

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, the 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 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the 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 the 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.

The EPA has determined that these final rule amendments do not contain a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector in any 1 year. No incremental costs are attributable to these amendments. In addition, the amendments do not significantly or uniquely affect small governments because they contain no requirements that apply to such governments or impose obligations upon them. Therefore, the requirements of the UMRA do not apply to these amendments.

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."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the EPA consults with State and local officials early in the process of developing the proposed regulation.

These rule amendments do not have federalism implications. They do 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 plants are owned or operated by State governments. Thus, the requirements of section 6 of the Executive Order do not apply to these 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 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." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes."

These rule amendments do not have tribal implications. They do 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. No tribal governments own plants subject to the existing rule or today's amendments. Thus, Executive Order 13175 does not apply to these rule amendments.

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 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, we 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.

We interpret 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 rule 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 Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

These final rule amendments are not subject to Executive Order 13211 (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 (NTTAA) of 1995 (Public Law 104–113; 15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be

inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (such as material specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA requires Federal agencies to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

The EPA's response to the NTTAA requirements are discussed in the preamble to the final rule (65 FR 15690). These amendments do not change the required methods or procedures, but would expand provisions for the use of alternative methods. If a plant wishes to use an alternative method other than those identified in the existing rule, the owner or operator may submit an application to EPA according to the procedures described in the existing rule.

J. 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. The EPA will submit a report containing this 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**. These final rule amendments are not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: December 19, 2002.

Christine Todd Whitman,

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 *et seq.*

Subpart RRR—[AMENDED]

2. Section 63.1500 is amended by:

a. Revising paragraph (a);

b. Removing existing paragraph (d);

c. Redesignating existing paragraphs (e) and (f) as (d) and (e); and

d. Adding new paragraph (f).

The addition and revision reads as follows:

§ 63.1500 Applicability.

(a) The requirements of this subpart apply to the owner or operator of each secondary aluminum production facility as defined in § 63.1503.

* * * * *

(f) An aluminum die casting facility, aluminum foundry, or aluminum extrusion facility shall be considered to be an area source if it does not emit, or have the potential to emit considering controls, 10 tons per year or more of any single listed HAP or 25 tons per year of any combination of listed HAP from all emission sources which are located in a contiguous area and under common control, without regard to whether or not such sources are regulated under this subpart or any other subpart. In the case of an aluminum die casting facility, aluminum foundry, or aluminum extrusion facility which is an area source and is subject to regulation under this subpart only because it operates a thermal chip dryer, no furnace operated by such a facility shall be deemed to be subject to the requirements of this subpart if it melts only clean charge, internal scrap, or customer returns.

3. Section 63.1503 is amended by:

a. Adding in alphabetical order new definitions for the terms "aluminum scrap," "customer returns," "internal scrap," and "runaround scrap"; and

b. Revising definitions for the terms "clean charge," "cover flux," "group 1 furnace," "group 2 furnace," "melting/holding furnace," "reactive fluxing," "scrap dryer/delacquering kiln/decoating kiln," "secondary aluminum processing unit (SAPU)," "secondary aluminum production facility," and "thermal chip dryer."

The additions and revisions read as follows:

§ 63.1503 Definitions.

* * * * *

Aluminum scrap means fragments of aluminum stock removed during manufacturing (*i.e.*, machining), manufactured aluminum articles or parts rejected or discarded and useful only as material for reprocessing, and waste and discarded material made of aluminum.

* * * * *

Clean charge means furnace charge materials including molten aluminum, T-bar, sow, ingot, billet, pig, alloying elements, *aluminum scrap* known by the owner or operator to be entirely free of paints, coatings, and lubricants; uncoated/unpainted aluminum chips that have been thermally dried or treated by a centrifugal cleaner; *aluminum scrap* dried at 343 °C (650 °F) or higher; *aluminum scrap* delacquered/decoated at 482 °C (900 °F) or higher, and *runaround scrap*.

Cover flux means salt added to the surface of molten aluminum in a *group 1* or *group 2 furnace*, without agitation of the molten aluminum, for the purpose of preventing oxidation.

Customer returns means any aluminum product which is returned by a customer to the aluminum company that originally manufactured the product prior to resale of the product or further distribution in commerce, and which contains no paint or other solid coatings (*i.e.*, lacquers).

* * * * *

Group 1 furnace means a furnace of any design that melts, holds, or processes aluminum that contains paint, lubricants, coatings, or other foreign materials with or without *reactive fluxing*, or processes *clean charge* with *reactive fluxing*.

Group 2 furnace means a furnace of any design that melts, holds, or processes only *clean charge* and that performs no *fluxing* or performs *fluxing* using only nonreactive, non-HAP-containing/non-HAP-generating gases or agents.

* * * * *

Internal scrap means all aluminum scrap regardless of the level of contamination which originates from castings or extrusions produced by an aluminum die casting facility, aluminum foundry, or aluminum extrusion facility, and which remains at all times within the control of the company that produced the castings or extrusions.

* * * * *

Melting/holding furnace means a *group 1 furnace* that processes only *clean charge*, performs melting, holding, and fluxing functions, and does not transfer molten aluminum to or from another furnace except for purposes of alloy changes, off-specification product drains, or maintenance activities.

* * * * *

Reactive fluxing means the use of any gas, liquid, or solid flux (other than cover flux) that results in a HAP emission. Argon and nitrogen are not reactive and do not produce HAP.

* * * * *

Runaround scrap means scrap materials generated on-site by aluminum casting, extruding, rolling, scalping, forging, forming/stamping, cutting, and trimming operations and that do not contain paint or solid coatings. Uncoated/unpainted aluminum chips generated by turning, boring, milling, and similar machining operations may be clean charge if they have been thermally dried or treated by a centrifugal cleaner, but are not considered to be *runaround scrap*.

Scrap dryer/delacquering kiln/decoating kiln means a unit used primarily to remove various organic contaminants such as oil, paint, lacquer, ink, plastic, and/or rubber from *aluminum scrap* (including used beverage containers) prior to melting.

Secondary aluminum processing unit (SAPU). An existing SAPU means all existing *group 1 furnaces* and all existing *in-line fluxers* within a *secondary aluminum production facility*. Each existing *group 1 furnace* or existing *in-line fluxer* is considered an *emission unit* within a *secondary aluminum processing unit*. A new *SAPU* means any combination of individual *group 1 furnaces* and *in-line fluxers* within a *secondary aluminum processing facility* which either were constructed or reconstructed after February 11, 1999, or have been permanently redesignated as new emission units pursuant to § 63.1505(k)(6). Each of the *group 1 furnaces* or *in-line fluxers* within a new *SAPU* is considered an *emission unit* within that *secondary aluminum processing unit*.

Secondary aluminum production facility means any establishment using *clean charge*, *aluminum scrap*, or dross from aluminum production, as the raw material and performing one or more of the following processes: scrap shredding, scrap drying/delacquering/decoating, thermal chip drying, furnace operations (*i.e.*, melting, holding, sweating, refining, fluxing, or alloying), recovery of aluminum from dross, in-line fluxing, or dross cooling. A *secondary aluminum production facility* may be independent or part of a primary aluminum production facility. For purposes of this subpart, aluminum die casting facilities, aluminum foundries, and aluminum extrusion facilities are not considered to be secondary aluminum production facilities if the only materials they melt are *clean charge*, customer returns, or internal scrap, and if they do not operate sweat furnaces, thermal chip dryers, or scrap dryers/delacquering kilns/decoating kilns. The determination of whether a facility is a *secondary aluminum production facility* is only for purposes of this subpart and any regulatory requirements which are derived from the applicability of this subpart, and is separate from any determination which may be made under other environmental laws and regulations, including whether the same facility is a "secondary metal production facility" as that term is used in 42 U.S.C. § 7479(1) and 40 CFR 52.21(b)(1)(i)(A) ("prevention of significant deterioration of air quality").

* * * * *

Thermal chip dryer means a device that uses heat to evaporate oil or oil/water mixtures from unpainted/uncoated aluminum chips. Pre-heating boxes or other dryers which are used solely to remove water from aluminum scrap are not considered to be thermal chip dryers for purposes of this subpart.

* * * * *

4. Section 63.1505 is amended by:

a. Revising the section heading;

b. Revising paragraph (f)(1);

c. Revising paragraph (i)(7);

d. Republishing the introductory text of paragraph (k)(2) and revising Equation 2; and

e. Adding new paragraph (k)(6).

The revisions and addition read as follows:

§ 63.1505 Emission standards for affected sources and emission units.

* * * * *

(f) *Sweat furnace.* * * *

(1) The owner or operator is not required to conduct a performance test to demonstrate compliance with the emission standard of paragraph (f)(2) of this section, provided that, on and after the compliance date of this rule, the owner or operator operates and maintains an afterburner with a design residence time of 0.8 seconds or greater and an operating temperature of 1600 °F or greater.

* * * * *

(i) *Group 1 furnace.* * * *

(7) The owner or operator of a sidewell group 1 furnace that conducts reactive fluxing (except for cover flux) in the hearth, or that conducts reactive fluxing in the sidewell at times when the level of molten metal falls below the top of the passage between the sidewell and the hearth, must comply with the emission limits of paragraphs (i)(1) through (4) of this section on the basis of the combined emissions from the sidewell and the hearth.

* * * * *

(k) *Secondary aluminum processing unit.* * * *

(2) The owner or operator must not discharge or allow to be discharged to the atmosphere any 3-day, 24-hour rolling average emissions of HCl in excess of:

$$L_{c_{HCl}} = \frac{\sum_{i=1}^{n}\left(L_{ti_{HCl}} \times T_{ti}\right)}{\sum_{i=1}^{n}\left(T_{ti}\right)} \qquad \text{(Eq. 2)}$$

* * * * *

(6) With the prior approval of the responsible permitting authority, an owner or operator may redesignate any existing group 1 furnace or in-line fluxer at a secondary aluminum production facility as a new emission unit. Any emission unit so redesignated may thereafter be included in a new SAPU at that facility. Any such redesignation will be solely for the purpose of this MACT standard and will be irreversible.

* * * * *

5. Section 63.1506 is amended by:

a. Removing existing paragraph (a)(2);

b. Redesignating existing paragraphs (a)(3) through (a)(5) as paragraphs (a)(2) through (a)(4); and

c. Revising paragraphs (m)(6)(i) and (ii).

The revisions read as follows.

§ 63.1506 Operating requirements.

* * * * *

(m) *Group 1 furnace with add-on air pollution control devices.* * * *

(6) * * *

(i) The level of molten metal remains above the top of the passage between the sidewell and hearth during reactive flux injection, unless emissions from both the sidewell and the hearth are included in demonstrating compliance with all applicable emission limits.

(ii) Reactive flux is added only in the sidewell, unless emissions from both the sidewell and the hearth are included in demonstrating compliance with all applicable emission limits.

* * * * *

6. Section 63.1510 is amended by:

a. Removing the last sentence in the introductory text of paragraph (b), "Each plan must contain the following information", and adding, in its place, five new sentences;

b. Revising the introductory text of paragraph (o)(1); and

c. Revising the introductory text of paragraph (w).

The revisions read as follows:

§ 63.1510 Monitoring requirements.

* * * * *

(b) *Operation, maintenance, and monitoring (OM&M) plan.* * * * The plan must be accompanied by a written certification by the owner or operator that the OM&M plan satisfies all

requirements of this section and is otherwise consistent with the requirements of this subpart. The owner or operator must comply with all of the provisions of the OM&M plan as submitted to the permitting authority, unless and until the plan is revised in accordance with the following procedures. If the permitting authority determines at any time after receipt of the OM&M plan that any revisions of the plan are necessary to satisfy the requirements of this section or this subpart, the owner or operator must promptly make all necessary revisions and resubmit the revised plan. If the owner or operator determines that any other revisions of the OM&M plan are necessary, such revisions will not become effective until the owner or operator submits a description of the changes and a revised plan incorporating them to the permitting authority. Each plan must contain the following information:

* * * * *

(o) *Group 1 furnace without add-on air pollution control devices.* * * *

(1) The owner or operator must develop, in consultation with the responsible permitting authority, a written site-specific monitoring plan. The site-specific monitoring plan must be submitted to the permitting authority as part of the OM&M plan. The site-specific monitoring plan must contain sufficient procedures to ensure continuing compliance with all applicable emission limits and must demonstrate, based on documented test results, the relationship between emissions of PM, HCl, and D/F and the proposed monitoring parameters for each pollutant. Test data must establish the highest level of PM, HCl, and D/F that will be emitted from the furnace. This may be determined by conducting performance tests and monitoring operating parameters while charging the furnace with feed/charge materials containing the highest anticipated levels of oils and coatings and fluxing at the highest anticipated rate. If the permitting authority determines that any revisions of the site-specific monitoring plan are necessary to meet the requirements of this section or this subpart, the owner or operator must promptly make all necessary revisions and resubmit the revised plan to the permitting authority.

* * * * *

(w) *Alternative monitoring methods.* If an owner or operator wishes to use an alternative monitoring method to demonstrate compliance with any emission standard in this subpart, other than those alternative monitoring methods which may be authorized pursuant to § 63.1510(j)(5) and § 63.1510(v), the owner or operator may submit an application to the Administrator. Any such application will be processed according to the criteria and procedures set forth in paragraphs (w)(1) through (6) of this section.

* * * * *

7. Section 63.1511 is amended by revising paragraph (f) and adding paragraphs (h) and (i) to read as follows:

§ 63.1511 Performance test/compliance demonstration general requirements.

* * * * *

(f) *Testing of representative emission units.* With the prior approval of the permitting authority, an owner or operator may utilize emission rates obtained by testing a particular type of group 1 furnace which is not controlled by any add-on control device, or by testing an in-line flux box which is not controlled by any add-on control device, to determine the emission rate for other units of the same type at the same facility. Such emission test results may only be considered to be representative of other units if all of the following criteria are satisfied:

(1) The tested emission unit must use feed materials and charge rates which are comparable to the emission units that it represents;

(2) The tested emission unit must use the same type of flux materials in the same proportions as the emission units it represents;

(3) The tested emission unit must be operated utilizing the same work practices as the emission units that it represents;

(4) The tested emission unit must be of the same design as the emission units that it represents; and

(5) The tested emission unit must be tested under the highest load or capacity reasonably expected to occur for any of the emission units that it represents.

* * * * *

(h) *Testing of commonly-ducted units within a secondary aluminum processing unit.* When group 1 furnaces and/or in-line fluxers are included in a single existing SAPU or new SAPU, and the emissions from more than one emission unit within that existing SAPU or new SAPU are manifolded to a single control device, compliance for all units within the SAPU is demonstrated if the total measured emissions from all controlled and uncontrolled units in the SAPU do not exceed the emission limits calculated for that SAPU based on the applicable equation in § 63.1505(k).

(i) *Testing of commonly-ducted units not within a secondary aluminum processing unit.* With the prior approval of the permitting authority, an owner or operator may do combined performance testing of two or more individual affected sources or emission units which are not included in a single existing SAPU or new SAPU, but whose emissions are manifolded to a single control device. Any such performance testing of commonly-ducted units must satisfy the following basic requirements:

(1) All testing must be designed to verify that each affected source or emission unit individually satisfies all emission requirements applicable to that affected source or emission unit;

(2) All emissions of pollutants subject to a standard must be tested at the outlet from each individual affected source or emission unit while operating under the highest load or capacity reasonably expected to occur, and prior to the point that the emissions are manifolded together with emissions from other affected sources or emission units;

(3) The combined emissions from all affected sources and emission units which are manifolded to a single emission control device must be tested at the outlet of the emission control device;

(4) All tests at the outlet of the emission control device must be conducted with all affected sources and emission units whose emissions are manifolded to the control device operating simultaneously under the highest load or capacity reasonably expected to occur; and

(5) For purposes of demonstrating compliance of a commonly-ducted unit with any emission limit for a particular type of pollutant, the emissions of that pollutant by the individual unit shall be presumed to be controlled by the same percentage as total emissions of that pollutant from all commonly-ducted units are controlled at the outlet of the emission control device.

8. Section 63.1512 is amended by revising paragraph (h) to read as follows:

§ 63.1512 Performance test/compliance demonstration requirements and procedures.

* * * * *

(h) *In-line fluxer.* (1) The owner or operator of an in-line fluxer that uses reactive flux materials must conduct a performance test to measure emissions of HCl and PM or otherwise demonstrate compliance in accordance with paragraph (h)(2) of this section. If the in-line fluxer is equipped with an add-on control device, the emissions must be measured at the outlet of the control device.

(2) The owner or operator may choose to limit the rate at which reactive chlorine flux is added to an in-line fluxer and assume, for the purposes of demonstrating compliance with the SAPU emission limit, that all chlorine in the reactive flux added to the in-line fluxer is emitted as HCl. Under these circumstances, the owner or operator is not required to conduct an emission test for HCl. If the owner or operator of any in-line flux box which has no ventilation ductwork manifolded to any outlet or emission control device chooses to demonstrate compliance with the emission limit for HCl by limiting use of reactive chlorine flux and assuming that all chlorine in the flux is emitted as HCl, compliance with the HCl limit shall also constitute compliance with the emission limit for PM, and no separate emission test for PM is required. In this case, the owner or operator of the unvented in-line flux box must utilize the maximum permissible PM emission rate for the in-line flux boxes when determining the total emissions for any SAPU which includes the flux box.

* * * * *

9. Section 63.1515 is amended by revising paragraphs (b)(8) and (b)(9) to read as follows:

§ 63.1515 Notifications.

* * * * *

(b) * * *

(8) Manufacturer's specification or analysis documenting the design residence time of no less than 0.8 seconds and design operating temperature of no less than 1,600 °F for each afterburner used to control emissions from a sweat furnace that is not subject to a performance test.

(9) The OM&M plan (including site-specific monitoring plan for each group 1 furnace with no add-on air pollution control device).

* * * * *

10. Section 63.1517 is amended by revising paragraphs (b)(11) and (b)(16)(ii) to read as follows:

§ 63.1517 Records.

* * * * *

(b) * * *

(11) For each in-line fluxer for which the owner or operator has certified that no reactive flux was used:

(i) Operating logs which establish that no source of reactive flux was present at the in-line fluxer;

(ii) Labels required pursuant to § 63.1506(b) which establish that no reactive flux may be used at the in-line fluxer; or

(iii) Operating logs which document each flux gas, agent, or material used during each operating cycle.

* * * * *

(16) * * *

(ii) OM&M plan; and

* * * * *

11. Table 2 to subpart RRR is amended under the entry for "Group 1 furnace with lime-injected fabric filter (including those that are part of secondary aluminum processing unit)" by revising in column 2 the entry "Fabric filter inlet temperature" to read as follows:

TABLE 2 TO SUBPART RRR OF PART 63.—SUMMARY OF OPERATING REQUIREMENTS FOR NEW AND EXISTING AFFECTED SOURCES AND EMISSION UNITS

Affected source/emission unit	Monitor type/operation/ process	Operating requirements
* * *	* * * * *	* * * * *
Group 1 furnace with lime-injected fabric filter filter (including those that are part of a secondary aluminum processing unit).	Fabric filter inlet temperature.	Maintain average fabric filter inlet temperature for each 3-hour period at or below average temperature during the performance test +14 °C (+25 °F).

* * * * *

12. Table 3 to subpart RRR is amended by:

a. Under the entry for "Group 1 furnace with lime-injected fabric filter", revising in column 2 the entry "Reactive flux injection rate Weight measurement device accuracy of +1%b; calibrate every 3 months; record weight and type of reactive flux added or injected for each 15-minute block period while reactive fluxing occurs; calculate and record total reactive flux injection rate for each operating cycle or time period used in performance test; or Alternative flux injection rate determination procedure per § 63.1510(j)(5).''; and

b. Under the entry for "Group 1 furnace without add-on controls", revising in column 2 the entry for "Feed material (melting/holding furnace)".

The revisions read as follows:

TABLE 3 TO SUBPART RRR OF PART 63.—SUMMARY OF MONITORING REQUIREMENTS FOR NEW AND EXISTING AFFECTED SOURCES AND EMISSION UNITS

Affected source/emission unit	Monitor type/Operation/ Process	Monitoring requirements
* * *	* * * * *	* * * * *
Group 1 furnace with lime-injected fabric filter	Reactive flux injection rate	Weight measurement device accuracy of ±1%[b]; calibrate every 3 months; record weight and type of reactive flux added or injected for each 15-minute block period while reactive fluxing occurs; calculate and record total reactive flux injection rate for each operating cycle or time period used in performance test; or Alternative flux injection rate determination procedure per § 63.1510(j)(5).

* * * * *

TABLE 3 TO SUBPART RRR OF PART 63.—SUMMARY OF MONITORING REQUIREMENTS FOR NEW AND EXISTING AFFECTED SOURCES AND EMISSION UNITS—Continued

Affected source/emission unit	Monitor type/Operation/ Process	Monitoring requirements
Group 1 furnace without add-on controls	* * * * *	* * * * *
	Feed material (melting/ holding furnace).	Record type of permissible feed/charge material; certify charge materials every 6 months.

* * * * *

13. Appendix A to subpart RRR is amended under the entry for "§ 63.14" by revising in column 2 the entry for "Incorporation by reference" to read as follows:

APPENDIX A TO SUBPART RRR OF PART 63.—GENERAL PROVISIONS APPLICABILITY TO SUBPART RRR

Citation	Requirement	Applies to RRR	Comment
*	*	* *	* * *
§ 63.14	Incorporation by Reference.	Yes	Chapters 3 and 5 of ACGIH Industrial Ventilation Manual for capture/ collection systems; and Interim Procedures for Estimating Risk Associated with Exposure to Mixtures of Chlorinated Dibenzofurans (CDDs and CDFs) and 1989 Update (incorporated by reference in § 63.1502).

* * * * *

[FR Doc. 02–32779 Filed 12–27–02; 8:45 am]
BILLING CODE 6560–50–P

IDAHO PM–10—Continued

Designated area	Designation		Classification	
	Date	Type	Date	Type
Remainder of AQCR 63	11/15/90	Unclassifiable.		
Metropolitan Boise the Intrastate AQCR 64:				
Ada County: Boise	3/12/99	Pre-existing	3/12/99 PM–10 NAAQS NA	Pre-existing PM–10 NAAQS NA
Northern Boundary—Beginning at a point in the center of the channel of the Boise River, where the line between sections 15 and 16 in Township 3 north (T3N), range 4 east (R4E), crosses said Boise River; thence, west down the center of the channel of the Boise River to a point opposite the mouth of More's Creek; thence, in a straight line north 44 degrees and 38 minutes west until the said line intersects the north line T5N (12 Ter. Ses. 67); thence west to the northwest corner T5N, R1W. *Western Boundary*—Thence, south to the northwest corner of T3N, R1W; thence east to the northwest corner of section 4 of T3N, R1W; thence south to the southeast corner of section 32 of T2N, R1W; thence, west to the northwest corner of T1N, R1W; thence, south to the southwest corner of section 32 of T2N, R1W; thence, west to the northwest corner of T1N, R1W; thence south to the southwest corner of T1N, R1W. *Southern Boundary*—Thence, east to the southwest corner of section 33 of T1N, R4E. *Eastern Boundary*—Thence, north along the north and south center line of Townships T1N, R4E, T2N, R4E, and T3N, R4E, Boise Meridian to the beginning point in the center of the channel of the Boise River.				
Remainder of AQCR 64	11/15/90	Unclassifiable..		

* * * * *

[FR Doc. 03–856 Filed 1–15–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0047; FRL–7418–2]

RIN 2060–AH13

National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for municipal solid waste (MSW) landfills. The final rule is applicable to both major and area sources and contains the same requirements as the Emission Guidelines and New Source Performance Standards (EG/NSPS). The final rule adds startup, shutdown, and malfunction (SSM) requirements, adds operating condition deviations for out-of-bounds monitoring parameters, requires timely control of bioreactor landfills, and changes the reporting frequency for one type of report.

The final rule fulfills the requirements of section 112(d) of the Clean Air Act (CAA), which requires the Administrator to regulate emissions of hazardous air pollutants (HAP) listed in section 112(b), and helps implement the Urban Air Toxics Strategy developed under section 112(k) of the CAA. The intent of the standards is to protect the public health by requiring new and existing sources to control emissions of HAP to the level reflecting the maximum achievable control technology (MACT).

The HAP emitted by MSW landfills include, but are not limited to, vinyl chloride, ethyl benzene, toluene, and benzene. Each of the HAP emitted from MSW landfills can cause adverse health effects provided sufficient exposure. For example, vinyl chloride can adversely affect the central nervous system and has been shown to increase the risk of liver cancer in humans, while benzene is known to cause leukemia in humans.

EFFECTIVE DATE: January 16, 2003.

ADDRESSES: Follow the detailed instructions in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: For information concerning applicability and rule determinations, contact your State or local regulatory agency representative or the appropriate EPA Regional Office representative. For information concerning the development of the final rule, contact Ms. JoLynn Collins, Waste and Chemical Processes Group, Emission Standards Division (C439–03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541–5671, facsimile number (919) 541–0246, electronic mail address *collins.jolynn@epa.gov.*

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Categories and entities potentially regulated by this action:

Category	NAICS code	SIC code	Examples of potentially regulated entities
Industry: Air and water resource and solid waste management.	924110	9511	Solid waste landfills.
Industry: Refuse systems—solid waste landfills	562212	4953	Solid waste landfills.

Category	NAICS code	SIC code	Examples of potentially regulated entities
State, local, and tribal government agencies	562212 924110	4953	Solid waste landfills; Air and water resource and solid waste management.

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 sections 63.1935 and 63.1940 of subpart AAAA. If you have any questions regarding the applicability of this action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Docket. We have established an official public docket for this action under Docket ID No. OAR–2002–0047. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Office of Air and Radiation Docket and Information Center (Air Docket) in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Avenue, NW, Washington, DC. The EPA Docket Center 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 Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

Electronic Docket Access. You may access the final rule electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility in the above paragraph entitled "Docket." Once in the system, select "search," then key in the appropriate docket identification number.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of the final rule is also available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the 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. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Judicial Review. The NESHAP for MSW landfills was proposed on November 7, 2000 (65 FR 66672). A supplemental proposal with additional bioreactor provisions was published on May 23, 2002 (67 FR 36460). The final rule announces the EPA's final decision. Under section 307(b)(1) of the CAA, judicial review of the final rule is available by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by March 17, 2003. Only those objections to the final rule which were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2) of the CAA, the requirements that are the subject of the final rule may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

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

I. Introduction and Background Information
A. What Is the Source of Authority for Development of NESHAP?
B. What Criteria Are Used in the Development of NESHAP?
C. What Are the Health Effects Associated With Municipal Solid Waste Landfills?
II. Summary of the NESHAP
A. What Source Categories Are Affected by the Final Rule?
B. What Is the Affected Source?
C. What Do the Standards Require?
D. When Must I Begin Complying With the Standards?
E. How Are New and Existing Sources Defined Differently For Purposes of the NESHAP and for the EG/NSPS?
F. How Must I Demonstrate Compliance?
G. What Are the Additional Requirements for Bioreactors?
III. Summary of Public Comments and Responses
A. Applicability of the NESHAP
B. Major Source Determination
C. Bioreactors
D. Mercury
E. Title V Operating Permits
IV. Summary of the Energy, Environmental, and Economic Impacts
V. Administrative Requirements
A. Executive Order 12866, Regulatory Planning and Review
B. Executive Order 13132, Federalism
C. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments
D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks
E. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
F. Unfunded Mandates Reform Act (UMRA) of 1995
G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 United States Code (U.S.C.) 601, *et seq.*
H. Paperwork Reduction Act
I. National Technology Transfer and Advancement Act
J. Congressional Review Act

I. Introduction and Background Information

A. What Is the Source of Authority for Development of NESHAP?

Under section 112(d) of the CAA, we are required to regulate major sources of 188 HAP listed in section 112(b) of the CAA. On July 16, 1992 (57 FR 31576), we published a list of industrial source categories, which included MSW landfills, that emit one or more of these HAP. We must promulgate standards for the control of emissions of HAP from both new and existing major source MSW landfills.

Under section 112(k) of the CAA, we developed a strategy to control emissions of HAP from area sources in urban areas, identifying 33 HAP that present the greatest threat to public health in the largest number of urban areas as the result of emissions from area sources. Municipal solid waste landfills were listed on July 19, 1999, as an area source category to be regulated pursuant to section 112(k) because 13 of the listed HAP are emitted from MSW landfills (64 FR 38706).

B. What Criteria Are Used in the Development of NESHAP?

The CAA requires NESHAP to reflect the maximum degree of reduction in

emissions of HAP that is achievable for new and existing major sources. This level of control is commonly referred to as MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. The MACT floor ensures that all major HAP emissions sources achieve the level of control already achieved by the better-controlled and lower-emitting sources in each category. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emissions limitation achieved by the best-performing 12 percent of existing sources (or the best-performing 5 sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also must consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost, non-air-quality health and environmental impacts, and energy requirements.

Finally, the CAA allows NESHAP to reflect an alternative standard for area sources. The alternative standard provides for the use of generally available control technologies (GACT) or management practices to reduce emissions of HAP.

C. What Are the Health Effects Associated With Municipal Solid Waste Landfills?

The final rule ensures reductions of emissions of nearly 30 HAP including, but not limited to, vinyl chloride, ethyl benzene, toluene, and benzene. Each of the HAP emitted from MSW landfills can cause adverse health effects provided sufficient exposure. For example, vinyl chloride can adversely affect the central nervous system and has been shown to increase the risk of liver cancer in humans, while benzene is known to cause leukemia in humans. Additional discussion of health effects is provided in the proposal (65 FR 66672) and Docket A–98–28. The degree of adverse effects to human health from exposure to these HAP can range from mild to severe. The extent and degree to which the human health effects may be experienced depend on the ambient concentration observed in the area (as influenced by emissions rates, meteorological conditions, and terrain); the frequency and duration of exposures; characteristics of exposed individuals (genetics, age, preexisting health conditions, and lifestyle), which vary significantly with the population; and pollutant-specific characteristics (toxicity, half-life in the environment, bioaccumulation, and persistence). We recognize that health risks are significantly reduced at landfills that collect and control landfill gas.

II. Summary of the NESHAP

The final rule contains the same requirements as the EG/NSPS (40 CFR part 60, subparts Cc and WWW), plus SSM definition and reporting of deviations for out-of-range monitoring parameters. Also, the final rule requires compliance reporting every 6 months while the EG/NSPS requires annual reporting. For bioreactors at large landfills, the NESHAP also require timely installation of controls, and allows timely removal of controls.

A. What Source Categories Are Affected by the Final Rule?

The final rule applies to all MSW landfills that are major sources or are collocated with a major source, and to some landfills that are area sources. We estimate that all MSW landfills that are major sources of HAP (*i.e.*, with a potential to emit at least 10 tons per year (tpy) of any individual HAP or 25 tpy total HAP) will also meet the EG/NSPS criteria for installing collection and control systems (*i.e.*, have a design capacity equal to or greater than 2.5 million megagrams (Mg) and 2.5 million cubic meters (m^3) and have estimated uncontrolled emissions of 50 megagrams per year (Mg/yr) nonmethane organic compound (NMOC)). All major source landfills, including those operated partially or completely as bioreactors, are covered by the final rule and, in addition to EG/NSPS control requirements, are subject to the additional SSM, deviation, and compliance reporting requirements of the NESHAP. Landfills that do not themselves emit major source levels of HAP but that are collocated with major sources of HAP are also covered by the final rule. However, if these landfills are smaller than the EG/NSPS thresholds, they have fewer requirements under the NESHAP, as previously discussed in this preamble.

In addition, as previously discussed in this preamble, landfills have been listed as an area source category pursuant to section 112(k). The final rule applies to area source landfills if they have a design capacity equal to or greater than 2.5 million Mg and 2.5 million m^3, and they have estimated uncontrolled emissions of 50 Mg/yr NMOC or more, or are operated as a bioreactor. The final rule does not apply to area source landfills (including bioreactors) with a design capacity less than 2.5 million Mg or 2.5 million m^3. It also does not apply to conventional area source landfills that have estimated uncontrolled emissions of less than 50 Mg/yr NMOC. (The EG/NSPS require landfills that meet the design capacity criteria to periodically calculate uncontrolled annual NMOC emissions. If an area source landfill that currently has estimated uncontrolled emissions less than 50 Mg/yr increases to 50 Mg/yr in the future, it will become subject to the NESHAP at that time.) For a complete description of applicability, see section III.A of this preamble and sections 63.1935 through 63.1945 of the final rule.

B. What Is the Affected Source?

The affected source is the entire MSW landfill in a contiguous geographical space where household waste is placed in or on the land and consists of one or more cells that are under common ownership or control. The facility may receive household waste as well as other types of Resource Conservation and Recovery Act (RCRA) Subtitle D waste. The affected source may be operated as a conventional landfill, or it may be operated completely or partially as a bioreactor. To be an affected source, the landfill must have accepted waste since November 8, 1987, or have additional capacity for waste deposition, and must be either: (1) A major source of HAP; (2) collocated with a major source of HAP; (3) an area source with a design capacity greater than or equal to 2.5 million Mg and 2.5 million m^3 and with estimated uncontrolled NMOC emissions equal to or greater than 50 Mg/yr; or (4) an active area source landfill with a design capacity greater than or equal to 2.5 million Mg and 2.5 million m^3 that operates an anaerobic bioreactor, as defined in the final rule. The bioreactor provisions do not apply to closed landfills.

C. What Do the Standards Require?

Major and area source landfills with a design capacity of greater than or equal to 2.5 million Mg and 2.5 million m^3, and with estimated uncontrolled NMOC emissions of at least 50 Mg/yr, would continue to be subject to the EG/NSPS as applicable, plus additional requirements imposed by the final rule. These requirements also apply to bioreactors within active landfills at both major and area sources if the landfill meets the design capacity criteria.

You are required to meet the SSM requirements that are listed in the general provisions to 40 CFR part 63.

You must develop and implement a written SSM plan that describes in detail the procedures for operating and maintaining the collection and control system and the continuous monitoring system (CMS) during periods of SSM (section 63.6(e)(3)). There are also recordkeeping and reporting requirements for SSM incidents.

The final rule also requires you to operate the control device within the operating parameter boundaries as described in 40 CFR 60.758(c)(1) and to continuously monitor control device operating parameters. Compliance with the operating conditions is demonstrated when monitoring data show that the gas control devices are operated within the established operating parameter range. Compliance also occurs when data quality is sufficient to constitute a valid hour of data in a 3-hour block period. Deviations occur when a source's 3-hour average falls outside the established boundaries. A deviation also occurs when more than 1 hour in a 3-hour average is considered invalid. To be considered a valid hour, measured values must be available for at least three 15-minute periods within the hour. If such a deviation occurs, then the source may be in violation of operating conditions (that is, in violation of proper operation and maintenance of a control device).

With one exception, the final rule also requires you to submit the reports that are specified in 40 CFR part 60, subpart WWW, or in the Federal plan, the EPA-approved State plan, or Tribal plan that implements 40 CFR part 60 subpart Cc, whichever is applicable. As an exception, the report required in section 60.757(f) must be submitted every 6 months rather than annually. The report pertains to the control device operating parameter value and the duration of time that control devices were operating in out-of-bounds conditions, the duration of periods when the landfill gas stream was diverted from the control device(s), the location of areas that exceed the 500 parts per million methane concentration limit, and the dates of installation and location of each added well or collection system expansion.

If a landfill is subject to the final rule because it is collocated with a major source and the landfill has a design capacity less than 2.5 million Mg or 2.5 million m^3, the landfill must comply with the applicable EG/NSPS requirements (i.e., it must submit a design capacity report). The landfill would not be subject to additional control and reporting requirements under the NESHAP.

Note that while area source landfills that have a design capacity less than 2.5 million Mg or 2.5 million m^3, or estimated uncontrolled NMOC emissions less than 50 Mg/yr (for landfills other than bioreactors) are not subject to the final rule, they must continue to comply with the provisions of the NSPS or State, tribal, or Federal plan that implements the EG, as applicable.

D. When Must I Begin Complying With the Standards?

If your landfill is a new affected source, you must comply with the final rule by January 16, 2003 or at the time you begin operating, whichever occurs last. The final rule requires you to comply with the NSPS at that time. For the requirements in the final rule that are over and above the NSPS, you must begin complying by the date your new major or area source landfill is required to install a collection and control system by the NSPS. If you own or operate a bioreactor at a landfill that is a new affected source, then you are required to install the gas collection and control system in the bioreactor prior to initiating liquids addition, regardless of whether the landfill emissions rate equals or exceeds the estimated uncontrolled emissions rate of 50 Mg/yr specified in the EG/NSPS. Startup of the collection and control system is required within 180 days after initiating liquids addition or within 180 days after reaching 40 percent moisture content within the bioreactor, whichever is later.

If your landfill is an existing affected source, then you must comply with the final rule by January 16, 2004. The final rule requires you to comply with the NSPS or Federal, State, or Tribal plan that implements the EG, whichever applies to your landfill, at that time. You must begin complying with the additional requirements of the final rule (that are over and above the EG/NSPS) by January 16, 2004, or the date your landfill is required to install a collection and control system by the NSPS or Federal, State, or Tribal plan that implements the EG, whichever is later. If your landfill has a bioreactor and the landfill is an existing affected source, then you must install and begin operating a collection and control system for the bioreactor within 3 years after publication of the final rule unless earlier control is already required by the EG/NSPS. You are required to conduct a performance test and report the results within 180 days after startup of the bioreactor collection and control system. If an existing source landfill installs and begins to operate a bioreactor at a date later than 3 years after the final rule is published, you must install a collection and control system for the bioreactor before the initiation of liquids addition. The control system is required to begin operation within 180 days after the first date of liquids addition or within 180 days after reaching 40 percent moisture content. See sections 63.1935 through 63.1947 for the complete requirements regarding compliance times.

E. How Are New and Existing Sources Defined Differently for Purposes of the NESHAP and for the EG/NSPS?

For the final rule, a new affected source is one that commenced construction or reconstruction (defined in 40 CFR part 63, subpart A) after November 7, 2000. An existing affected source is any affected source that is not a new source, that is, any source that commenced construction on or before November 7, 2000, and accepted waste any time since November 8, 1987, or has additional capacity for waste deposition.

For purposes of the NSPS, a new source is each MSW landfill for which construction, modification, or reconstruction commenced on or after May 30, 1991. For purposes of the EG, an existing source is any MSW landfill that is not a new source and has accepted waste since November 8, 1987, or has capacity for additional waste deposition.

Because regulatory impacts can vary based on these different definitions, it is important for sources to know how they are defined and the regulatory implications for each rule that applies to them. The regulatory implications of new versus existing source determination for sources affected by the EG/NSPS are well understood, unaffected by the final rule, and, thus, will not be discussed further here. The regulatory implications of new versus existing source determination for sources affected by the final rule are limited to compliance timing and are previously discussed in this preamble.

F. How Must I Demonstrate Compliance?

You must demonstrate compliance by meeting the applicable requirements in the EG/NSPS and, if you are required to install a collection and control system, by maintaining monitoring parameters within acceptable ranges. In addition, you must submit reports every 6 months which would include any notifications of deviations from the monitoring parameter values. You must develop and implement a written SSM plan according to the provisions in section

63.6(e)(3). If you take action during a SSM event, you must keep records for that SSM event which demonstrate that you followed the procedures specified in the SSM plan. You must submit a report every 6 months if the action is consistent with the SSM plan. However, if the action is not consistent with the SSM plan, you must notify EPA within 2 days of the SSM event and must follow up with a letter within 7 days of the event (section 63.10(d)(5)(ii)).

G. What Are the Additional Requirements for Bioreactors?

A bioreactor is defined as a MSW landfill or portion of a MSW landfill where any liquid other than leachate (leachate includes landfill gas condensate) is added in a controlled fashion into the waste mass (often in combination with recirculating leachate) to reach a minimum average moisture content of at least 40 percent by weight to accelerate or enhance the anaerobic (without oxygen) biodegradation of the waste. We consider landfill gas condensate to be a constituent of leachate. Addition of wastewater sludges to the waste mass is considered addition of liquids other than leachate. Bioreactors at active landfills that meet the design capacity criteria are required to install and begin operating gas collection and control systems in a timely manner as previously discussed in this preamble. The timing for extending the collection and control system into new cells or areas of the bioreactor is also different from conventional landfills. Once control of your bioreactor is required, you must install collection and control systems in new areas or cells of the bioreactor prior to initiating liquids addition to that area, cell, or group of cells. Controls may be removed from the bioreactor portion of the landfill either:

(1) When the criteria for control removal specified in the landfills EG/NSPS are met, or (2) When the bioreactor is permanently closed, liquids addition has ceased, and liquids have not been added to the bioreactor for at least 1 year.

At some landfills, a portion of the landfill is a bioreactor and the remainder is designed and operated as a conventional landfill. In these situations, the control requirements and the timing of control installation for the conventional portion of the landfill do not change. You must continue to use the equations and factors in the EG/NSPS to calculate the annual estimated uncontrolled NMOC emissions for your landfill as a whole (including the total waste placed in the bioreactor area and the conventional area). When your calculated uncontrolled NMOC emissions equal or exceed 50 Mg/yr, then you must install a collection and control system for the conventional portions of the landfill according to the schedule in the NSPS, or the applicable State, Tribal, or Federal plan that implements the EG. Only the bioreactor portion of the landfill must meet the control schedule for bioreactors.

Note that as a general rule, it is currently difficult for an owner/operator of a MSW landfill to operate a large bioreactor as defined in the final rule. This is because of the Federal criteria regulating MSW landfills, specifically 40 CFR part 258.28 which prohibits the addition of liquids other than leachate and gas condensate to a landfill and 40 CFR part 258.26 which limits the entry of rainwater into MSW landfills through specified run-on control systems. A few landfills have gained site specific variances under Project XL to operate landfill bioreactors.

However, on June 10, 2002, EPA proposed a revision to 40 CFR part 258 that would allow the Director of an approved State to issue a research, development, and demonstration (RD&D) permit for a MSW landfill (67 FR 39662). That proposed RD&D rule would allow the States to grant variances to certain parts of the MSW landfill criteria (40 CFR part 258) through the issuance of RD&D permits. As a result, once the RD&D rule becomes final and an approved State integrates the new Federal regulations, the Director of an approved State may issue permits which could potentially allow for the operation of a bioreactor landfill as long as there is no increased risk to human health and the environment (as compared to a MSW landfill permitted under the existing 40 CFR part 258 criteria). Therefore, once the proposed rule allowing RD&D permits for MSW landfills becomes final, we expect the number of bioreactor landfills to increase.

III. Summary of Public Comments and Responses

This section of the preamble is a brief summary of the major public comments received in response to the original proposal and the supplemental proposal for the MSW landfills NESHAP, and changes resulting from the comments. Additional comments are summarized in the document "Municipal Solid Waste Landfills: Background Information Document for National Emission Standards for Hazardous Air Pollutants—Public Comments and Responses." The document contains a full report of all comments received and our responses. The document may be found in Docket A–98–28.

A. Applicability of the NESHAP

Comment: Two commenters recommended that additional MACT requirements apply only to major sources and that EPA require no controls for area sources.

Response: We believe regulation of area sources is appropriate under section 112(k) of the CAA. Under Section 112(k), we developed a strategy to control emissions of HAP from area sources in urban areas, identifying 33 HAP that present the greatest threat to public health in the largest number of urban areas as the result of emissions from area sources. Municipal solid waste landfills were listed on July 19, 1999, as an area source category to be regulated pursuant to section 112(k) because 13 of the listed HAP are emitted from MSW landfills (64 FR 38706). Section 112(k) requires that sufficient categories of area sources be regulated to assure that sources accounting for at least 90 percent of the aggregate emissions of each of the HAP identified pursuant to 112(k) as being the greatest threat to health in urban areas are subject to standards. As we stated at proposal, we believe it is necessary to regulate some area MSW landfills to meet this requirement of section 112(k). Therefore, we have not changed this aspect of the final rule's applicability. (Note that the bioreactor provisions of the final rule apply to major and area sources that exceed the EG/NSPS design capacity criteria of 2.5 million Mg and 2.5 million m^3 and operate as a bioreactor regardless of whether they meet or exceed the EG/NSPS estimated uncontrolled NMOC emissions criteria of 50 Mg/yr. See sections II and III.C of this preamble for further information on bioreactor applicability and requirements.)

Comment: A commenter expressed concern that small landfills that are collocated with major source facilities become subject to EG/NSPS control under the final rule.

Response: Small landfills that are collocated with major source facilities are subject to the final rule. The final rule requires them to comply with the EG/NSPS. If the design capacity of the collocated landfills is less than 2.5 million Mg or 2.5 million m^3, the landfills comply by submitting a design capacity report as required by the EG/NSPS. The final rule language has been revised to clarify that the final rule applies to these landfills but does not extend the additional final rule requirements and EG/NSPS collection and control requirements to landfills

that do not meet the control device applicability thresholds of the EG/NSPS.

Comment: Several other comments included suggested changes to proposed rule applicability language.

Response: We have revised sections 63.1935, 63.1940, and 63.1945 to clarify the application of the final rule to major sources, area sources and smaller landfills collocated with major sources, as well as identify the affected source for the final rule and clarify the timing of the regulatory requirements. We also added language to section 63.1955 to further explain that landfills required to install a collection and control system under NSPS, Federal, State or tribal plans that implement the EG must also meet the requirements in sections 63.1960 through 63.1980 of the final rule.

Comment: Two commenters requested clarification of the timing of the final rule regulatory requirements. They pointed out that the proposal preamble indicated that the additional requirements of the final rule (compared to the NSPS) do not take effect until the landfill is required to install controls under the EG/NSPS, but the regulation language was not clear.

Response: In response to this comment, we revised section 63.1945 to be consistent with our intent at proposal. The wording of this section continues to require that new sources comply with the final rule on the date of publication of the final rule or at the time they begin operation, whichever is later; and that existing sources comply with the final rule by January 16, 2004. At that time, the source is required to comply with the NSPS or the Federal, State, or tribal plan that implements the EG. We have added language to this section to clarify when landfills must comply with certain requirements within the final rule. New affected sources must comply with the additional final rule requirements (such as the SSM plan and the semiannual reporting of deviations) on the date the landfill is required to install collection and control systems under the NSPS. Existing affected sources must comply with the additional final rule requirements on the date the landfill is required to install collection and control systems under the NSPS, Federal, State or tribal plan or 1 year after publication of the final rule, whichever is later.

B. Major Source Determination

Comment: Several commenters expressed concern that we overestimated the number of major source landfills. The commenters contend that AP–42 emissions factors are incorrect and provide overestimates of landfill gas emissions, that EG/NSPS controls should be taken into account when determining major source status of landfills, and that using NMOC as a HAP surrogate is too arbitrary.

Response: We respond that we used the best method for calculating emissions that is currently available and accepted, which is the current version of AP–42. The EPA program responsible for AP–42 factors is reviewing existing reports and technical data as well as undertaking a landfill testing program to collect additional HAP data. Currently, the data collection and analysis are not yet complete, and could not be completed prior to promulgation of the final rule. When we update the AP–42 chapter on landfill emissions, we will consider all relevant data. However, any update of AP–42 or adjustment of calculation procedures would not affect our regulatory decisions in developing the final rule. We find that the MACT floor is the EG/NSPS level of control. The floor is based on the current level of control at major and synthetic area sources and would not change if there were somewhat fewer or more major sources than previously estimated.

We agree that in determining whether a source is major, enforceable control requirements should be considered. The statement in the proposal preamble identifying 1,140 facilities as major sources may not have been clear. The intent was to say that based on estimates of maximum uncontrolled emissions, 1,140 landfills have potential emissions greater than 10 tpy individual HAP or 25 tpy of a combination of HAP. Some of the 1,140 landfills are major sources and others are "synthetic area" sources (sources that would otherwise be major if not for enforceable emissions controls). Both major and synthetic area sources were correctly included in the MACT floor determination. The CAA does not suggest we exclude a control technology from consideration in the MACT floor because it is so effective it reduces emissions from a source such that the source is no longer a major source of HAP.

To determine major source status for rule applicability, a landfill owner/operator would consider enforceable control requirements such as the NSPS. Since the landfills NESHAP requirements for area sources that meet the NSPS capacity criteria and have uncontrolled NMOC emissions of 50 Mg/yr or greater are the same as for major sources, this classification would not change the control or reporting requirements for the landfill. It should be noted that the final rule has not redefined major source. Major source status is determined according to the NESHAP general provisions definition. Nonmethane organic compounds are a surrogate for HAP control, not for whether a facility is a major source. Nonmethane organic compounds are an appropriate surrogate for HAP control because all HAP regulated by the final rule are contained in the NMOC portion of the landfill gas. Landfill owners/operators are already required to estimate NMOC under the EG/NSPS, and it is not necessary to increase the burden by requiring specific HAP measurements as well.

C. Bioreactors

Comment: We received several comments about the timing of startup of the gas collection and control system. Three commenters expressed concern that due to a wide range of possible development scenarios, commencing operation of the gas collection and control system within 90 days of liquids addition may not be appropriate in all cases. Two of the commenters stated that the generation rates of landfill gas during the initial development phases of bioreactors are a function of many factors and substantial quantities of recoverable landfill gas may not be available due to low waste acceptance rates, hybrid bioreactor operations, high inorganic waste fractions, or low liquids addition rates where gas generation is likely to be similar to that of conventional landfills. Under these circumstances, premature startup of the gas control system may result in significant volumes of air being introduced into the bioreactor, thus killing methane-producing bacteria. These commenters recommended extending the startup time frame to 180 days or establishing a process for waiving or delaying the startup date if local conditions warrant.

Response: In response to this comment, we have changed the final rule to allow 180 days instead of 90 days to begin operation of the collection and control system. We are aware that bioreactors may experience variable emissions rates upon initial liquids addition due to site-specific factors such as those described by the commenters. Furthermore, gas collection systems for bioreactors are site-specific and are likely to use newer designs, so operators may require time to gain experience and make operational adjustments to their systems. The 180 day period will allow time for landfill operators to adjust their collection systems such that they can achieve continuous, stable collection and control system operation.

Comment: Four commenters requested clarification as to whether the

rule was meant to require the operation of the gas collection and control system within 90 days after the initial liquids addition or within 90 days after the moisture content has reached 40 percent. Commenters stated that they believed the intent was to require operation of the gas collection and control system after the moisture content reached 40 percent. The commenters stated that it may take longer than 90 days of liquids addition to reach a moisture content of 40 percent.

Response: It was our intent that attaining 40 percent moisture triggers the operation of the control system, and not merely the introduction of liquids. If operation of the control system is based on the time of liquids addition and the landfill has not reached 40 percent moisture content within 90 days, then the rule (as proposed) would be requiring collection and control to be installed and operated prior to the landfill meeting the definition of a bioreactor. We have revised the final rule to clarify that the operation of the collection and control system is required within 180 days after the landfill starts liquids addition or within 180 days after the bioreactor has reached 40 percent moisture content (i.e. 180 days after the landfill has met the definition of bioreactor), whichever is later. Landfills must use the procedures in section 63.1980(g) and (h) to determine when 40 percent moisture content is reached. (No calculation is needed if you start operating the collection and control system within 180 days after the initial liquids addition.) Installation of the collection and control system is still required prior to liquids addition, as required in the supplemental proposal.

Comment: We received several comments pertaining to the exclusion of landfills that recirculate leachate and do not add any other liquids from the definition of a bioreactor landfill. Three commenters who supported the exclusion stated that liquids addition other than that provided by leachate recirculation is normally needed to achieve optimum moisture for bioreactors. Many landfills recirculate leachate as part of their leachate management system without creating bioreactor conditions. A commenter who opposed the exclusion contended that a landfill in a relatively moist climate could sustain an effective bioreactor operation on leachate recirculation alone. This commenter pointed out that there were odor problems at landfills in his State that began recirculating leachate without a collection and control system. The commenter stated that his State now requires collection and control for all landfills that recirculate leachate. The commenter also expressed concern that landfills recirculating leachate only may reach the 40 percent moisture level in the waste by recirculating leachate from the entire landfill into a single bioreactor cell. Another commenter who opposed the exclusion contended that minimal data from landfills recirculating leachate has been collected to allow for the exclusion.

Response: We have not changed the bioreactor definition. A very small percentage of bioreactors in moist climates would reach moisture content of 40 percent with leachate recirculation only. Due to variations in rainfall throughout the year, it would be difficult to consistently maintain a high moisture content in the waste to function as a fully operational bioreactor. We expect that landfill owners that decide to create bioreactors in the future will typically plan to operate a large area as a bioreactor to achieve potential benefits such as earlier stabilization of waste, extended use of current sites and reduced need for new sites. Liquids addition would be needed to maintain such bioreactors.

It would be a large and unnecessary burden to require potentially hundreds of landfills that recirculate leachate, but do not add any other liquids, to calculate their percent moisture content and determine if they are a bioreactor, when we expect that they will not meet the 40 percent moisture criteria in the definition of a bioreactor. These landfills would still be subject to the final rule and EG/NSPS control requirements for conventional landfills, which will require gas collection and control after their estimated uncontrolled NMOC emissions reach 50 Mg/yr. State, local, or tribal agencies may develop more stringent State or local regulations for landfills recirculating leachate in cases where odor or air emissions warrant active landfill gas collection and control.

Comment: One commenter pointed out that the potential exists for smaller bioreactor landfills that add liquids, to generate significant air emissions that warrant timely installation of gas collection and control systems. The commenter recommended requiring control of bioreactors at landfills with design capacities less than 2.5 million Mg or 2.5 million m^3.

Response: We have not changed our conclusion since proposal. In determining GACT for area sources, we decided not to require control at small area source conventional or bioreactor landfills. While bioreactors generate larger amounts of landfill gas early in their life, we expect that their lifetime total landfill gas generation potential would not be significantly greater than a conventional landfill accepting the same total amount of waste. Therefore, potential emissions reductions from control of bioreactors would be similar to potential long-term emissions reductions from control of small conventional landfills. Requiring bioreactors at small landfills (i.e., landfills with design capacities less than 2.5 million Mg or 2.5 million m^3) to install controls would result in additional control costs because they are not required to install controls by the EG/NSPS. The design capacity exemption excludes those landfills that can least afford the costs of collection and control systems including small businesses and, particularly, municipalities. Other reasons for exempting small landfills are described in the proposed landfills NESHAP (65 FR 66677, November 7, 2000) and also apply to bioreactors.

Comment: Four commenters encouraged us to include aerobic bioreactor operations by imposing the anaerobic bioreactor emissions requirements on aerobic bioreactor landfills. Two of these commenters provide references to available literature on MSW composting. They suggested that controls for aerobic bioreactor landfills may be warranted, although one of these commenters concluded that there is not enough scientifically valid data to develop a MACT standard for aerobic bioreactor landfills. Five other commenters agreed there is limited data, especially HAP emissions data, and believe it is important to exclude aerobic bioreactors at this time.

Response: The references provided for composting operations are not applicable because composting of MSW is not the same as operating an aerobic bioreactor within a MSW landfill. We know of no full scale aerobic bioreactors in operation in the United States, and an insufficient amount of aerobic landfill data are available to properly characterize HAP emissions from aerobic bioreactors. We expect a significant number of aerobic bioreactors will not be built in the next several years (in contrast to the trend for anaerobic bioreactors). For these reasons, we have determined that it is not appropriate to include aerobic bioreactors in the bioreactor definition or related timing requirements. Portions of a landfill that are operated as aerobic bioreactors would continue to be subject to the EG/NSPS and the final rule requirements for conventional landfills. Under section 112(f) of the CAA, we

will evaluate residual risks and promulgate standards to address residual risks within 8 years of promulgation of the final rule. In addition, section 112(d)(6) requires review of the final rule every 8 years. At that time, we will consider any new information on the prevalence and emissions of aerobic bioreactors to determine if additional requirements are necessary.

D. Mercury

Comment: Four commenters questioned the reliability of the available mercury data. Some commenters quoted mercury emissions tests that showed mercury emissions from MSW landfills to be insignificant.

Response: We considered data from a number of studies, including one specifically mentioned by the commenters, prior to proposal. We found insufficient data to adequately characterize the concentrations of mercury in landfill gas or determine their significance. Based on the available information, we concluded that the MACT floor for mercury is no emissions reductions and because there are no alternatives above that floor, the MACT standard is also no reduction in emissions.

Comment: Other commenters wrote in support of the cooperative efforts of EPA and the Environmental Research and Education Foundation to conduct tests for HAP metals such as mercury in landfill gas and emissions from gas combustion. The commenters suggested waiting until the test results are complete before making any decision on mercury controls. Another commenter also asked us to clarify the level of mercury emissions from MSW landfill gas and requested that we investigate beyond-the-floor control options.

Response: We find that the currently available data support the promulgation of the rulemaking without a mercury emissions limit. Because there are no control devices, pollution prevention practices or other techniques to reduce landfill mercury emissions, we could not identify any beyond-the-floor control options, and we consider the MACT for new and existing landfills to be no reduction in mercury emissions.

E. Title V Operating Permits

Comment: A commenter recommended that we delete the requirement mandating that area sources be required to obtain a title V permit and instead allow part 60 to address the permitting of area source landfills. The commenter further suggested that if we retain the requirement of permitting area source landfills, that we justify why area source landfills must be permitted.

Response: In response to that comment, title V requirements included in § 63.1935 at proposal have been deleted. We further respond that section 502(a) of the CAA requires any source, including an area source, subject to standards or regulations under section 111 or 112 of the CAA to operate in compliance with a title V permit after the effective date of any title V permits program. This section states that the Administrator may promulgate regulations to exempt one or more source categories, in whole or in part, from the requirements of the section if the Administrator finds that compliance with title V requirements is impracticable, infeasible, or unnecessarily burdensome on such categories. Thus, we do not need to justify requiring title V permits. The CAA mandates criteria that must be met to justify an exemption for any category of sources. According to section 502(a), however, the Administrator may not exempt any major source from the requirements of title V.

Although section 502(a) requires that area sources subject to regulations under section 111 or 112 be permitted unless the test in this section is met (i.e., the Administrator finds that compliance with title V permitting requirements is impracticable, infeasible, or unnecessarily burdensome), we are not applying this test to the landfills NESHAP.[1] Rather, consistent with what the commenter suggested, EPA is allowing the EG/NSPS for MSW landfills to address the permitting requirements for area source landfills. This approach is justified because the same universe of area source landfills would have been required to apply for a title V permit under the final rule (if the final rule were promulgated as proposed) as is currently subject to title V permitting requirements under the NSPS for landfills and whatever plan is used to implement 40 CFR part 60, subpart Cc in an area (i.e., an EPA approved and effective section 111(d) State or tribal plan for landfills or the landfills Federal plan (40 CFR part 62, subpart GGG)). Moreover, most area source landfills which have a design capacity equal to or greater than 2.5 million Mg and 2.5 million m^3 have already been required to apply for a title V permit due to either the NSPS for landfills, an EPA approved and effective section 111(d) State or tribal plan for landfills, or the landfills Federal plan. See 40 CFR 60.752(c), 60.32c(c), and 62.14352(e). See also the "Clarification of Title V Permitting Requirements" section of the EG/NSPS direct final rule amendments for MSW Landfills (63 FR 32743, 32746, June 16, 1998). In fact, unless the owner/operator of a MSW landfill only recently commenced construction of the landfill and has not yet been required to file a design capacity report (which the NSPS requires within 90 days after the owner/operator commences construction), all area source landfills of the design capacity noted above and which meet the definition of new or existing under the EG/NSPS should have already applied for a title V permit. As a result, EPA believes that it is unnecessary for area sources to be required to apply for a title V permit as a result of the landfills NESHAP.

If a MSW landfill is a major source or is a part of a major source as defined under one or more of title V's three major source definitions (section 112, section 302, and part D of title I of the CAA),[2] a title V application from such a source may be due even earlier than the deadlines established by 40 CFR part 60, subpart WWW, any EPA approved and effective section 111(d) State or tribal plan, or the landfills Federal plan. When a source is subject to title V for more than one reason (e.g., meeting the title V applicability criteria in subpart WWW as well as having the potential to emit one or more pollutants at major source levels), the 12-month timeframe (or earlier if required by the title V permitting authority) for submitting a title V application is triggered by the requirement which first causes the source to become subject to title V. See CAA section 503(c) and 40 CFR 70.3(a) and (b), 70.5(a)(1), 71.3(a) and (b), and 71.5(a)(1). See also the "Clarification of Title V Permitting Requirements" section of the EG/NSPS direct final rule for MSW Landfills (63 FR 32743, 32746, June 16, 1998).[3]

[1] It is important to note that the determination regarding the permitting of area sources under this NESHAP does not affect the permitting of area sources under other section 111 or 112 standards. Rather, to exempt area sources under either a section 111 or 112 standard, the test in section 502(a) must be met. If commenters choose to try and meet this test when commenting on a proposed section 111 or 112 standard, they must submit comments which document in detail the ways in which title V requirements are impracticable, infeasible, or unnecessarily burdensome for the source catergory in question.

[2] For information on aggregating emissions units to determine what is a source under title V, see the definition of *major source* in 40 CFR 70.2, 71.2, and 63.2. Nothing in this subpart revises how affected sources are aggregated for purposes of determining whether an affected source is a part of an area, nonmajor, or major source under any provisions of the CAA or EPA's regulations.

[3] Consistent with the above, it is important to note that an application deadline once established

Given that most area source landfills subject to the final rule are already subject to the requirements of title V, it is important to note the following. In cases where the owner/operator of a landfill has submitted a timely and complete title V application[4], but the draft title V permit has not yet been released by the permitting authority, the owner/operator must supplement his title V application [5] by incorporating the applicable requirements of the final landfills NESHAP in accordance with 40 CFR 70.5(b) or 71.5(b). Additionally, if a landfill is a major source, or is a part of a major source, and is covered by a title V permit with a remaining permit term of 3 or more years on the promulgation date of the landfills NESHAP, the title V permitting authority must complete a reopening of the source's title V permit to incorporate the requirements of the final rule within 18 months of the promulgation date of the final rule. See CAA section 502(b)(9) and 40 CFR 70.7(f)(1)(i) and 71.7(f)(1)(i).

Comment: Two commenters recommended that we clarify that deviations that are properly addressed in accordance with the SSM plan under the proposed rule will not become violations under any CAA program or permit, such as a title V permit, in which the standard, limitation, prohibition, or other Federally-enforceable requirement is contained. The commenters stated that the proposed rule suggested that any deviations that occur during SSM would not be violations under section 112 if the SSM plan were adequate and followed. The commenters are concerned that such a deviation might be considered a violation under title V and/or the EG/NSPS for MSW landfills.

Response: To the extent that a source is in compliance with the applicable SSM provisions of parts 60 and 63, the source is in compliance with its title V permit with respect to these specific applicable requirements. In terms of the EG/NSPS for landfills, deviations, and, therefore, potential violations, will be defined by the applicable requirements (i.e., 40 CFR part 60, subpart WWW, an EPA approved and effective State or tribal plan, or the landfills Federal plan.)

Furthermore, in response to this comment, section 63.1970 has been removed from the final rule to eliminate any confusion regarding the use of SSM plans. Given that the revisions to the General Provisions for part 63 (67 FR 16582, April 5, 2002) included revisions to 40 CFR 63.6(e), a subsection which addresses SSM plans, and given the other language in the General Provisions for parts 60 and 63, the NSPS for landfills, and the landfills Federal plan relevant to this topic, EPA does not believe a regulatory section regarding the use of SSM plans is needed in the final rule. See 40 CFR 60.11(c), 60.755(e), 63.6(e), 63.6(f)(1), and 62.14354(b).

Comment: Two commenters requested a more detailed discussion of which reporting requirements under the final rule would satisfy specific requirements under the title V program. The commenters cited a specific example: the proposed rule requires that the landfill owner/operator notify EPA within 2 days of a SSM event. The commenters questioned whether this requirement would satisfy the prompt reporting requirements of the title V program.

Response: As many owners/operators of landfills subject to this subpart will have the requirements of the final rule in their title V permits, any reports submitted for such sources will need to satisfy the reporting requirements of the landfills NESHAP and title V (e.g., type of report, content of report, and frequency of submission.) A permitting authority is not, however, precluded from consolidating required reports as long as all reporting requirements of the landfills NESHAP and title V are met.

We would like to emphasize that under 40 CFR part 70 or 71, any application form, report, compliance certification, or other document required by a permit to be submitted to a permitting authority must contain certification by a responsible official that the statements and information in the document are true, accurate, and complete. See 40 CFR 70.5(d), 70.6(c)(1), 71.5(d), and 71.6(c)(1). Thus, to the extent reports submitted under the final rule are also required by a title V permit to be submitted, they must meet the title V certification requirement to meet the reporting requirements of title V.

The commenters mentioned a specific requirement in 40 CFR 63.10(d)(5)(ii). This provision states that any time an owner/operator takes an action during a SSM event which is not consistent with the procedures specified in the affected source's SSM plan, the owner/operator shall report the actions taken for that event within 2 working days after commencing actions inconsistent with the plan followed by a letter within 7 working days after the end of the event. The commenters questioned whether this requirement would satisfy the prompt reporting requirements of title V.

In terms of the prompt reporting of deviations, 40 CFR 70.6(a)(3)(iii)(B) requires the permitting authority to define prompt in relation to the degree and type of deviation likely to occur and the applicable requirements. Therefore, it is the responsibility of the part 70 permitting authority to determine whether the timing of reports under 40 CFR 63.10(d)(5)(ii) is sufficient to meet the permitting authority's requirements for the prompt reporting of deviations. The permitting authority may decide for a particular source or source category, or as a general matter, to impose more stringent reporting requirements (e.g., type of report, content of report, and frequency of submission) than those specified in the applicable requirement.

IV. Summary of the Energy, Environmental, and Economic Impacts

We foresee minimal economic impacts to major sources since all of these landfills are currently required to comply with the EG/NSPS. For such sources, the final rule will only impose a requirement to prepare a SSM plan, recordkeeping and reporting requirements for SSM events, and semiannual reports instead of annual reports. The expected annual cost to affected major source landfills is only $1,700 (1998 dollars), which represents less than 0.001 percent of the tipping fees collected by an average sized landfill. For more information on the economic impacts of the standards, refer to the economic impact analysis in the docket.

We also foresee no environmental, energy, or economic impacts for collection and control of landfill gas to area source landfills. As with major source landfills, all area source landfills subject to the final rule are already required to implement the EG/NSPS. Area source landfills that are too small to trigger the EG/NSPS applicability are not subject to control under the

for a source cannot be superseded by another later application deadline unless the title V program itself changes (e.g., a State program under 40 CFR part 70 becomes a Federal program under 40 CFR part 71).

[4] A title V application should be submitted early enough for the permitting authority to find the application either complete or incomplete before the title V application deadline. In the event the application is found incomplete by the permitting authority, the source must submit the information needed to make the application complete by the application deadline in order to obtain an application shield. (An application shield allows a source to operate without being in violation of title V prior to being issued a final title V permit.) To maintain an application shield, a source must submit information as requested by the permitting authority and by the specified deadline. See section 503(d) of the CAA, 40 CFR 70.5(a)(2), 70.7(b), 71.5(a)(2), and 71.7(b).

[5] A title V application from a major source must address all emissions units at the title V source, not just the section 111 or 112 emissions unit. See 40 CFR 70.3(c)(1) and 71.3(c)(1).

standards and, therefore, will not incur impacts.

We expect a positive environmental impact and negligible economic impacts from the requirements for bioreactors. One reason for the small economic impact is that the final rule bioreactor provisions will require gas collection and control for only the same landfills that are already required to install collection and control systems under the EG/NSPS and the final rule. It will not change the number of landfills that must apply controls.

In the analysis described in the supplemental proposal (67 FR 36460, May 23, 2002), we found that greater emissions reductions are achieved by timely control of bioreactor landfills. The analysis also concludes that the bioreactor provisions will not increase the costs of control for most landfills compared to the previous EG/NSPS and final rule cost analyses, and some landfills with bioreactors will experience reduced control costs. We expect the number of bioreactors to increase over the next few years given their potential environmental and economic benefits, and pending regulatory clarifications. A regulation proposed under 40 CFR 258 (67 FR 39662) will provide approved States the ability to issue research, development, and demonstration permits to allow liquids other than leachate to be recirculated into bioreactor landfills. Promulgation of the regulation will lift a barrier for some landfills to become bioreactors and, therefore, is likely to result in an increase of bioreactor landfills. Overall, the bioreactor provisions of the final rule will have minimal economic impacts and may in fact have an overall beneficial economic impact. Additional information on this analysis, including example cases examined, HAP emissions reductions, and NMOC emissions reductions, are contained in Docket No. A–98–28 and in the supplemental proposal (67 FR 36460).

V. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is "significant" and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that the final rule is not a "significant regulatory action" because the final rule will not have an annual effect on the economy of $100 million or more and does not impose any additional control requirements above the 1996 EG/NSPS. We considered the 1996 EG/NSPS to be "significant" because the 1996 EG/NSPS were expected to have an annual effect on the economy in excess of $100 million. We submitted the 1996 EG/NSPS to OMB for review (61 FR 9905, March 12, 1996). The rule promulgated today is projected to have no significant impact above the 1996 EG/NSPS. Consequently, the final rule was not submitted to OMB for review under Executive Order 12866.

B. 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" 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 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. We have concluded the final rule may create a mandate on a number of city and county governments, and the Federal government would not provide the funds necessary to pay the direct costs incurred by the city and county governments in complying with the mandate. However, it will not impose substantial direct compliance costs on State or local governments, it will not preempt State law. Thus, Executive Order 13132 does not apply to the final rule.

Although section 6 of Executive Order 13132 does not apply to the final rule, EPA did consult with State and local governments in developing the 1996 EG/NSPS. The EPA consulted extensively with State and local governments early in the process of developing the proposed regulations to permit them to have meaningful and timely input into its development. Because the control requirements of the final rule are substantially the same as those developed in 1996, the previous consultations still apply. In addition, State and local government agencies participated in a conference call on the bioreactor provisions of the final rule, and provided comments on the proposal, which we considered. For a discussion of our consultations with State and local governments, the nature of the governments' concerns, and our position supporting the need for the specific control requirements included in both the EG/NSPS and the final rule, see the preamble to the 1996 EG/NSPS (60 FR 9918, March 12, 1996).

C. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, (65 FR 67249, November 9, 2000), requires us 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 rule does not have tribal implications, as specified in Executive Order 13175. Information received from the Regions during development of the Federal Plan showed no landfills on tribal land large enough to require control under the NSPS or the final rule. Thus, Executive Order 13175 does not apply to the final rule.

D. 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 Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we 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 we considered.

We interpret 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.

The final rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866 and because it is based on technology performance and not on health and safety risks. Furthermore, as no alternative technologies exist that would provide greater stringency at a reasonable cost, the results of any children's health analysis would have no impact on the stringency decision.

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

The final rule is not subject to Executive Order 13211, (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

F. Unfunded Mandates Reform Act (UMRA) of 1995

Title II of the 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, we 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 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 we publish 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 a small government agency plan under section 203 of the UMRA. 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 our regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that the 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 1 year. The average total annual cost of the final rule for any year has been estimated to be less than $2.2 million. Thus, the final rule is not subject to the requirements of section 202 and 205 of the UMRA. In addition, we have determined that the final rule contains no regulatory requirements that might significantly or uniquely affect small governments because the burden is small and the regulation does not unfairly apply to small government. Therefore, the final rule is not subject to the requirements of section 203 of the UMRA.

G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 United States Code (U.S.C.). 601 et seq.

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final rule. The EPA has also determined that the final rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impact of the final rule on small entities, small entities are defined as: (1) A small business that is primarily engaged in the collection and disposal of refuse in a landfill operation as defined by North American Industrial Classification System (NAICS) codes 562212 and 924110 with annual receipts less than 10 million dollars; (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 the final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. We have determined that small entities will experience little impact since the final rule relies on the requirements specified in 40 CFR part 60, subparts Cc and WWW. Additional requirements for the final rule are limited to a slight increase in the reporting frequency of some reports and the development of a SSM plan. This increase in requirements leads to an increase in annual costs to each affected landfill of $1700 (1998 dollars), an increase of less than 0.001 percent of the tipping fees taken in by a landfill of average size nationally. Hence, the estimated impacts to small communities, organizations, and firms from the final rule should be insignificant. For more information on the economic impacts, refer to the economic analysis in the docket.

Although the final rule for MSW landfills will not have a significant economic impact on a substantial number of small entities, we nonetheless have tried to reduce the impact of the final rule on small entities. To that end, we have evaluated the operational practices, collection systems and control systems required by 40 CFR part 60, subparts Cc and WWW, for co-control environmental benefits. Since the requirements in 40 CFR part 60, subparts Cc and WWW, adequately address the emissions of HAP while controlling landfill gas, we are using these same requirements with a slight increase in reporting activity/frequency for the final rule. In addition to the reduction effort, we performed a number of outreach activities to interact with small entities during the development of the rule. We held formal stakeholder meetings. In addition, we presented rule related information at national conferences sponsored by the trade organizations for these entities, and we requested the establishment of an electronic link between the International City/County Management Association website and our rule development website. Through the efforts discussed above, small entities have been engaged in the rulemaking effort.

H. Paperwork Reduction Act

The information collection requirements in the final rule are being submitted for approval to OMB under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA,

and a (ICR No. 1938.02) copy may be obtained from Susan Auby by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822T), 1200 Pennsylvania Avenue, NW, Washington, DC 20460, by email at *auby.susan@epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded off the Internet at "*http://www.epa.gov/icr*".

The information would be used to ensure that the requirements for the rule are implemented properly and are complied with on a continuous basis. Records and reports are necessary to enable us to identify MSW landfills that may not be in compliance with this standard. Based on reported information, we would decide which landfills should be inspected and what records or processes should be inspected. The records that owners or operators of MSW landfills maintain would indicate to us whether personnel are operating and maintaining control equipment properly.

The final rule is projected to affect approximately 1,331 MSW landfills in the first year. The estimated average annual burden for industry for the first 3 years after promulgation of this NESHAP would be 39,360 person-hours annually. There will be $13,128 of operation and maintenance costs associated with monitoring or recordkeeping during the first 3 years. The estimated average annual burden, over the first 3 years, for the implementing agency would be 21,105 hours with a cost of $843,150 (including travel expenses) per year.

Burden means 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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

I. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, all Federal agencies are required to use voluntary consensus standards (VCS) in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA requires Federal agencies such as EPA to provide Congress, through annual reports to the OMB, with explanations when an agency does not use available and applicable VCS.

The final rule references 40 CFR part 60, subpart WWW—Standards of Performance for Municipal Solid Waste Landfills. Since there are no new standard requirements in the final rule, and there are no new technical standard requirements resulting from specifying subpart WWW in the final rule, we are not adopting any VCS in the final rule. Landfills have been using the methods in 40 CFR part 60, subpart WWW since March 1996 and are familiar with these technical standards. In addition, no new VCS have been identified, although comments on applicable VCS were requested at the time of proposal. We received no comments on the subject. Also, landfills may request approval to use alternative testing or monitoring methods, as stated in the final rule.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the 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 United States. Therefore, we will submit a report containing the 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**. The final rule is not a "major rule" as defined by 5 U.S.C. 804(2), and, therefore, will be effective January 16, 2003.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: November 26, 2002.

Christine Todd Whitman,

Administrator.

For the reasons cited 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.*

2. Part 63 is amended by adding a new subpart AAAA to read as follows:

Subpart AAAA—National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills

Sec.

What This Subpart Covers

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63.1935 Am I subject to this subpart?
63.1940 What is the affected source of this subpart?
63.1945 When do I have to comply with this subpart?
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Tables to Subpart AAAA of Part 63

Table 1 of Subpart AAAA of Part 63—Applicability of NESHAP General Provisions to Subpart AAAA

What This Subpart Covers

§ 63.1930 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants for existing and new municipal solid waste (MSW) landfills. This subpart requires all landfills described in § 63.1935 to meet the requirements of 40 CFR part 60, subpart Cc or WWW and requires timely control of bioreactors. This subpart also requires such landfills to meet the startup, shutdown, and malfunction (SSM) requirements of the general provisions of this part and provides that compliance with the operating conditions shall be demonstrated by parameter monitoring results that are within the specified ranges. It also includes additional reporting requirements.

§ 63.1935 Am I subject to this subpart?

You are subject to this subpart if you meet the criteria in paragraph (a) or (b) of this section.

(a) You are subject to this subpart if you own or operate a MSW landfill that has accepted waste since November 8, 1987 or has additional capacity for waste deposition and meets any one of the three criteria in paragraphs (a)(1) through (3) of this section:

(1) Your MSW landfill is a major source as defined in 40 CFR 63.2 of subpart A.

(2) Your MSW landfill is collocated with a major source as defined in 40 CFR 63.2 of subpart A.

(3) Your MSW landfill is an area source landfill that has a design capacity equal to or greater than 2.5 million megagrams (Mg) and 2.5 million cubic meters (m^3) and has estimated uncontrolled emissions equal to or greater than 50 megagrams per year (Mg/yr) NMOC as calculated according to § 60.754(a) of the MSW landfills new source performance standards in 40 CFR part 60, subpart WWW, the Federal plan, or an EPA approved and effective State or tribal plan that applies to your landfill.

(b) You are subject to this subpart if you own or operate a MSW landfill that has accepted waste since November 8, 1987 or has additional capacity for waste deposition, that includes a bioreactor, as defined in § 63.1990, and that meets any one of the criteria in paragraphs (b)(1) through (3) of this section:

(1) Your MSW landfill is a major source as defined in 40 CFR 63.2 of subpart A.

(2) Your MSW landfill is collocated with a major source as defined in 40 CFR 63.2 of subpart A.

(3) Your MSW landfill is an area source landfill that has a design capacity equal to our greater than 2.5 million Mg and 2.5 million m^3 and that is not permanently closed as of January 16, 2003.

§ 63.1940 What is the affected source of this subpart?

(a) An affected source of this subpart is a MSW landfill, as defined in § 63.1990, that meets the criteria in § 63.1935(a) or (b). The affected source includes the entire disposal facility in a contiguous geographic space where household waste is placed in or on land, including any portion of the MSW landfill operated as a bioreactor.

(b) A new affected source of this subpart is an affected source that commenced construction or reconstruction after November 7, 2000. An affected source is reconstructed if it meets the definition of reconstruction in 40 CFR 63.2 of subpart A.

(c) An affected source of this subpart is existing if it is not new.

§ 63.1945 When do I have to comply with this subpart?

(a) If your landfill is a new affected source, you must comply with this subpart by January 16, 2003 or at the time you begin operating, whichever is last.

(b) If your landfill is an existing affected source, you must comply with this subpart by January 16, 2004.

(c) If your landfill is a new affected source and is a major source or is collocated with a major source, you must comply with the requirements in §§ 63.1955(b) and 63.1960 through 63.1980 by the date your landfill is required to install a collection and control system by 40 CFR 60.752(b)(2) of subpart WWW.

(d) If your landfill is an existing affected source and is a major source or is collocated with a major source, you must comply with the requirements in §§ 63.1955(b) and 63.1960 through 63.1980 by the date your landfill is required to install a collection and control system by 40 CFR 60.752(b)(2) of subpart WWW, the Federal plan, or EPA approved and effective State or tribal plan that applies to your landfill or by January 13, 2004, whichever occurs later.

(e) If your landfill is a new affected source and is an area source meeting the criteria in § 63.1935(a)(3), you must comply with the requirements of §§ 63.1955(b) and 63.1960 through 63.1980 by the date your landfill is required to install a collection and control system by 40 CFR 60.752(b)(2) of subpart WWW.

(f) If your landfill is an existing affected source and is an area source meeting the criteria in § 63.1935(a)(3), you must comply with the requirements in §§ 63.1955(b) and 63.1960 through 63.1980 by the date your landfill is required to install a collection and control system by 40 CFR 60.752(b)(2) of subpart WWW, the Federal plan, or EPA approved and effective State or tribal plan that applies to your landfill or by January 16, 2004, whichever occurs later.

§ 63.1947 When do I have to comply with this subpart if I own or operate a bioreactor?

You must comply with this subpart by the dates specified in § 63.1945(a) or (b) of this subpart. If you own or operate a bioreactor located at a landfill that is not permanently closed as of January 16, 2003 and has a design capacity equal to or greater than 2.5 million Mg and 2.5 million m^3, then you must install and operate a collection and control system that meets the criteria in 40 CFR 60.752(b)(2)(v) of part 60, subpart WWW, the Federal plan, or EPA approved and effective State plan according to the schedule specified in paragraph (a), (b), or (c) of this section.

(a) If your bioreactor is at a new affected source, then you must meet the requirements in paragraphs (a)(1) and (2) of this section:

(1) Install the gas collection and control system for the bioreactor before initiating liquids addition.

(2) Begin operating the gas collection and control system within 180 days after initiating liquids addition or within 180 days after achieving a moisture content of 40 percent by weight, whichever is later. If you choose to begin gas collection and control system operation 180 days after achieving a 40 percent moisture content instead of 180 days after liquids addition, use the procedures in § 63.1980(g) and (h) to determine when the bioreactor moisture content reaches 40 percent.

(b) If your bioreactor is at an existing affected source, then you must install and begin operating the gas collection and control system for the bioreactor by January 17, 2006 or by the date your bioreactor is required to install a gas collection and control system under 40 CFR part 60, subpart WWW, the Federal plan, or EPA approved and effective State plan or tribal plan that applies to your landfill, whichever is earlier.

(c) If your bioreactor is at an existing affected source and you do not initiate liquids addition to your bioreactor until later than January 17, 2006, then you

must meet the requirements in paragraphs (c)(1) and (2) of this section:

(1) Install the gas collection and control system for the bioreactor before initiating liquids addition.

(2) Begin operating the gas collection and control system within 180 days after initiating liquids addition or within 180 days after achieving a moisture content of 40 percent by weight, whichever is later. If you choose to begin gas collection and control system operation 180 days after achieving a 40 percent moisture content instead of 180 days after liquids addition, use the procedures in § 63.1980(g) and (h) to determine when the bioreactor moisture content reaches 40 percent.

§ 63.1950 When am I no longer required to comply with this subpart?

You are no longer required to comply with the requirements of this subpart when you are no longer required to apply controls as specified in 40 CFR 60.752(b)(2)(v) of subpart WWW, or the Federal plan or EPA approved and effective State plan or tribal plan that implements 40 CFR part 60, subpart Cc, whichever applies to your landfill.

§ 63.1952 When am I no longer required to comply with the requirements of this subpart if I own or operate a bioreactor?

If you own or operate a landfill that includes a bioreactor, you are no longer required to comply with the requirements of this subpart for the bioreactor provided you meet the conditions of either paragraphs (a) or (b).

(a) Your affected source meets the control system removal criteria in 40 CFR 60.752(b)(2)(v) of part 60, subpart WWW or the bioreactor meets the criteria for a nonproductive area of the landfill in 40 CFR 60.759(a)(3)(ii) of part 60, subpart WWW.

(b) The bioreactor portion of the landfill is a closed landfill as defined in 40 CFR 60.751, subpart WWW, you have permanently ceased adding liquids to the bioreactor, and you have not added liquids to the bioreactor for at least 1 year. A closure report for the bioreactor must be submitted to the Administrator as provided in 40 CFR 60.757(d) of subpart WWW.

(c) Compliance with the bioreactor control removal provisions in this section constitutes compliance with 40 CFR part 60, subpart WWW or the Federal plan, whichever applies to your bioreactor.

Standards

§ 63.1955 What requirements must I meet?

(a) You must fulfill one of the requirements in paragraph (a)(1) or (2) of this section, whichever is applicable:

(1) Comply with the requirements of 40 CFR part 60, subpart WWW.

(2) Comply with the requirements of the Federal plan or EPA approved and effective State plan or tribal plan that implements 40 CFR part 60, subpart Cc.

(b) If you are required by 40 CFR 60.752(b)(2) of subpart WWW, the Federal plan, or an EPA approved and effective State or tribal plan to install a collection and control system, you must comply with the requirements in §§ 63.1960 through 63.1985 and with the general provisions of this part specified in table 1 of this subpart.

(c) For approval of collection and control systems that include any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, recordkeeping or reporting provisions, you must follow the procedures in 40 CFR 60.752(b)(2). If alternatives have already been approved under 40 CFR part 60 subpart WWW or the Federal plan, or EPA approved and effective State or tribal plan, these alternatives can be used to comply with this subpart, except that all affected sources must comply with the SSM requirements in Subpart A of this part as specified in Table 1 of this subpart and all affected sources must submit compliance reports every 6 months as specified in § 63.1980(a) and (b), including information on all deviations that occurred during the 6-month reporting period. Deviations for continuous emission monitors or numerical continuous parameter monitors must be determined using a 3 hour monitoring block average.

(d) If you own or operate a bioreactor that is located at a MSW landfill that is not permanently closed and has a design capacity equal to or greater than 2.5 million Mg and 2.5 million m^3, then you must meet the requirements of paragraph (a) and the additional requirements in paragraphs (d)(1) and (2) of this section.

(1) You must comply with the general provisions specified in Table 1 of this subpart and §§ 63.1960 through 63.1985 starting on the date you are required to install the gas collection and control system.

(2) You must extend the collection and control system into each new cell or area of the bioreactor prior to initiating liquids addition in that area, instead of the schedule in 40 CFR 60.752(b)(2)(ii)(A)(*2*).

General and Continuing Compliance Requirements

§ 63.1960 How is compliance determined?

Compliance is determined in the same way it is determined for 40 CFR part 60, subpart WWW, including performance testing, monitoring of the collection system, continuous parameter monitoring, and other credible evidence. In addition, continuous parameter monitoring data, collected under 40 CFR 60.756(b)(1), (c)(1), and (d) of subpart WWW, are used to demonstrate compliance with the operating conditions for control systems. If a deviation occurs, you have failed to meet the control device operating conditions described in this subpart and have deviated from the requirements of this subpart. Finally, you must develop and implement a written SSM plan according to the provisions in 40 CFR 63.6(e)(3). A copy of the SSM plan must be maintained on site. Failure to write, implement, or maintain a copy of the SSM plan is a deviation from the requirements of this subpart.

§ 63.1965 What is a deviation?

A deviation is defined in § 63.1990. For the purposes of the landfill monitoring and SSM plan requirements, deviations include the items in paragraphs (a) through (c) of this section.

(a) A deviation occurs when the control device operating parameter boundaries described in 40 CFR 60.758(c)(1) of subpart WWW are exceeded.

(b) A deviation occurs when 1 hour or more of the hours during the 3-hour block averaging period does not constitute a valid hour of data. A valid hour of data must have measured values for at least three 15-minute monitoring periods within the hour.

(c) A deviation occurs when a SSM plan is not developed, implemented, or maintained on site.

§ 63.1975 How do I calculate the 3-hour block average used to demonstrate compliance?

Averages are calculated in the same way as they are calculated in 40 CFR part 60, subpart WWW, except that the data collected during the events listed in paragraphs (a), (b), (c), and (d) of this section are not to be included in any average computed under this subpart:

(a) Monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments.

(b) Startups.

(c) Shutdowns.

(d) Malfunctions.

Notifications, Records, and Reports

§ 63.1980 What records and reports must I keep and submit?

(a) Keep records and reports as specified in 40 CFR part 60, subpart WWW, or in the Federal plan, EPA approved State plan or tribal plan that implements 40 CFR part 60, subpart Cc, whichever applies to your landfill, with one exception: You must submit the annual report described in 40 CFR 60.757(f) every 6 months.

(b) You must also keep records and reports as specified in the general provisions of 40 CFR part 60 and this part as shown in Table 1 of this subpart. Applicable records in the general provisions include items such as SSM plans and the SSM plan reports.

(c) For bioreactors at new affected sources you must submit the initial semiannual compliance report and performance test results described in 40 CFR 60.757(f) within 180 days after the date you are required to begin operating the gas collection and control system by § 63.1947(a)(2) of this subpart.

(d) For bioreactors at existing affected sources, you must submit the initial semiannual compliance report and performance test results described in 40 CFR 60.757(f) within 180 days after the compliance date specified in § 63.1947(b) of this subpart, unless you have previously submitted a compliance report for the bioreactor required by 40 CFR part 60, subpart WWW, the Federal plan, or an EPA approved and effective State plan or tribal plan.

(e) For bioreactors that are located at existing affected sources, but do not initiate liquids addition until later than the compliance date in § 63.1947(b) of this subpart, you must submit the initial semiannual compliance report and performance tests results described in 40 CFR 60.757(f) within 180 days after the date you are required to begin operating the gas collection and control system by § 63.1947(c) of this subpart.

(f) If you must submit a semiannual compliance report for a bioreactor as well as a semiannual compliance report for a conventional portion of the same landfill, you may delay submittal of a subsequent semiannual compliance report for the bioreactor according to paragraphs (f)(1) through (3) of this section so that the reports may be submitted on the same schedule.

(1) After submittal of your initial semiannual compliance report and performance test results for the bioreactor, you may delay submittal of the subsequent semiannual compliance report for the bioreactor until the date the initial or subsequent semiannual compliance report is due for the conventional portion of your landfill.

(2) You may delay submittal of your subsequent semiannual compliance report by no more than 12 months after the due date for submitting the initial semiannual compliance report and performance test results described in 40 CFR 60.757(f) for the bioreactor. The report shall cover the time period since the previous semiannual report for the bioreactor, which would be a period of at least 6 months and no more than 12 months.

(3) After the delayed semiannual report, all subsequent semiannual reports for the bioreactor must be submitted every 6 months on the same date the semiannual report for the conventional portion of the landfill is due.

(g) If you add any liquids other than leachate in a controlled fashion to the waste mass and do not comply with the bioreactor requirements in §§ 63.1947, 63.1955(c) and 63.1980(c) through (f) of this subpart, you must keep a record of calculations showing that the percent moisture by weight expected in the waste mass to which liquid is added is less than 40 percent. The calculation must consider the waste mass, moisture content of the incoming waste, mass of water added to the waste including leachate recirculation and other liquids addition and precipitation, and the mass of water removed through leachate or other water losses. Moisture level sampling or mass balances calculations can be used. You must document the calculations and the basis of any assumptions. Keep the record of the calculations until you cease liquids addition.

(h) If you calculate moisture content to establish the date your bioreactor is required to begin operating the collection and control system under § 63.1947(a)(2) or (c)(2), keep a record of the calculations including the information specified in paragraph (g) of this section for 5 years. Within 90 days after the bioreactor achieves 40 percent moisture content, report the results of the calculation, the date the bioreactor achieved 40 percent moisture content by weight, and the date you plan to begin collection and control system operation.

Other Requirements and Information

§ 63.1985 Who enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency as well as the U.S. EPA has the authority to implement and enforce this subpart. Contact the applicable EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the EPA Administrator and are not transferred to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are as follows. Approval of alternatives to the standards in § 63.1955. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart.

§ 63.1990 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, 40 CFR part 60, subparts A, Cc, and WWW; 40 CFR part 62, subpart GGG, and subpart A of this part, and this section that follows:

Bioreactor means a MSW landfill or portion of a MSW landfill where any liquid other than leachate (leachate includes landfill gas condensate) is added in a controlled fashion into the waste mass (often in combination with recirculating leachate) to reach a minimum average moisture content of at least 40 percent by weight to accelerate or enhance the anaerobic (without oxygen) biodegradation of the waste.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including, but not limited to, any emissions limitation (including any operating limit) or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation, (including any operating limit), or work practice standard in this subpart during SSM, regardless of whether or not such failure is permitted by this subpart.

Emissions limitation means any emission limit, opacity limit, operating limit, or visible emissions limit.

EPA approved State plan means a State plan that EPA has approved based on the requirements in 40 CFR part 60, subpart B to implement and enforce 40 CFR part 60, subpart Cc. An approved State plan becomes effective on the date specified in the notice published in the **Federal Register** announcing EPA's approval.

Federal plan means the EPA plan to implement 40 CFR part 60, subpart Cc for existing MSW landfills located in States and Indian country where State plans or tribal plans are not currently in effect. On the effective date of an EPA approved State or tribal plan, the Federal plan no longer applies. The Federal plan is found at 40 CFR part 62, subpart GGG.

Municipal solid waste landfill or MSW landfill means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes (see § 257.2 of this chapter) such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads. A municipal solid waste landfill may be publicly or privately owned. A municipal solid waste landfill may be a new municipal solid waste landfill, an existing municipal solid waste landfill, or a lateral expansion.

Tribal plan means a plan submitted by a tribal authority pursuant to 40 CFR parts 9, 35, 49, 50, and 81 to implement and enforce 40 CFR part 60, subpart Cc.

Work practice standard means any design, equipment, work practice, or operational standard, or combination thereof, that is promulgated pursuant to section 112(h) of the Clean Air Act.

As stated in §§ 63.1955 and 63.1980, you must meet each requirement in the following table that applies to you.

TABLE 1 OF SUBPART AAAA OF PART 63.—APPLICABILITY OF NESHAP GENERAL PROVISIONS TO SUBPART AAAA

Part 63 Citation	Description	Explanation
63.1(a)	Applicability: general applicability of NESHAP in this part.	Affected sources are already subject to the provisions of paragraphs (a)(10)–(12) through the same provisions under 40 CFR, part 60 subpart A.
63.1(b)	Applicability determination for stationary sources.	
63.1(e)	Title V permitting.	
63.2	Definitions.	
63.4	Prohibited activities and circumvention	Affected sources are already subject to the provisions of paragraph (b) through the same provisions under 40 CFR, part 60 subpart A.
63.5(b)	Requirements for existing, newly constructed, and reconstructed sources.	
63.6(e)	Operation and maintenance requirements, startup, shutdown and malfunction plan provisions.	
63.6(f)	Compliance with nonopacity emission standards	Affected sources are already subject to the provisions of paragraphs (f)(1) and (2)(i) through the same provisions under 40 CFR, part 60 subpart A.
63.10(b)(2)(i)–(b)(2)(v)	General recordkeeping requirements.	
63.10(d)(5)	If actions taken during a startup, shutdown and malfunction plan are consistent with the procedures in the startup, shutdown and malfunction plan, this information shall be included in a semi-annual startup, shutdown and malfunction plan report. Any time an action taken during a startup, shutdown and malfunction plan is not consistent with the startup, shutdown and malfunction plan, the source shall report actions taken within 2 working days after commencing such actions, followed by a letter 7 days after the event.	
63.12(a)	These provisions do not preclude the State from adopting and enforcing any standard, limitation, etc., requiring permits, or requiring emissions reductions in excess of those specified.	
63.15	Availability of information and confidentiality.	

[FR Doc. 03–88 Filed 1–15–03; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0336; FRL–7284–8]

Extension of Tolerances for Emergency Exemptions (Multiple Chemicals)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends time-limited tolerances for the pesticides listed in Unit II. of the **SUPPLEMENTARY INFORMATION.** These actions are in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of these pesticides. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for

emission limitations, and the compliance schedules. *See* 60 FR 65414.

XIII. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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 by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it 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 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing sections 111(d)/129 State Plans, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state plan for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state plan, to use VCS in place of a submission that otherwise satisfies the provisions of the Clean Air Act. 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. 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.*)

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 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 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 April 11, 2003. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Air pollution control, Carbon monoxide, Metals, Nitrogen dioxide, Particulate matter, Sulfur oxides, Waste treatment and disposal, Reporting and recordkeeping requirements.

Dated: January 23, 2003.

Robert W. Varney,

Regional Administrator, EPA New England.

40 CFR part 62 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q

Subpart EE—New Hampshire

2. Section 62.7325 is amended by adding paragraphs (b)(3) and (c)(3) to read as follows:

Plan for the Control of Designated Pollutants From Existing Facilities (Section 111(d) Plan)

§ 62.7325 Identification of plan.

* * * * *

(b) * * *

(3) Control of air emissions from existing commercial and industrial solid waste incineration units, submitted on August 12, 2002.

(c) * * *

(3) Commercial and industrial solid waste incineration units.

3. Subpart EE is amended by adding a new § 62.7455 and a new undesignated center heading to read as follows:

Air Emissions From Existing Commercial and Industrial Solid Waste Incineration Units

§ 62.7455 Identification of sources.

(a) The plan applies to the following existing commercial and solid waste incineration unit:

(1) D.D. Bean and Sons, Inc. in Jaffrey.

(2) [Reserved]

(b) [Reserved]

[FR Doc. 03–2941 Filed 2–7–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology

CFR Correction

In Title 40 of the Code of Federal Regulations, Part 63 (§§ 63.600 to 63.1199), in § 63.1101, the definition of *Process wastewater* is added alphabetically to read as follows:

§ 63.1101 Definitions.

* * * * *

Process wastewater means wastewater which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. Examples are product tank drawdown or feed tank drawdown, water formed during a chemical reaction or used as a reactant, water used to wash impurities from organic products or reactants, equipment washes between batches in a batch process, water used to cool or quench organic vapor streams through direct contact, and condensed steam from jet ejector systems pulling vacuum on vessels containing organics.

* * * * *

[FR Doc. 03–55504 Filed 2–7–03; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 405 and 419

[CMS–1206–CN2]

RIN 0938–AL19

Medicare Program; Changes to the Hospital Outpatient Prospective Payment System and Calendar Year 2003 Payment Rates; and Changes to Payment Suspension for Unfiled Cost Reports; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Correction of final rule with comment period.

SUMMARY: This document corrects errors that appeared in the final rule with comment period published in the **Federal Register** on November 1, 2002, entitled "Changes to the Hospital Outpatient Prospective Payment System and Calendar Year 2003 Payment Rates; and Changes to Payment Suspension for Unfiled Cost Reports." This notice is a supplement to the November 1, 2002, final rule with comment period and to the November 15, 2002, correction notice, which added section "XVI. Waiver of Proposed Rulemaking."

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Anita Heygster, (410) 786–0378.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 02–27548 of November 1, 2002 (67 FR 66719), there were several technical errors. The errors include incorrect or potentially misleading responses, incorrect description of comments, and revisions to information contained in Addenda A and B. In some cases, the errors were omissions, typographical errors, mathematical miscalculations or were caused by inadvertent failure to perform calculations or perform other functions as described in the final rule. We would ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule. This procedure can be waived, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued. We find good cause to waive notice and comment procedures for this correction notice as set forth in section III, "Waiver of Proposed Rulemaking and Waiver of 30-Day Delay in Effective Date," below.

II. Correction of Errors

On page 66719, in column 2, in the definition of CPT, we cited the 2002 Current Procedural Terminology (CPT), although the CPT codes used for the 2003 Hospital Outpatient Prospective Payment System (OPPS) are those found in the American Medical Association's 2003 Current Procedural Terminology. Remove 2002 and insert 2003.

On page 66724, in column 3, under the second line following "Option 2:", we incorrectly cited as a Healthcare Common Procedure Coding System (HCPCS) code 703690. This is not a HCPCS code. Remove 703690 and insert 70390.

On page 66724, in column 3, under the forth line following "Option 3:", we incorrectly cited as a HCPCS code 7036736 and we omitted one HCPCS code that was presented to the APC Panel as discussed in the preamble. Remove 7036736 and insert 70373, 70120.

On page 66729, we inadvertently included two duplicate comments and responses on the issue of whether to move endometrial ablation out of a new technology Ambulatory Payment Classification (APC) for 2003. Remove the first comment and response under the heading "New Technology APC Issues" in column 2 and the second duplicative comment and response in column 3. The comment and response on this issue appear correctly on page 66737 (column 3, 4th comment and response). The comment and response on page 66737 are the correct comment and response on this issue; those being removed were mistakenly published.

On pages 66730, 66818, and 66914, we inadvertently included incorrect information that we intended to replace with correct information before publication of the final rule. Specifically, on page 66730, we inadvertently included an incorrect APC assignment for HCPCS codes 77523 and 77525. Remove Table 3 entries for HCPCS codes 77523, Proton Beam therapy intermediate, and 77525, Proton beam therapy complex. On page 66818, remove Addendum A entry for APC 650, Proton Beam Therapy. On page 66914, change the APC for HCPCS codes 77523 and 77525 from APC 650 to APC 712, and change payment and copayment amounts as described in corrections to Addendum B. Remove the first full response on page 66728, in column 3, and replace it with the following: "*Response:* We agree that codes for simple proton beam radiation therapy (CPT code 77522 and CPT code 77520) should be placed in a different APC than codes for intermediary (CPT code 77523) and complex (CPT code 77525) radiation therapy. However, it would be inappropriate to return codes for simple proton beam therapy to APCs for new technology services because we believe we have sufficient claims data to integrate them into the OPPS. Therefore, we have placed them in APC 664.

However, we agree that claims data are not sufficiently robust for us to move intermediate and complex proton beam therapy (CPT codes 77523 and 77525) out of APC 712. Therefore, we will retain these codes in APC 712 for the 2003 OPPS."

On page 66732, in column 1, in the first line carried over from the preceding page, we incorrectly stated that HCPCS code G0258 was effective on October 1, 2002, when it was effective April 1, 2002. Remove "October 1, 2002", and insert "April 1, 2002". HCPCS code G0258 was made effective April 1, 2002, and was removed effective January 1, 2003. The effective date of January 1, 2003, which is shown in Table 4—New G Codes for 2002 and 2003 for Which There are Final APC Assignments, is correct because January 1, 2003, is the effective date of the deletion of the code and the change of the status indicator to X. The entry in Addendum B on page 66979 correctly shows the payment amount and the minimum unadjusted copayment that will apply during the removed code's grace period.

On page 66735, in column 2, the first response under item #4, we mistakenly said that the APC payment includes both the cost of the procedure and the cost for the left ventricular lead. Remove the sentence that says: "We believe the APC placement accounts for the cost of

report containing this 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 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 April 21, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 9, 2003.

Jane M. Kenny,

Regional Administrator, Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart FF—New Jersey

2. Section 52.1570 is amended by adding new paragraph (c)(72) to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

(72) Revisions to the New Jersey State Implementation Plan (SIP) concerning the Enhanced Inspection and Maintenance Program, submitted on December 3, 2002 by the New Jersey State Department of Environmental Protection (NJDEP).

(i) Incorporation by reference:

(A) New Jersey Revised Statutes.

(*1*) Public Law 2002, Chapter 34, paragraph 15 amending N.J.S.A. 39:8–2.c, enacted on July 1, 2002.

[FR Doc. 03–3697 Filed 2–14–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0045; AD–FRL–7446–6]

RIN 2060–AK53

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments.

SUMMARY: The EPA is taking direct final action on amendments to the national emission standards for hazardous air pollutants (NESHAP) for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills, which were issued on January 12, 2001 under section 112 of the Clean Air Act (CAA). The amendments clarify and consolidate the monitoring and testing requirements and add a site-specific alternative standard for one pulp mill. We are issuing these amendments as a direct final rule, without prior proposal, because we view the revisions as noncontroversial and anticipate no significant adverse comments. However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal to amend the national emission standards for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills if significant adverse comments are filed.

DATES: The direct final rule is effective on May 19, 2003, without further notice, unless EPA receives significant adverse comments by March 20, 2003. If significant adverse comments are received, EPA will publish a timely withdrawal in the **Federal Register** to notify the public that the rule will not take effect. The incorporation by reference of certain publications in the rule is approved by the Director of the Office of the Federal Register as of May 19, 2003.

ADDRESSES: Comments may be submitted by mail (in duplicate, if possible) to EPA Docket Center (Air Docket), U.S. EPA West (MD–6102T), Room B–108, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, Attention Docket ID No. OAR–2002–0045. By hand delivery/courier, comments may be submitted (in duplicate, if possible) to EPA Docket Center, Room B–108, U.S. EPA West, 1301 Constitution Avenue, NW, Washington, DC 20460, Attention Docket ID No. OAR–2002–0045.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Telander, Minerals and Inorganic Chemicals Group, Emission Standards Division (MD–C504–05), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–5427, facsimile number (919) 541–5600, electronic mail (e-mail) address *telander.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Categories and entities potentially regulated by this action are those kraft, soda, sulfite, and stand-alone semichemical pulp mills with chemical recovery processes that involve the combustion of spent pulping liquor. Categories and entities potentially regulated by this action include:

Category	NAICS code*	Examples of regulated entities
Industry	32211 32212 32213	Kraft, soda, sulfite, and stand-alone semichemical pulp mills.
Federal government		Not affected.
State/local/tribal government		Not affected.

*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 regulated by this action. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 63.860 of the national emission standards. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this document.

Docket. The EPA has established an official public docket for this action under Docket ID No. OAR–2002–0045. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center (Air Docket), EPA West, Room B–108, 1301 Constitution Avenue, NW, Washington, DC 2004. The Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

Electronic Access. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, select "search" and key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as confidential business information and other information whose disclosure is restricted by statute, which are not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. The EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in this document.

Direct Final Rule. We are publishing the direct final rule without prior proposal because we view the amendments as noncontroversial and do not anticipate significant adverse comments. We anticipate no significant adverse comments because EPA received no adverse comments when we published similar amendments during 2001. Furthermore, with respect to the amendment regarding an individual sulfite pulp mill located in Cosmopolis, Washington, EPA has already received favorable comments on the amendment from the State of Washington. The EPA received one adverse comment during the CAA section 113(g) comment period on the draft settlement agreement between EPA and Weyerhaeuser Paper Company, which described the amendment at issue, which comment is being addressed directly in this notice (although this response does not bar further comment). However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal to amend the national emission standards for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills if significant adverse comments are filed.

If we receive any significant adverse comments on one or more distinct amendments, we will publish a timely withdrawal in the **Federal Register** informing the public which provisions will become effective and which provisions are being withdrawn due to adverse comment. We will address all public comments in a subsequent final rule, should the Agency determine to issue one. Any of the distinct amendments in today's rule for which we do not receive significant adverse comment will become effective on the date set out above. We will not institute a second comment period on the direct final rule. Any parties interested in commenting must do so at this time.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's document will also be available on the 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 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. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of the direct final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by April 21, 2003. Under section 307(d)(7)(B) of the CAA, only an objection to the direct final rule which 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 the direct final rule may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

Outline. The following outline is provided to aid in reading the preamble to the direct final rule.

I. Background
  A. Site-Specific Alternative Standard
  B. Technical Corrections
II. Amendments to Subpart MM
III. Administrative Requirements
  A. Executive Order 12866, Regulatory Planning and Review
  B. Paperwork Reduction Act
  C. Regulatory Flexibility Act (RFA) as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. *et seq.*
  D. Unfunded Mandates Reform Act of 1995
  E. Executive Order 13132, Federalism
  F. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
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I. Background

The EPA promulgated national emission standards for hazardous air pollutants for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills on January 12, 2001 (66 FR 3180). The final rule (40 CFR part 63, subpart MM) includes standards for hazardous air pollutants (HAP), as well as monitoring, performance testing, recordkeeping, and reporting requirements. The EPA established a site-specific potential compliance date under subpart MM for Georgia-Pacific Corporation's stand-alone semichemical pulp mill in Big Island, Virginia (66 FR 16400, March 26, 2001). The EPA published technical corrections to subpart MM on July 19, 2001 (66 FR 37591), which corrected the compliance date and oxygen correction equations and clarified the performance testing requirements to account for all applicable test methods and sources. Today's action includes amendments to clarify and consolidate the monitoring and testing requirements and adds a site-specific alternative standard for HAP metals for Weyerhaeuser Paper Company's sulfite pulp mill in Cosmopolis, Washington.

A. Site-Specific Alternative Standard

The NESHAP for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills includes a HAP metals standard for existing sulfite combustion units, using particulate matter (PM) emissions as a surrogate for HAP metals emissions. The final rule requires existing sulfite combustion units to reduce HAP metals emissions, measured as PM, to a level less than or equal to 0.040 grains per dry standard cubic foot (gr/dscf), corrected to 8 percent oxygen (§ 63.862(a)(2)).

Following promulgation of the rule, Weyerhaeuser Paper Company requested that EPA issue a site-specific alternative standard under subpart MM for Weyerhaeuser's Cosmopolis, Washington sulfite pulp mill. The alternative standard would allow Weyerhaeuser to reduce HAP metals emissions from an onsite emission source called a hog fuel dryer in lieu of complying with the HAP metals standard for existing sulfite combustion units. The hog fuel dryer at the Cosmopolis mill is used to dry solid fuel, such as bark, prior to combustion of the fuel in an onsite boiler. The hog fuel dryer is not regulated under a NESHAP and appears to be unique. Compliance with the alternative standard will result in greater annual HAP metals emissions reductions, lower annual energy utilization, and lower compliance costs at the Cosmopolis mill than would have been achieved through compliance with the HAP metals standard for sulfite combustion units.

Weyerhaeuser's Cosmopolis, Washington mill is a magnesium-based sulfite mill with three chemical recovery furnaces. These three recovery furnaces are subject to the HAP metals standard in subpart MM for existing sulfite combustion units. The emissions from each recovery furnace are first routed through a multiclone to recover magnesium oxide (particulate) and then through a cooling tower followed by absorption towers to recover sulfur dioxide. Following the absorption towers, the emissions from the three recovery furnaces are combined and treated in an educted venturi scrubber before being emitted to the atmosphere through a common stack.

The recovery furnaces are subject to a Washington State permit PM limit of 0.1 gr/dscf. The applicable NESHAP limit of 0.040 gr/dscf, corrected to 8 percent oxygen, is more stringent and would supersede the State limit. The hog fuel dryer is also subject to a State permit PM limit of 0.1 gr/dscf. However, the hog fuel dryer is not subject to any NESHAP. The hog fuel dryer is equipped with cyclones to reduce PM emissions. The alternative standard probably cannot be achieved without installation of a fabric filter, and Weyerhaeuser intends to replace the existing cyclones on the hog fuel dryer with a fabric filter after promulgation of the site-specific alternative standard.

Environmentally beneficial practices at the Cosmopolis mill include the use of oxygen delignification and elemental chlorine-free and oxygen bleaching. The load on the recovery furnaces has increased as a result of oxygen delignification and a decision by the mill to burn sludge from onsite wastewater treatment in the recovery furnaces. Although the mill recovers energy from burning the biosolids, this practice has resulted in an increase in PM emissions from the recovery furnaces. However, the mill is still able to consistently meet its State permit PM limit.

The sulfite recovery furnaces at the Cosmopolis mill are tested monthly for PM. Based on the monthly data collected during the past 12 years, the mill cannot consistently meet EPA's NESHAP standard for HAP metals from existing sulfite recovery furnaces (0.040 gr/dscf at 8 percent oxygen, measured as PM) without a significant investment in a new emission control device. Because the exhaust gas volume from the hog fuel dryer is much smaller than the exhaust gas volume from the recovery furnaces, Weyerhaeuser determined that it would be much less costly for the Cosmopolis mill to install more efficient controls to reduce HAP metals emissions from the hog fuel dryer than from the recovery furnaces. Weyerhaeuser estimates that the capital cost of controlling the emissions from the recovery furnaces would be approximately $4 million (based on installation of a wet electrostatic precipitator) versus approximately $1.3 million to control emissions from the hog fuel dryer (based on installation of a fabric filter). The operating cost of the fabric filter for control of hog fuel dryer emissions would be about the same as the operating costs of the existing mechanical cyclone, which the fabric filter would replace. Weyerhaeuser also estimates that the operating costs of the wet electrostatic precipitator for control of recovery furnace emissions would be approximately $60,000 per year.

Weyerhaeuser conducted HAP emission tests to determine and compare the quantity of HAP metals emitted from the recovery furnaces (combined stack) versus the hog fuel dryer under current operating conditions. The recovery furnaces and hog fuel dryer were tested for the following 11 HAP metals: antimony, arsenic, beryllium, cadmium, chromium, cobalt, mercury, manganese, nickel, lead, and selenium. Based on the results of the emission tests, the sulfite recovery furnaces collectively emit approximately 212 pounds per year (lb/yr) of HAP metals, and the hog fuel dryer emits approximately 441 lb/yr. (See Docket ID No. OAR–2002–0045.) Both the recovery furnaces and hog fuel dryer emit very similar types of HAP metals. For both emission sources, the top four HAP metals emitted were manganese, lead, chromium, and nickel, accounting for 98.5 percent of the recovery furnace HAP metals emissions and 98.9 percent of the hog fuel dryer HAP metals emissions. Manganese was the predominant HAP metal emitted from both sources. The recovery furnaces emitted 0.025 pounds per hour (lb/hr) of manganese, accounting for 86 percent of the recovery furnace HAP metals emissions. The hog fuel dryer emitted 0.10 lb/hr of manganese, accounting for 97 percent of the hog fuel dryer HAP metals emissions. (See Docket ID No. OAR–2002–0045.) None of these metals are added to the mill's manufacturing process but are naturally occurring metals present in the wood chips and hog fuel processed at the mill.

Compliance with EPA's HAP metals standard for existing sulfite combustion units would reduce HAP metals emissions from the recovery furnaces by about 30 percent using PM as a surrogate for HAP metals. Assuming the same emissions reductions are achieved for HAP metals as for PM, compliance with the HAP metals standard for existing sulfite combustion units would reduce HAP metals emissions from the recovery furnaces by approximately 64 lb/yr. As an alternative to controlling HAP metals emissions from the recovery furnace, Weyerhaeuser proposes that the hog fuel dryer at their Cosmopolis, Washington mill meet a PM emission limit of 10.0 lb/hr (with PM serving as a surrogate for HAP metals emissions), which is equivalent to a PM emissions concentration of 0.030 gr/dscf. The hog fuel dryer's current PM emissions concentration is 0.081 gr/dscf. Weyerhaeuser's proposed PM emission limit for the hog fuel dryer would require that the mill reduce PM emissions from the hog fuel dryer by approximately 63 percent. Assuming the same emissions reductions are achieved for HAP metals as for PM, the total HAP metals emission reduction for the alternative standard would be approximately 278 lb/yr, which is more than four times the HAP metals

emissions reductions that would be achieved through compliance with the HAP metals standard for existing sulfite combustion units.

After reviewing the test reports and other documentation provided by Weyerhaeuser, we agree with Weyerhaeuser's request to include an alternative standard in subpart MM because the alternative achieves greater emissions reductions of the same HAP metals and does so by controlling a source otherwise unregulated under subpart MM or any other NESHAP. The emission test reports and other documents related to the alternative standard are provided in the project docket. (*See* Docket ID No. OAR–2002–0045.)

The EPA received one adverse comment on the proposed settlement agreement. The commenter maintained that once EPA learned that there was an unregulated emission point at the Cosmopolis mill, the Agency had no choice but to develop a maximum achievable control technology (MACT) standard for that emission point in addition to the MACT standard for all other emission points. The commenter further suggested that the unregulated emission point would be subject to case-by-case MACT (under section 112(j) of the Act).

The EPA appreciates this thoughtful comment, but does not agree with it. First, although the commenter's approach is permissible, it is not compelled. The EPA typically develops MACT standards for a series of aggregated plant operations, not for individual emission points, in keeping with the requirement in section 112(d)(2) to develop emission standards applicable to new or existing "sources". A "source" can include an entire facility. See sections 112(a)(3) and 111(a)(3). In this case, EPA has determined that MACT for the aggregated unit operations involved in black liquor recovery (the source category subject to this rule) is a given amount of HAP emissions. Indeed, the standard for HAP metals in the existing rule (the HAP also emitted by the hog fuel dryer) is expressed as an aggregated limit (along with an alternative standard expressing the standard on an emission point by emission point basis). See section 63.862(a)(1)(ii)(A). In this rule, EPA is providing an alternative means of complying with that MACT limit (a means which, as explained above, results in more HAP reduction than otherwise provided for in the rule). The EPA notes further that it has pursued this same approach to compliance in a number of Project XL applications. See, *e.g.* 66 FR 34119, 34120 (June 27, 2001) (final rule) and 66 FR 16637, 16640 (March 27, 2001) (proposed rule).

The commenter's further point regarding use of 112(j) to develop case-by-case MACT for the single emission point also is not compelled (and probably is not permissible). Once EPA promulgates a valid MACT standard for a source category, the Agency has fulfilled its statutory obligation and no case-by-case limitation may issue.

Finally, even if one were to accept the commenter's argument that MACT must be developed on an emission point by emission point basis, a standard for a hog fuel dryer would likely be some type of beyond-the-floor, given the absence of this emission point at other facilities and absence of controls at the one facility operating this type of unit. The EPA thus would be compelled to consider the cost, non-air quality environmental and health impacts and energy requirements of a standard (as required by section 112(d)(2)), and would not be obligated to promulgate a standard based upon consideration of those factors. Thus, even under the commenter's approach, it would not follow that a standard would result.

B. Technical Corrections

The NESHAP for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills includes standards, as well as monitoring, performance testing, recordkeeping, and reporting requirements. Technical corrections to subpart MM were published by EPA on July 19, 2001, correcting the compliance date and oxygen concentration equations and clarifying the performance testing requirements to account for all applicable test methods and sources. After these technical corrections were published, it became evident that additional technical corrections were needed to provide further clarification of the monitoring and testing requirements. Today's action includes those technical corrections, which are described previously in this preamble.

II. Amendments to Subpart MM

Today's action includes amendments to clarify and consolidate the monitoring and testing requirements and adds a site-specific alternative standard for Weyerhaeuser Paper Company's sulfite pulp mill in Cosmopolis, Washington.

As described above, the alternative standard will allow the mill to reduce emissions from an onsite hog fuel dryer in lieu of complying with the standard for HAP metals for existing sulfite combustion units specified in § 63.862(a)(2). The alternative standard will limit HAP metals emissions from the hog fuel dryer by limiting PM emissions to a level less than or equal to 10.0 lb/hr. Weyerhaeuser will install a fabric filter on the hog fuel dryer to achieve compliance with the alternative standard and must continuously monitor the performance of the fabric filter using a bag leak detection system with an audible alarm system. Weyerhaeuser must perform an initial compliance test using the test methods specified in the NESHAP to demonstrate that the PM emissions from the hog fuel dryer meet the alternative standard. Weyerhaeuser also must develop and implement a written startup, shutdown, and malfunction plan that contains specific procedures to be followed for operating and maintaining the hog fuel dryer and fabric filter during periods of startup, shutdown, and malfunction, and a program of corrective action if the hog fuel dryer or fabric filter malfunctions. Weyerhaeuser must take corrective action as specified in its startup, shutdown, and malfunction plan whenever the bag leak detection alarm sounds. The Cosmopolis mill will be in violation of the alternative standard if corrective action is not initiated within 1 hour of a bag leak detection alarm, corrective action is not completed in accordance with the startup, shutdown, and malfunction plan, or the alarm is engaged for more than 5 percent of the total operating time during a 6-month block reporting period.

The EPA is granting Weyerhaeuser's request for an alternative standard for its Cosmopolis, Washington sulfite mill because compliance with the alternative standard will result in a greater reduction in HAP metals emissions than would be achieved through compliance with the HAP metals standard for existing sulfite combustion units, and at a lower cost to the mill. The HAP metals emissions reductions will be at least four times greater under the alternative standard, and energy utilization will be lower.

The changes to subpart MM resulting from inclusion of amendments to clarify the monitoring and testing requirements and addition of a site-specific alternative standard for Weyerhaeuser's Cosmopolis, Washington mill are described in Table 1 of this preamble.

TABLE 1.—SUMMARY OF AMENDMENTS TO SUBPART MM

Citation	Change
§ 63.860(b)	Change the number of referenced paragraphs from (b)(1) through (6) to (b)(1) through (7) to reflect the addition of paragraph (b)(7) (hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington mill) to the list of affected sources.
§ 63.860(b)(5)	Revise the definition of affected source for sulfite combustion units to exclude the units at Weyerhaeuser Paper Company's Cosmopolis, Washington mill.
§ 63.860(b)(7)	Add the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington mill to the list of affected sources.
§ 63.861	Add definitions in alphabetical order for Bag leak detection system, Fabric filter, and Hog fuel dryer.
§ 63.862(a)(1)(i)(B)	Introduce the terms kg/Mg and lb/ton to read kilogram per megagram and pound per ton, respectively.
§ 63.862(a)(2)	Specify the alternative standard in paragraph (d) as an exception to the HAP metals standard for existing sulfite combustion units.
§ 63.862(d)	Add an alternative standard for HAP metals for the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington mill.
§ 63.864	Add a site-specific monitoring plan and monitoring specifications for continuous opacity monitoring systems and continuous parameter monitoring systems to clarify the monitoring requirements. Add monitoring specifications, corrective action provisions, and violation provisions for bag leak detection systems for the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington mill. Allow sources to identify and exclude periods of no gas flow in calculating average parameter values by adding flow monitor provisions and data availability restrictions. Under § 63.7(a), initial performance tests (and the establishment of operating parameter values) are not required until 180 days after the compliance date. Enable sources to demonstrate whether they are in compliance during the period between the compliance date and the performance test date by adding a provision requiring sources to maintain during this period a log that details the operation and maintenance of the process and emissions control equipment. Add two provisions to this section based on provisions moved from § 63.865(e) and (f). These two provisions include procedures for establishing operating parameter values and procedures for obtaining approval of operating parameters for alternative control devices. Move three provisions in § 63.864(a)(6), (b)(1), and (b)(4) to § 63.865 so as to consolidate all performance testing provisions under § 63.865. These three provisions include performance test exemptions for new non-direct contact evaporator (NDCE) recovery furnaces equipped with a dry electrostatic precipitator (ESP) system and performance test requirements for all other sources, including those sources complying with the overall PM bubble emission limit. Delete the performance test exemption in § 63.864(b)(3) for new NDCE recovery furnaces equipped with a dry ESP system as repetitive of the same provision in § 63.864(a)(6).
§ 63.865	Add an introductory paragraph based on a provision moved from § 63.864(b)(1). This provision requires sources to conduct an initial performance test.
§ 63.865(a)(1)	Revise the term tons/d to read ton/d.
§ 63.865(a)(2)(vi)	Add a new paragraph (a)(2)(iv) based on a provision moved from § 63.864(b)(4). This provision requires sources complying with the overall PM bubble emission limit to demonstrate compliance with the approved PM emission limits for the process units using the referenced test methods and procedures.
§ 63.865(b)	Include the alternative standard in § 63.862(d) in the list of standards for which sources must determine compliance using the referenced test methods and procedures.
§ 63.865(b)(1)	Clarify that the sampling time, sample volume, and cleanup solvent requirements apply to Methods 5, 29, and 17 (40 CFR part 60, appendix A). Allow sources to use the test methods to measure concentration or mass of PM. Include the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington mill in the list of units to be tested.
§ 63.865(b)(2)	Revise the reference paragraph (a) or (b) of § 63.862 to read § 63.862(a) or (b).
§ 63.865(b)(3)	Include the voluntary consensus standard American National Standards Institute/American Society of Mechanical Engineers (ANSI/ASME) Performance Test Code (PTC) 19.10–1981-part 10 as an alternative to Method 3B. Under section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, EPA is directed to use voluntary consensus standards in its regulatory and procurement activities, unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA has identified the voluntary consensus standard ANSI/ASME PTC 19.10–1981-part 10 as an acceptable alternative to EPA Method 3B with regard to the standard's manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas.
§ 63.865(b)(5)	Revise this paragraph and add paragraphs (b)(5)(i) through (iv) to include the alternative EPA methods to Methods 1, 2, and 3 in 40 CFR part 60, appendix A (i.e., Methods 1A, 2A, 2C, 2D, 2F, 2G, 3A, and 3B) and the alternative voluntary consensus standard to Method 3B (i.e., ANSI/ASME PTC 19.10–1981-part 10).
§ 63.865(c), (c)(1), (c)(2)	Revise paragraph (c) to introduce the performance and testing requirements for all new recovery furnaces. Revise paragraph (c)(1) based on a provision moved from § 63.864(a)(6). This provision exempts new NDCE recovery furnaces equipped with a dry ESP system from conducting a performance test. Revise paragraph (c)(2) and add new paragraphs (c)(2)(i) and (c)(2)(ii) to provide the required test method (Method 308 (40 CFR part 63, appendix A)) and emission rate equations for new recovery furnaces not equipped with a dry ESP system. In paragraph (c)(2), refer to paragraphs (b)(5)(i) through (iv) for additional test methods beyond Method 308. In paragraph (c)(2)(i), introduce the terms Mg/hr and ton/hr to read megagrams per hour and tons per hour, respectively.
§ 63.865(d)	Refer to paragraphs (b)(5)(i) through (iv) for additional test methods beyond Method 25A in 40 CFR part 60, appendix A. Specify the calibration gas as propane for each Method 25A test run.
§ 63.865(d)(1)	Revise the list of variables for Equation 11 to clarify that the THC emission rate and mass emission rate must be reported as carbon.

TABLE 1.—SUMMARY OF AMENDMENTS TO SUBPART MM—Continued

Citation	Change
§ 63.865(e) and (f)	Move two provisions in § 63.865(e) and (f) to § 63.864 so as to consolidate all monitoring provisions under § 63.864. These two provisions include procedures for establishing operating parameter values and procedures for obtaining approval of operating parameters for alternative control devices.
§ 63.866(c)	Change the number of referenced paragraphs from (c)(1) through (6) to (c)(1) through (7) to reflect the addition of paragraph (c)(7) (bag leak detection system records) to the recordkeeping requirements.
§ 63.866(c)(1) and (2)	Abbreviate the terms megagrams/day and tons/day to read Mg/d and ton/d, respectively.
§ 63.866(c)(7)	Add recordkeeping requirements for the bag leak detection system for the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington mill.
§ 63.867(a)(3)	Add a notification of compliance status requirement for the bag leak detection system for the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington mill.

III. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 5173, October 4, 1993), EPA must determine whether the regulatory action is "significant" and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in standards that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that these amendments do not constitute a "significant regulatory action" because they do not meet any of the above criteria. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Paperwork Reduction Act

The information collection requirements in the final rule were submitted to and approved by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and assigned OMB control number 2060–0377. An Information Collection Request (ICR) document was prepared by EPA (ICR No. 1805.03) and a copy may be obtained from Susan Auby by mail at Office of Environmental Information, Collection Strategies Division (MD–2822T), 1200 Pennsylvania Avenue, NW, Washington DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded from the internet at *http://www.epa.gov/icr*.

Today's action makes clarifying changes to the final rule and imposes no new information collection requirements on the industry. Because there is no additional burden on the industry as a result of this direct final rule, the ICR has not been revised.

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 purpose of collecting, validating, and verifying information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing 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 number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The 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 on small entities, small entity is defined as: (1) A small business that has fewer than 750 employees for NAICS codes 32211, 32212, and 32213 (pulp, paper, and paperboard mills); (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. 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 proposed rule on small entities (5 U.S.C. 603–604). 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 effect on the small entities subject to the rule. The amendments in today's rule make improvements to the emission standards, primarily by clarifying issues in the areas of testing and monitoring and add a new compliance option. We have, therefore, concluded that today's final rule will have no adverse impacts on any small entities and may relieve burden in some cases.

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, the 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 the 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 the 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.

The EPA has determined that the 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 aggregate, or the private sector in any 1 year, nor does the direct final rule significantly or uniquely impact small governments, because it contains no requirements that apply to such governments or impose obligations upon them. Thus, the requirements of the UMRA do not apply to the direct final rule.

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" 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 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 Executive Order 13132. None of the affected facilities are owned or operated by State governments. Thus, the requirements of section 6 of the Executive Order do not apply to the direct final rule.

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." The 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 the amendments. Thus, Executive Order 13175 does not apply to the direct final rule.

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

Executive Order 13045 applies to any rule that EPA determines (1) is "economically significant" as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has 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.

The EPA interprets Executive Order 13045 as applying only to 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. The direct 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

The direct final rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the NTTAA (Pub. L. 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory and procurement activities, unless to do so would be inconsistent with applicable law or otherwise impractical. One voluntary consensus standard, ANSI/ASME PTC 19.10–1981—Part 10 ("Flue and Exhaust Gas Analysis"), has been identified as an acceptable alternative to EPA Method 3B for the purposes of this action. The voluntary consensus standard ANSI/ASME PTC 19.10–1981—Part 10 is cited in today's action for its manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas. This part of ANSI/ASME PTC 19.10–1981—Part 10 is an acceptable alternative to EPA Method 3B. The EPA is not proposing/adopting any other voluntary consensus standards in this action.

J. Congressional Review Act

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by SBREFA 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. The EPA will submit a report containing this 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. The direct final rule is not a "major rule" as defined by 5 U.S.C. 804(2). The direct final rule will become effective on May 19, 2003, unless significant adverse comments are received by March 20, 2003.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: January 27, 2003.

Christine Todd Whitman,

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 A—[Amended]

2. Section 63.14 is amended by revising paragraph (i) and removing paragraph (j) to read as follows:

§ 63.14 Incorporations by reference.

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(i) The following materials are available for purchase from at least one of the following addresses: ASME International, Orders/Inquiries, P.O. Box 2900, Fairfield, NJ 07007–2900; or Global Engineering Documents, Sales Department, 15 Inverness Way East, Englewood, CO 80112.

(1) ASME standard number QHO–1–1994, "Standard for the Qualification and Certification of Hazardous Waste Incinerator Operators," IBR approved for § 63.1206(c)(6)(iii).

(2) ASME standard number QHO–1a-1996 Addenda to QHO–1–1994, "Standard for the Qualification and Certification of Hazardous Waste Incinerator Operators," IBR approved for § 63.1206(c)(6)(iii).

(3) ANSI/ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]," IBR approved for §§ 63.865(b), 63.3360(e)(1)(iii), 63.4166(a)(3), and 63.5160(d)(1)(iii).

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Subpart MM—[Amended]

3. Section 63.860 is amended by:

a. Revising paragraph (b) introductory text;

b. Revising paragraph (b)(5); and

c. Adding paragraph (b)(7).

The revisions and addition read as follows:

§ 63.860 Applicability and designation of affected source.

* * * * *

(b) *Affected sources.* The requirements of this subpart apply to each new or existing affected source listed in paragraphs (b)(1) through (7) of this section:

* * * * *

(5) Each new or existing sulfite combustion unit located at a sulfite pulp mill, except such existing units at Weyerhaeuser Paper Company's Cosmopolis, Washington facility (Emission Unit no. AP–10).

* * * * *

(7) The requirements of the alternative standard in § 63.862(d) apply to the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington facility (Emission Unit no. HD–14).

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4. Section 63.861 is amended by adding, in alphabetical order, definitions for the terms *Bag leak detection system, Fabric filter,* and *Hog fuel dryer* to read as follows:

§ 63.861 Definitions.

* * * * *

Bag leak detection system means an instrument that is capable of monitoring PM loadings in the exhaust of a fabric filter in order to detect bag failures. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, light transmittance, or other principle to monitor relative PM loadings.

* * * * *

Fabric filter means an air pollution control device used to capture PM by filtering a gas stream through filter media; also known as a baghouse.

* * * * *

Hog fuel dryer means the equipment that combusts fine particles of wood waste (hog fuel) in a fluidized bed and directs the heated exhaust stream to a rotary dryer containing wet hog fuel to be dried prior to combustion in the hog fuel boiler at Weyerhaeuser Paper Company's Cosmopolis, Washington facility. The hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington facility is Emission Unit no. HD–14.

* * * * *

5. Section 63.862 is amended by:

a. Revising paragraph (a)(1)(i)(B);

b. Revising paragraph (a)(2); and

c. Adding paragraph (d).

The revisions and addition read as follows:

§ 63.862 Standards.

(a) *Standards for HAP metals: existing sources.*

(1) * * *

(i) * * *

(B) The owner or operator of each existing kraft or soda smelt dissolving tank must ensure that the concentration of PM in the exhaust gases discharged to the atmosphere is less than or equal to 0.10 kilogram per megagram (kg/Mg) (0.20 pound per ton (lb/ton)) of black liquor solids fired.

* * * * *

(2) Except as specified in paragraph (d) of this section, the owner or operator of each existing sulfite combustion unit must ensure that the concentration of PM in the exhaust gases discharged to the atmosphere is less than or equal to 0.092 g/dscm (0.040 gr/dscf) corrected to 8 percent oxygen.

* * * * *

(d) *Alternative standard.* As an alternative to meeting the requirements of paragraph (a)(2) of this section, the owner or operator of the existing hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington facility (Emission Unit no. HD–14) must ensure that the mass of PM in the exhaust gases discharged to the atmosphere from the hog fuel dryer is less than or equal to 4.535 kilograms per hour (kg/hr) (10.0 pounds per hour (lb/hr)).

6. Section 63.864 is revised to read as follows:

§ 63.864 Monitoring requirements.

(a) *General.* For each monitoring system required in this section, the owner or operator of each affected source or process unit must develop and make available for inspection by the Administrator, upon request, a site-specific monitoring plan that addresses the provisions in paragraphs (a)(1) through (6) of this section.

(1) Installation of the sampling probe or other interface at a measurement location relative to each affected source or process unit such that the measurement is representative of control of the exhaust emissions (*e.g.,* on or downstream of the last control device);

(2) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system; and

(3) Performance evaluation procedures and acceptance criteria (*e.g.,* calibrations).

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

(5) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d)(2); and

(6) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of §§ 63.10(c), (e)(1), (e)(2)(i) and 63.866.

(b) The owner or operator of each affected source or process unit must conduct a performance evaluation of each monitoring system in accordance with the site-specific monitoring plan.

(c) The owner or operator of each affected source or process unit must operate and maintain the monitoring system in continuous operation according to the site-specific monitoring plan.

(d) *Continuous opacity monitoring system (COMS).* The owner or operator of each affected kraft or soda recovery furnace or lime kiln equipped with an ESP must install, calibrate, maintain, and operate a COMS according to the provisions in paragraphs (d)(1) through (4) of this section.

(1) Each COMS must be installed, operated, and maintained according to Performance Specification 1 of 40 CFR part 60, appendix B.

(2) A performance evaluation of each COMS must be conducted according to the requirements in § 63.8 and according to Performance Specification 1 of 40 CFR part 60, appendix B.

(3) As specified in § 63.8(c)(4)(i), each COMS must complete a minimum of one cycle of sampling and analyzing for each successive 10-second period and one cycle of data recording for each successive 6-minute period.

(4) The COMS data must be reduced as specified in § 63.8(g)(2).

(e) *Continuous parameter monitoring system (CPMS).* For each CPMS required in this section, the owner or operator of each affected source or process unit must meet the requirements in paragraphs (e)(1) through (14) of this section.

(1) Satisfy all requirements of performance specifications for CPMS upon promulgation of such performance specifications.

(2) Satisfy all requirements of quality assurance (QA) procedures for CPMS upon promulgation of such QA procedures.

(3) The CPMS must complete a minimum of one cycle of operation for each successive 15-minute period.

(4) To calculate a valid hourly average, there must be at least four equally spaced values for that hour, excluding data collected during the periods described in paragraph (e)(6) of this section.

(5) Have valid hourly data for at least 75 percent of the hours during the averaging period.

(6) The CPMS data taken during periods in which the control devices are not functioning in controlling emissions, as indicated by periods of no gas flow for all or a portion of an affected source or process unit, must not be considered in the averages.

(7) Calculate 3-hour averages using all of the valid hourly averages for each operating day during the semiannual reporting period.

(8) Record the results of each inspection, calibration, and validation check.

(9) Except for redundant sensors, any device that is used to conduct an initial validation or accuracy audit of a CPMS must meet the accuracy requirements specified in paragraphs (e)(9)(i) and (ii) of this section.

(i) The device must have an accuracy that is traceable to National Institute of Standards and Technology standards.

(ii) The device must be at least three times as accurate as the required accuracy for the CPMS.

(10) The owner or operator of each affected kraft or soda recovery furnace, kraft or soda lime kiln, sulfite combustion unit, or kraft or soda smelt dissolving tank equipped with a wet scrubber must install, calibrate, maintain, and operate a CPMS that can be used to determine and record the pressure drop across the scrubber and the scrubbing liquid flow rate using the procedures in § 63.8(c), as well as the procedures in paragraphs (e)(10)(i) and (ii) of this section:

(i) The monitoring device used for the continuous measurement of the pressure drop of the gas stream across the scrubber must be certified by the manufacturer to be accurate to within a gage pressure of ±500 pascals (±2 inches of water gage pressure); and

(ii) The monitoring device used for continuous measurement of the scrubbing liquid flow rate must be certified by the manufacturer to be accurate within ±5 percent of the design scrubbing liquid flow rate.

(11) The owner or operator of each affected semichemical combustion unit equipped with an RTO must install, calibrate, maintain, and operate a CPMS that can be used to determine and record the operating temperature of the RTO using the procedures in § 63.8(c). The monitor must compute and record the operating temperature at the point of incineration of effluent gases that are emitted using a temperature monitor accurate to within ±1 percent of the temperature being measured.

(12) The owner or operator of the affected hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington facility (Emission Unit no. HD–14) must meet the requirements in paragraphs (e)(12)(i) through (xi) of this section for each bag leak detection system.

(i) The owner or operator must install, calibrate, maintain, and operate each triboelectric bag leak detection system according to the "Fabric Filter Bag Leak Detection Guidance," (EPA–454/R–98–015, September 1997). This document is available from the U.S. Environmental Protection Agency (U.S. EPA); Office of Air Quality Planning and Standards; Emissions, Monitoring and Analysis Division; Emission Measurement Center, MD–D205–02, Research Triangle Park, NC 27711. This document is also available on the Technology Transfer Network under Emission Measurement Center Continuous Emission Monitoring. The owner or operator must install, calibrate, maintain, and operate other types of bag leak detection systems in a manner consistent with the manufacturer's written specifications and recommendations.

(ii) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 10 milligrams per actual cubic meter (0.0044 grains per actual cubic foot) or less.

(iii) The bag leak detection system sensor must provide an output of relative PM loadings.

(iv) The bag leak detection system must be equipped with a device to continuously record the output signal from the sensor.

(v) The bag leak detection system must be equipped with an audible alarm system that will sound automatically when an increase in relative PM emissions over a preset level is detected. The alarm must be located where it is easily heard by plant operating personnel.

(vi) For positive pressure fabric filter systems, a bag leak detector must be installed in each baghouse compartment or cell.

(vii) For negative pressure or induced air fabric filters, the bag leak detector must be installed downstream of the fabric filter.

(viii) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(ix) The baseline output must be established by adjusting the range and the averaging period of the device and establishing the alarm set points and the alarm delay time according to section 5.0 of the "Fabric Filter Bag Leak Detection Guidance."

(x) Following initial adjustment of the system, the sensitivity or range, averaging period, alarm set points, or alarm delay time may not be adjusted except as detailed in the site-specific

monitoring plan. In no case may the sensitivity be increased by more than 100 percent or decreased more than 50 percent over a 365-day period unless such adjustment follows a complete fabric filter inspection which demonstrates that the fabric filter is in good operating condition. Record each adjustment.

(xi) The owner or operator must record the results of each inspection, calibration, and validation check.

(13) The owner or operator of each affected source or process unit that uses an ESP, wet scrubber, RTO, or fabric filter may monitor alternative control device operating parameters subject to prior written approval by the Administrator.

(14) The owner or operator of each affected source or process unit that uses an air pollution control system other than an ESP, wet scrubber, RTO, or fabric filter must provide to the Administrator an alternative monitoring request that includes the site-specific monitoring plan described in paragraph (a) of this section, a description of the control device, test results verifying the performance of the control device, the appropriate operating parameters that will be monitored, and the frequency of measuring and recording to establish continuous compliance with the standards. The alternative monitoring request is subject to the Administrator's approval. The owner or operator of the affected source or process unit must install, calibrate, operate, and maintain the monitor(s) in accordance with the alternative monitoring request approved by the Administrator. The owner or operator must include in the information submitted to the Administrator proposed performance specifications and quality assurance procedures for the monitors. The Administrator may request further information and will approve acceptable test methods and procedures. The owner or operator must monitor the parameters as approved by the Administrator using the methods and procedures in the alternative monitoring request.

(f) If flow to a control device could be intermittent, the owner or operator must install, calibrate, and operate a flow indicator at the inlet or outlet of the control device to identify periods of no gas flow.

(g) The owner or operator of each affected source or process unit complying with the gaseous organic HAP standard of § 63.862(c)(1) through the use of an NDCE recovery furnace equipped with a dry ESP system is not required to conduct any continuous monitoring to demonstrate compliance with the gaseous organic HAP standard.

(h) Except for monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), the owner or operator of the affected source or process unit must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating, including periods of startup, shutdown, and malfunction.

(i) The owner or operator of an affected source or process unit may not use data recorded during monitoring malfunctions, associated repairs, required quality assurance or control activities, and periods of no gas flow for all or a portion of an affected source or process unit in data averages and calculations used to report emission or operating levels, nor may such data be used in fulfilling a minimum data availability requirement, if applicable. The owner or operator must use all of the data collected during all other periods in assessing the operation of the control device and associated control system.

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

(2) The owner or operator may base operating ranges on values recorded during previous performance tests or conduct additional performance tests for the specific purpose of establishing operating ranges, provided that test data used to establish the operating ranges are or have been obtained using the test methods required in this subpart. The owner or operator of the affected source or process unit must certify that all control techniques and processes have not been modified subsequent to the testing upon which the data used to establish the operating parameter ranges were obtained.

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

(4) The owner or operator of the affected source or process unit must continuously monitor each parameter and determine the arithmetic average value of each parameter during each performance test. Multiple performance tests may be conducted to establish a range of parameter values.

(5) During the period of each performance test, the owner or operator of the affected source or process unit must establish the operating range for each monitoring parameter according to the requirements in paragraphs (j)(5)(i) and (ii) of this section.

(i) For wet scrubbers, the owner or operator must record the pressure drop across the scrubber and the scrubbing liquid flow rate over the same time period as the performance test while the vent stream is routed and constituted normally. The owner or operator must locate the pressure and flow monitoring devices in positions that provide representative measurements of these parameters.

(ii) For RTO, the owner or operator must record the operating temperature averaged over the same time period as the performance test. The owner or operator must locate the temperature monitor in a position that provides a representative temperature.

(6) During the period, if any, between the compliance date specified for the affected source in § 63.863 and the date upon which monitoring systems have been installed and validated and any applicable operating ranges for monitoring parameters have been set, the owner or operator of the affected source or process unit must maintain a log detailing the operation and maintenance of the process and emissions control equipment.

(k) *On-going compliance provisions.* (1) Following the compliance date, owners or operators of all affected sources or process units are required to implement corrective action, as specified in the startup, shutdown, and malfunction plan prepared under § 63.866(a) if the monitoring exceedances in paragraphs (k)(1)(i) through (vi) of this section occur:

(i) For a new or existing kraft or soda recovery furnace or lime kiln equipped with an ESP, when the average of ten consecutive 6-minute averages result in a measurement greater than 20 percent opacity;

(ii) For a new or existing kraft or soda recovery furnace, kraft or soda smelt dissolving tank, kraft or soda lime kiln, or sulfite combustion unit equipped with a wet scrubber, when any 3-hour average parameter value is outside the range of values established in paragraph (j) of this section.

(iii) For a new or existing semichemical combustion unit equipped with an RTO, when any 1-hour average temperature falls below

the temperature established in paragraph (j) of this section;

(iv) For the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington facility (Emission Unit no. HD–14), when the bag leak detection system alarm sounds.

(v) For an affected source or process unit equipped with an ESP, wet scrubber, RTO, or fabric filter and monitoring alternative operating parameters established in paragraph (e)(13) of this section, when any 3-hour average value is outside the range of parameter values established in paragraph (j) of this section; and

(vi) For an affected source or process unit equipped with an alternative air pollution control system and monitoring operating parameters approved by the Administrator as established in paragraph (e)(14) of this section, when any 3-hour average value is outside the range of parameter values established in paragraph (j) of this section.

(2) Following the compliance date, owners or operators of all affected sources or process units are in violation of the standards of § 63.862 if the monitoring exceedances in paragraphs (k)(2)(i) through (vii) of this section occur:

(i) For an existing kraft or soda recovery furnace equipped with an ESP, when opacity is greater than 35 percent for 6 percent or more of the operating time within any quarterly period;

(ii) For a new kraft or soda recovery furnace or a new or existing lime kiln equipped with an ESP, when opacity is greater than 20 percent for 6 percent or more of the operating time within any quarterly period;

(iii) For a new or existing kraft or soda recovery furnace, kraft or soda smelt dissolving tank, kraft or soda lime kiln, or sulfite combustion unit equipped with a wet scrubber, when six or more 3-hour average parameter values within any 6-month reporting period are outside the range of values established in paragraph (j) of this section;

(iv) For a new or existing semichemical combustion unit equipped with an RTO, when any 3-hour average temperature falls below the temperature established in paragraph (j) of this section;

(v) For the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington facility (Emission Unit no. HD–14), when corrective action is not initiated within 1 hour of a bag leak detection system alarm, corrective action is not completed in accordance with the startup, shutdown, and malfunction plan, and the alarm is engaged for more than 5 percent of the total operating time in a 6-month block reporting period. In calculating the operating time fraction, if inspection of the fabric filter demonstrates that no corrective action is required, no alarm time is counted; if corrective action is required, each alarm is counted as a minimum of 1 hour; if corrective action is not initiated within 1 hour, the alarm time is counted as the actual amount of time taken to initiate corrective action.

(vi) For an affected source or process unit equipped with an ESP, wet scrubber, RTO, or fabric filter and monitoring alternative operating parameters established in paragraph (e)(13) of this section, when six or more 3-hour average values within any 6-month reporting period are outside the range of parameter values established in paragraph (j) of this section; and

(vii) For an affected source or process unit equipped with an alternative air pollution control system and monitoring operating parameters approved by the Administrator as established in paragraph (e)(14) of this section, when six or more 3-hour average values within any 6-month reporting period are outside the range of parameter values established in paragraph (j) of this section.

(3) For purposes of determining the number of nonopacity monitoring exceedances, no more than one exceedance will be attributed in any given 24-hour period.

7. Section 63.865 is amended by:

a. Adding § 63.865 introductory text, revising paragraph (a)(1), and adding paragraph (a)(2)(vi);

b. Revising paragraphs (b) introductory text, (b)(1), (b)(2), (b)(3), and (b)(5), and adding paragraphs (b)(5)(i) through (iv);

c. Revising paragraph (c);

d. Revising paragraphs (d) introductory text and (d)(1); and

e. Removing paragraphs (e) and (f).

The revisions and additions read as follows:

§ 63.865 Performance test requirements and test methods

The owner or operator of each affected source or process unit subject to the requirements of this subpart is required to conduct an initial performance test using the test methods and procedures listed in § 63.7 and paragraph (b) of this section, except as provided in paragraph (c)(1) of this section.

(a) * * *

(1) Determine the overall PM emission limit for the chemical recovery system at the mill using Equation 1 of this section as follows:

$$EL_{PM} = \frac{\left[\left(C_{ref,\,RF}\right)\left(Q_{RFtot}\right)+\left(C_{ref,\,LK}\right)\left(Q_{LKtot}\right)\right](F1)}{\left(BLS_{tot}\right)+ER1_{ref,\,SDT}} \qquad \text{(Eq. 1)}$$

Where:

EL_{PM} = Overall PM emission limit for all existing process units in the chemical recovery system at the kraft or soda pulp mill, kg/Mg (lb/ton) of black liquor solids fired;

$C_{ref,RF}$ = Reference concentration of 0.10 g/dscm (0.044 gr/dscf) corrected to 8 percent oxygen for existing kraft or soda recovery furnaces;

Q_{RFtot} = Sum of the average volumetric gas flow rates measured during the performance test and corrected to 8 percent oxygen for all existing recovery furnaces in the chemical recovery system at the kraft or soda pulp mill, dry standard cubic meters per minute (dscm/min) (dry standard cubic feet per minute [dscf/min]);

$C_{ref,LK}$ = Reference concentration of 0.15 g/dscm (0.064 gr/dscf) corrected to 10 percent oxygen for existing kraft or soda lime kilns;

Q_{LKtot} = Sum of the average volumetric gas flow rates measured during the performance test and corrected to 10 percent oxygen for all existing lime kilns in the chemical recovery system at the kraft or soda pulp mill, dscm/min (dscf/min);

F1 = Conversion factor, 1.44 minutes • kilogram/day • gram (min • kg/d • g) (0.206 minutes • pound/day • grain [min • lb/d • gr]);

BLS_{tot} = Sum of the average black liquor solids firing rates of all existing recovery furnaces in the chemical recovery system at the kraft or soda pulp mill measured during the performance test, megagrams per day (Mg/d) (tons per day [ton/d]) of black liquor solids fired; and

$ER1_{ref,SDT}$ = Reference emission rate of 0.10 kg/Mg (0.20 lb/ton) of black liquor solids fired for existing kraft or soda smelt dissolving tanks.

(2) * * *

(vi) After the Administrator has approved the PM emissions limits for each kraft or soda recovery furnace, smelt dissolving tank, and lime kiln, the owner or operator complying with an overall PM emission limit established in § 63.862(a)(1)(ii) must demonstrate compliance with the HAP metals standard by demonstrating compliance with the approved PM emissions limits for each affected kraft or soda recovery furnace, smelt dissolving tank, and lime kiln, using the test methods and procedures in paragraph (b) of this section.

(b) The owner or operator seeking to determine compliance with § 63.862(a), (b), or (d) must use the procedures in paragraphs (b)(1) through (6) of this section.

(1) For purposes of determining the concentration or mass of PM emitted from each kraft or soda recovery furnace, sulfite combustion unit, smelt dissolving tank, lime kiln, or the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington facility (Emission Unit no. HD–14), Method 5 or 29 in appendix A of 40 CFR part 60 must be used, except that Method 17 in appendix A of 40 CFR part 60 may be used in lieu of Method 5 or Method 29 if a constant value of 0.009 g/dscm (0.004 gr/dscf) is added to the results of Method 17, and the stack temperature is no greater than 205 °C (400 °F). For Methods 5, 29, and 17, the sampling time and sample volume for each run must be at least 60 minutes and 0.90 dscm (31.8 dscf), and water must be used as the cleanup solvent instead of acetone in the sample recovery procedure.

(2) For sources complying with § 63.862(a) or (b), the PM concentration must be corrected to the appropriate oxygen concentration using Equation 7 of this section as follows:

$$C_{corr} = C_{meas} \times \frac{(21 - X)}{(21 - Y)} \qquad \text{(Eq. 7)}$$

Where:

C_{corr} = The measured concentration corrected for oxygen, g/dscm (gr/dscf);

C_{meas} = The measured concentration uncorrected for oxygen, g/dscm (gr/dscf);

X = The corrected volumetric oxygen concentration (8 percent for kraft or soda recovery furnaces and sulfite combustion units and 10 percent for kraft or soda lime kilns); and

Y = The measured average volumetric oxygen concentration.

(3) Method 3A or 3B in appendix A of 40 CFR part 60 must be used to determine the oxygen concentration. The voluntary consensus standard ANSI/ASME PTC 19.10–1981—Part 10 (incorporated by reference—see § 63.14) may be used as an alternative to using Method 3B. The gas sample must be taken at the same time and at the same traverse points as the particulate sample.

* * * * *

(5)(i) For purposes of selecting sampling port location and number of traverse points, Method 1 or 1A in appendix A of 40 CFR part 60 must be used;

(ii) For purposes of determining stack gas velocity and volumetric flow rate, Method 2, 2A, 2C, 2D, 2F, or 2G in appendix A of 40 CFR part 60 must be used;

(iii) For purposes of conducting gas analysis, Method 3, 3A, or 3B in appendix A of 40 CFR part 60 must be used. The voluntary consensus standard ANSI/ASME PTC 19.10–1981—Part 10 (incorporated by reference—see § 63.14) may be used as an alternative to using Method 3B; and

(iv) For purposes of determining moisture content of stack gas, Method 4 in appendix A of 40 CFR part 60 must be used.

* * * * *

(c) The owner or operator of each affected source or process unit complying with the gaseous organic HAP standard in § 63.862(c)(1) must demonstrate compliance according to the provisions in paragraphs (c)(1) and (2) of this section.

(1) The owner or operator complying through the use of an NDCE recovery furnace equipped with a dry ESP system is not required to conduct any performance testing to demonstrate compliance with the gaseous organic HAP standard.

(2) The owner or operator complying without using an NDCE recovery furnace equipped with a dry ESP system must use Method 308 in appendix A of this part, as well as the methods listed in paragraphs (b)(5)(i) through (iv) of this section. The sampling time and sample volume for each Method 308 run must be at least 60 minutes and 0.014 dscm (0.50 dscf), respectively.

(i) The emission rate from any new NDCE recovery furnace must be determined using Equation 9 of this section as follows:

$$ER_{NDCE} = \frac{(MR_{meas})}{BLS} \qquad \text{(Eq. 9)}$$

Where:

ER_{NDCE} = Methanol emission rate from the NDCE recovery furnace, kg/Mg (lb/ton) of black liquor solids fired;

MR_{meas} = Measured methanol mass emission rate from the NDCE recovery furnace, kg/hr (lb/hr); and

BLS = Average black liquor solids firing rate of the NDCE recovery furnace, megagrams per hour (Mg/hr) (tons per hour (ton/hr)) determined using process data measured during the performance test.

(ii) The emission rate from any new DCE recovery furnace system must be determined using Equation 10 of this section as follows:

$$ER_{DCE} = \left[\frac{(MR_{meas,\,RF})}{BLS_{RF}}\right] + \left[\frac{MR_{meas,\,BLO}}{BLS_{BLO}}\right] \qquad \text{(Eq. 10)}$$

Where:

ER_{DCE} = Methanol emission rate from each DCE recovery furnace system, kg/Mg (lb/ton) of black liquor solids fired;

$MR_{meas,RF}$ = Average measured methanol mass emission rate from each DCE recovery furnace, kg/hr (lb/hr);

$MR_{meas,BLO}$ = Average measured methanol mass emission rate from the black liquor oxidation system, kg/hr (lb/hr);

BLS_{RF} = Average black liquor solids firing rate for each DCE recovery furnace, Mg/hr (ton/hr) determined using process data measured during the performance test; and

BLS_{BLO} = The average mass rate of black liquor solids treated in the black liquor oxidation system, Mg/hr (ton/hr) determined using process data measured during the performance test.

(d) The owner or operator seeking to determine compliance with the gaseous organic HAP standards in § 63.862(c)(2) for semichemical combustion units must use Method 25A in appendix A of 40 CFR part 60, as well as the methods listed in paragraphs (b)(5)(i) through (iv) of this section. The sampling time for each Method 25A run must be at least 60 minutes. The calibration gas for each Method 25A run must be propane.

(1) The emission rate from any new or existing semichemical combustion unit must be determined using Equation 11 of this section as follows:

$$ER_{SCCU} = \frac{(THC_{meas})}{BLS} \qquad \text{(Eq. 11)}$$

Where:

ER_{SCCU} = THC emission rate reported as carbon from each semichemical combustion unit, kg/Mg (lb/ton) of black liquor solids fired;

THC_{meas} = Measured THC mass emission rate reported as carbon, kg/hr (lb/hr); and

BLS = Average black liquor solids firing rate, Mg/hr (ton/hr); determined using process data measured during the performance test.

* * * * *

8. Section 63.866 is amended by:

a. Revising paragraph (c) introductory text;

b. Revising paragraph (c)(1);

c. Revising paragraph (c)(2); and

d. Adding paragraph (c)(7).

The revisions and addition read as follows:

§ 63.866 Recordkeeping requirements.

* * * * *

(c) In addition to the general records required by § 63.10(b)(2), the owner or operator must maintain records of the information in paragraphs (c)(1) through (7) of this section:

(1) Records of black liquor solids firing rates in units of Mg/d or ton/d for all recovery furnaces and semichemical combustion units;

(2) Records of CaO production rates in units of Mg/d or ton/d for all lime kilns;

* * * * *

(7) For the bag leak detection system on the hog fuel dryer fabric filter at Weyerhaeuser Paper Company's Cosmopolis, Washington facility (Emission Unit no. HD–14), records of each alarm, the time of the alarm, the time corrective action was initiated and completed, and a brief description of the cause of the alarm and the corrective action taken.

* * * * *

9. Section 63.867 is amended by adding paragraph (a)(3) to read as follows:

§ 63.867 Reporting requirements.

(a) * * *

(3) In addition to the requirements in subpart A of this part, the owner or operator of the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington facility (Emission Unit no. HD–14) must include analysis and supporting documentation demonstrating conformance with EPA guidance and specifications for bag leak detection systems in § 63.864(a)(7) in the Notification of Compliance Status.

* * * * *

[FR Doc. 03–3702 Filed 2–14–03; 8:45 am]
BILLING CODE 6560–50–P

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Income Level for Individuals Eligible for Assistance

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: The Legal Services Corporation ("Corporation") is required by law to establish maximum income levels for individuals eligible for legal assistance. This document updates the specified income levels to reflect the annual amendments to the Federal Poverty Guidelines as issued by the Department of Health and Human Services.

EFFECTIVE DATE: This rule is effective as of February 18, 2003.

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, Senior Assistant General Counsel, Legal Services Corporation, 750 First Street NE., Washington, DC 20002–4250; (202) 336–8817; *mcondray@lsc.gov.*

SUPPLEMENTARY INFORMATION: Section 1007(a)(2) of the Legal Services Corporation Act ("Act"), 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, and the Act provides that other specified factors shall be taken into account along with income.

Section 1611.3(b) of the Corporation's regulations establishes a maximum income level equivalent to one hundred and twenty-five percent (125%) of the Federal Poverty Guidelines. Since 1982, the Department of Health and Human Services has been responsible for updating and issuing the Poverty Guidelines. The revised figures for 2003 set out below are equivalent to 125% of the current Poverty Guidelines as published on February 7, 2003 (68 FR 6457).

List of Subjects in 45 CFR 1611

Grant programs—law, Legal services.

For reasons set forth above, 45 CFR 1611 is amended as follows:

PART 1611—ELIGIBILITY

1. The authority citation for Part 1611 continues to read as follows:

Authority: Secs. 1006(b)(1), 1007(a)(1) Legal Services Corporation Act of 1974, 42 U.S.C. 2996e(b)(1), 2996f(a)(1), 2996f(a)(2).

2. Appendix A of Part 1611 is revised to read as follows:

within 10 days in the form of a Motion to Excuse from Answering. Responses to Motions to Excuse from Answering must be filed within 7 days, and should such a motion be denied, the answers to the discovery in question are due within 7 days of the denial thereof. It is the Commission's intention that parties resolve discovery disputes informally between themselves whenever possible. The Commission, therefore, encourages the party receiving discovery requests considered to be unclear or objectionable to contact counsel for the party filing the discovery requests whenever further explanation is needed, or a potential discovery dispute might be resolved by means of such communication.

* * * * *

3. Amend § 3001.69b by revising paragraphs (b) through (d) to read as follows:

§ 3001.69b Expedited minor classification cases'expedition of procedural schedule.

* * * * *

(b) Persons who are interested in participating in proceedings to consider Postal Service requests for minor changes in mail classification may intervene pursuant to § 3001.20. Parties may withdraw from a particular case by filing a notice with the Secretary of the Commission.

(c) When the Postal Service files a request under the provisions of §§ 3001.69 through 3001.69c, it shall comply with the standard Filing Online procedures of §§ 3001.9 through 3001.12.

(d) When the Postal Service files a request under the provisions of §§ 3001.69 through 3001.69c, it shall on that same day file a notice that briefly describes its proposal. This notice shall indicate on its first page that it is a notice of a request for a minor change in mail classification to be considered under §§ 3001.69 through 3001.69c, and identify the last day for filing a notice of intervention with the Commission.

* * * * *

4. Amend § 3001.163 by revising paragraphs (b) through (d) to read as follows:

§ 3001.163 Procedures'expedition of public notice and procedural schedule.

* * * * *

(b) Persons who are interested in participating in proceedings to consider Postal Service requests to conduct a market test may intervene pursuant to § 3001.20 within 28 days after the filing of a formal request made under the provisions of this subpart. Parties may withdraw from a particular case by filing a notice with the Secretary of the Commission.

(c) When the Postal Service files a request under the provisions of this subpart, it shall comply with the standard Filing Online procedures of §§ 3001.9 though 3001.12.

(d) When the Postal Service files a request under the provisions of this subpart, it shall on that same day file a notice that briefly describes its proposal. This notice shall indicate on its first page that it is a notice of a Market Test Request to be considered under §§ 3001.161 through 3001.166, and identify the last day for filing a notice of intervention with the Commission.

* * * * *

5. Amend § 3001.173 by revising paragraphs (b) through (d) to read as follows:

§ 3001.173 Procedures—expedition of public notice and procedural schedule.

* * * * *

(b) Persons who are interested in participating in proceedings to consider Postal Service requests to establish a provisional service may intervene pursuant to § 3001.20 within 28 days after the filing of a formal request made under the provisions of this subpart. Parties may withdraw from a particular case by filing a notice with the Secretary of the Commission.

(c) When the Postal Service files a request under the provisions of this subpart, it shall comply with the standard Filing Online procedures of §§ 3001.9 through 3001.12.

(d) When the Postal Service files a request under the provisions of this subpart, it shall on that same day file a notice that briefly describes its proposal. Such notice shall indicate on its first page that it is a notice of a Request for Establishment of a Provisional Service to be considered under §§ 3001.171 through 3001.176, and identify the last day for filing a notice of intervention with the Commission.

* * * * *

[FR Doc. 03–6250 Filed 3–14–03; 8:45 am]
BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH155–2; FRL–7467–3]

Approval and Promulgation of Air Quality Implementation Plans; Ohio; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the EPA is withdrawing the direct final rule approving Ohio's State Implementation Plan for the Oxides of Nitrogen (NO_X) State Implementation Plan Call. In the direct final rule published on January 16, 2003 (68 FR 2211), EPA stated that if EPA receives adverse comment by February 18, 2003, the NO_X rule would be withdrawn and not take effect. On February 18, 2003, EPA subsequently received one comment from American Electric Power Service Corporation (AEP). We believe this comment is adverse and therefore, we are withdrawing the direct final rule. EPA will address the comment received from AEP in a subsequent final action based on the proposed action published on January 16, 2003.

DATES: The direct final rule published at 68 FR 2211 on January 16, 2003, is withdrawn as of March 17, 2003.

FOR FURTHER INFORMATION CONTACT: John Paskevicz, Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Telephone: (312) 886–6084. E-Mail Address: *paskevicz.john@epa.gov.*

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

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

Dated: March 7, 2003.

Cheryl Newton,

Acting Regional Administrator, Region 5.

PART 52—[AMENDED]

Accordingly, the addition of 40 CFR 52.1870(c) (127) is withdrawn as of March 17, 2003.

[FR Doc. 03–6192 Filed 3–14–03; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–7467–1]

RIN 2060–AG97

National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: On June 10, 2002, EPA issued the national emission standards for hazardous air pollutants (NESHAP) for the surface coating of metal coil. This action will correct the timeline for beginning the first semiannual reporting period and submitting the first semiannual report as published in the NESHAP. The correction is necessary because the compliance period was changed from monthly in the proposed NESHAP (65 FR 44616, July 18, 2000) to annual in the final NESHAP (67 FR 39794, June 10, 2002), and the timeline was not corrected in the final NESHAP to reflect that change. This action will not change the level of health protection of the Metal Coil Surface Coating NESHAP or the basic control requirements. The NESHAP requires new and existing major sources to control emissions of hazardous air pollutants (HAP) to the level reflecting application of the maximum achievable control technology.

EFFECTIVE DATE: March 17, 2003.

ADDRESSES: Docket No. A–97–47 contains the supporting information used in developing the Metal Coil Surface Coating NESHAP. The EPA Docket Center is located at the U.S. EPA, 1301 Constitution Avenue, NW., Room B102, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Rhea Jones, Coatings and Consumer Products Group (C539–03), Emission Standards Division, U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541–2940; facsimile number (919) 541–5689; electronic mail address: *jones.rhea@epa.gov.*

SUPPLEMENTARY INFORMATION:

Good Cause. Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making the technical correction final without prior proposal and opportunity for comment because the changes to the rule are minor technical corrections, are noncontroversial in nature, and do not substantively change the requirements of the Metal Coil Surface Coating NESHAP. Thus, notice and public procedure are unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

Regulated Entities. All entities regulated under the Metal Coil Surface Coating NESHAP will be affected by this correction. Categories and entities potentially regulated by the NESHAP include:

Category	NAICS codes	Examples of potentially regulated entities
Metal Coil Coating Industry	332812[a], 339991, 331112, 331221, 33121, 331312, 331314, 331315, 332312, 332322, 332311, 33637, 332813, 332999, 333293, 336399, 325992, 42183.	Those facilities that perform surface coating of metal coil using HAP-containing materials.

[1] The majority of facilities are included in NAICS 332812.

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 is regulated by the Metal Coil Surface Coating NESHAP, you should examine the applicability criteria in § 63.5090 of the NESHAP. If you have any questions regarding the applicability of this action to a particular entity, consult the appropriate Regional Office representative. *Worldwide Web (WWW).* In addition to being available in the docket, an electronic copy of today's action will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this action will be posted 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. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

I. Summary of Corrections

Today's action consists of corrections to 40 CFR 63.5180(g)(1), subparagraphs (i) and (ii). In the **Federal Register** document published June 10, 2002 (67 FR 39794), these subparagraphs mistakenly stated that the first semiannual reporting period would begin on the compliance date specified in § 63.5130 and end on June 30 or December 31, whichever date is the first date following the end of the calendar half following the compliance date. The first semiannual report would, therefore, be scheduled to be postmarked or submitted 1 month later. Beginning the semiannual reporting period and submitting the first semiannual report as described in these subparagraphs would require that facilities submit semiannual reports before the end of the initial compliance period and before submitting a notification of compliance status. Our intent was to require that the first semiannual reporting period begin on the day following the end of the initial compliance period rather than on the compliance date, and end 6 months later. The first semiannual report would then be submitted 1 month after the end of the reporting period.

II. Statutory and Executive Order Review

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 EPA 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, 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) (Public Law No. 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 technical corrections also do not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). The technical corrections 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 action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

The technical corrections action does not involve technical standards. The EPA's compliance with § 12(d) of the

National Technology Transfer and Advancement Act of 1995 (Pub. L. No. 104–113, section 12(d) (15 U.S.C. 272 note)) has been addressed in the preamble of the underlying final rule (67 FR 39794, June 10, 2002). The technical corrections also do not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing the technical corrections, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the technical corrections in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. The technical corrections do not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). The EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the June 10, 2002, **Federal Register** notice containing the metal coil surface coating final rule.

The technical corrections 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.

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 therefor, and established an effective date of March 17, 2003. The EPA will submit a report containing the technical corrections 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 correction notice in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

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

Dated: March 7, 2003.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

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 SSSS—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil

2. Section 63.5180 is amended by revising paragraphs (g)(1)(i) and (g)(1)(ii) to read as follows:

§ 63.5180 What reports must I submit?

* * * * *

(g) * * *

(1) * * *

(i) The first semiannual reporting period begins 1 day after the end of the initial compliance period described in § 63.5130(d) that applies to your affected source and ends 6 months later.

(ii) The first semiannual compliance report must cover the first semiannual reporting period and be postmarked or delivered no later than 30 days after the reporting period ends.

* * * * *

[FR Doc. 03–6301 Filed 3–14–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL–7467–6]

Historic Area Remediation Site (HARS)—Specific Polychlorinated Biphenyl Worm Tissue Criterion

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) today modifies the designation of the Historic Area Remediation Site (hereinafter referred to as HARS) by establishing a HARS-specific worm tissue polychlorinated biphenyl (PCB) criterion of 113 parts per billion (ppb) for use in determining the suitability of proposed dredged material for use as Remediation Material. This amendment to the HARS designation establishes a pass/fail criterion for evaluating PCBs in worm tissue from bioaccumulation tests performed on dredged material proposed for use at the HARS as Remediation Material. The PCB criterion will remain in effect until after EPA and the U.S. Army Corps of Engineers (USACE) complete their review of the 2002 scientific peer review comments on the HARS testing evaluation process used for bioaccumulation data from dredged material proposed for use at the HARS as Remediation Material for human health effects, conduct and respond to the comments on the future scientific peer review on the HARS testing evaluation process used for bioaccumulation data from dredged material proposed for use at the HARS as Remediation Material for ecological effects, and revise, as necessary, the HARS testing evaluation process used for bioaccumulation data from dredged material proposed for use as Remediation Material at the HARS for all contaminants of concern in accordance with the September 27, 2000 Memorandum of Agreement (MOA) (USEPA, 2000a) between EPA and the USACE.

Among other things, the September 27, 2000 MOA established an interim guidance value of 113 ppb for PCBs in the tissues of bioassayed worms, to be considered when determining whether proposed dredged material from the New York/New Jersey Harbor is acceptable for placement at the HARS. At the time of the MOA, the agencies agreed that, while the peer review was not complete, the implementation of this interim change was warranted based upon existing information. This

purchase from being obtained or acquired by the Government of Iraq.

(6) U.S. citizens who wish to travel to Iraq pursuant to this section must apply to the Department of State to have their passports validated for travel to Iraq. Such applications should be submitted to the Deputy Assistant Secretary for Passport Services, ATTN: Office of Passport Policy and Advisory Services, U.S. Department of State, 2401 E Street NW., Washington, DC 20522–0907. Such applications must include the applicant's name, date and place of birth, dates of proposed travel, and purpose of the trip. This section does not in any way create a presumption in favor of passport validation.

(e) This section does not authorize transfers from blocked accounts.

Note to § 575.528: This section does not excuse a U.S. person from compliance with other provisions of 31 CFR chapter V or with applicable U.S. laws governing the exportation or re-exportation of U.S.-origin goods, software, or technology (including technical data) to Iraq, Iran, or other countries. *See, e.g.*, the Export Administration Regulations administered by the U.S. Department of Commerce (15 CFR chapter VII, subchapter C) and the International Traffic in Arms Regulations (22 CFR chapters 120–130) administered by the Department of State.

Dated: February 28, 2003.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: March 3, 2003.

Kenneth E. Lawson,

Assistant Secretary (Enforcement), Department of the Treasury.

[FR Doc. 03–5952 Filed 3–10–03; 8:50 am]

BILLING CODE 4810–25–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–7463–2]

National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: This action corrects errors and clarifies regulatory text of the "National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing," which was issued as a final rule on July 9, 2002. These technical corrections will not change the level of health protection the final rule provides or the standards established by the rule.

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 today's action final without prior proposal and opportunity for comment because the changes to the rule are minor technical corrections, are noncontroversial, and do not substantively change the requirements of the rule. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B) (*see* also the final sentence of section 307(d)(1) of the Clean Air Act, 42 U.S.C. 7607(d)(1), indicating that the good cause provisions of the APA continue to apply to this type of rulemaking under the Clean Air Act).

Section 553(d)(3) allows an agency, upon a finding of good cause, to make a rule effective immediately. Because today's changes do not substantively change the requirements of the rule, we find good cause to make these technical corrections effective immediately.

EFFECTIVE DATE: March 12, 2003.

FOR FURTHER INFORMATION CONTACT: Anthony P. Wayne, Policy Planning and Standards Group, Emission Standards Division, C439–04, U.S. EPA, Research Triangle Park, North Carolina, 27711, telephone number (919) 541–5439; Fax (919) 541–0942; Electronic mail address: *wayne.tony@epa.gov.*

SUPPLEMENTARY INFORMATION:

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

Category	NAICS [a]	Regulated entities
Industry	326211 326212 314992	Rubber Tire Manufacturing. Facilities.

[a] North American Information Classification System.

This list 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 63.5981. If you have questions regarding the applicability of this action to a particular entity, consult your State or local agency (or EPA Regional Office) described in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Docket. The EPA has established an official public docket for this action under Docket ID No. OAR–2002–0089. The official public docket consists of the documents that are available for public viewing in the Rubber Tire Manufacturing NESHAP Docket at the EPA Docket Center (Air Docket), EPA West, Room B–108, 1301 Constitution Avenue, NW., Washington, DC 20004. The Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the reading room is (202) 566–1742. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Electronic Access. You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is also available through EPA's new electronic public docket, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/rpas/* to access the index listing of the contents of the official public docket for this action, as well as access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket identification number that EPA has established for this action.

Certain types of information will not be placed in the EPA Docket. Information claimed as CBI, and other information whose disclosure is restricted by statute which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket either. The EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available supporting materials for this action will be made available in EPA's electronic public docket. When a document is selected from the index list in the EPA Docket, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the Docket Center identified in this notice. The EPA intends to work toward providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of the final rule correction notice will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the final rule correction notice will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

I. Correction

On July 9, 2002 (67 FR 45588), the EPA promulgated the national emission standards for hazardous air pollutants (NESHAP) for rubber tire manufacturing as subpart XXXX in 40 CFR part 63. Today's action contains notification of typographical errors and corrections to clarify wording changes. The corrections will become effective immediately (without further rulemaking action) on March 12, 2003.

Table 17 to subpart XXXX contains two citations that indicate the applicability of the general provisions of 40 CFR part 63, subpart XXXX. Specifically, §§ 63.9(f), (g) and 63.10(b)(2)(i)–(iv) are referenced. The applicability of these provisions to subpart XXXX were indicated in the wrong columns of the table. Sections 63.9(f) and (g) are not applicable to subpart XXXX. Section 63.10(b)(2)(i)–(iv) is applicable to subpart XXXX when a control device is employed to meet the emission standards of subpart XXXX. Section 63.10(b)(2)(i)–(iv) is not applicable when a control device is not employed to comply with the emission standards of subpart XXXX. Today's action notifies interested parties of the corrections.

Several editorial changes are being made to clarify the intent of the provisions. Terminology in § 63.5994(c)(4), Equation 4, is being revised to clarify and correct the definition of the term HAP_k. The term HAP_k refers to the mass percent, expressed as a decimal, of all hazardous air pollutants (HAP) in cement and solvent. The term incorrectly stated "of the specified HAP." The revision to the term definition will correct the inconsistency in Equation 4.

The definition of cements and solvents, § 63.6015, is being revised to clarify a specific item in the list of cements and solvents subject to the Rubber Tire Manufacturing final rule. The list of cements and solvents includes materials used to clean process equipment. The word "clean" was inadvertently left out of the final rule. The revision to include the word "clean" clarifies the intended meaning of the applicable cements and solvents.

II. 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 (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 technical correction does not have substantial direct effects on the States, or on the relationship between the national government and the States, 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 6, 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 it is not economically significant.

The technical 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 it is not a significant regulatory action under Executive Order 12866.

The technical correction action does not involve changes to the technical standards related to test methods or monitoring methods; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) does not apply.

The technical 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 EPA has complied with Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings) (53 FR 8859, March 15, 1988) by examining the takings implications of this rule correction in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order.

In issuing the technical correction, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, Civil Justice Reform (61 FR 4729, February 7, 1996).

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, and established an effective date of March 12, 2003. The EPA will submit a report containing this 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.**

The EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the July 9, 2002, **Federal Register** notice containing the Rubber Tire Manufacturing final rule (67 FR 45588).

List of Subjects for 40 CFR Part 63

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

Dated: March 3, 2003.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

For the reasons set out in the preamble, title 40, chapter I, part 63, subpart XXXX 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 XXXX—[Amended]

2. Section 63.5994(c)(4) is amended by revising the term HAP_k to read as follows:

§ 63.5994 How do I conduct tests and procedures for tire production affected sources?

* * * * *

(c) * * *

(4) * * *

HAP_k = mass percent, expressed as a decimal, of all HAP in cement and solvent k, as purchased, for cements and solvents used in the month in processes that are routed to a control device during non-control operating days, which are defined as days when either the control system is not operating within the operating range established during the performance test or when monitoring data are not collected.

* * * * *

3. Section 63.6015 is amended by revising the definition of *Cements and solvents* to read as follows:

§ 63.6015 What definitions apply to this subpart?

* * * * *

Cements and solvents means the collection of all organic chemicals, mixtures of chemicals, and compounds used in the production of rubber tires, including cements, solvents, and mixtures used as process aids. Cements and solvents include, but are not limited to, tread end cements, undertread cements, bead cements, tire building cements and solvents, green tire spray, blemish repair paints, side wall protective paints, marking inks, materials used to clean process equipment, and slab dip mixtures. Cements and solvents do not include coatings or process aids used in tire cord production, puncture sealant application, rubber processing, or materials used to construct, repair, or maintain process equipment, or chemicals and compounds that are not used in the tire production process such as materials used in routine janitorial or facility grounds maintenance, office supplies (*e.g.*, dry-erase markers, correction fluid), architectural paint, or any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution to and use by the general public.

* * * * *

[FR Doc. 03–5713 Filed 3–11–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[DA 03–445]

Commission Organization

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Commission's rules to reflect the name change of the Commission's Office of Plans and Policy.

DATES: Effective February 7, 2003.

FOR FURTHER INFORMATION CONTACT: Mary Beth Richards, 202–418–1514.

SUPPLEMENTARY INFORMATION: This action was taken by order of the Managing Director on authority delegated by the Commission. The order (DA 03–445) was released on March 5, 2003, and the full text of the order is available for public inspection on-line at *http://www.fcc.gov* or in the Reference Center of the Federal Communications Commission, 445 12th Street, SW., Washington, D.C. 20554. To more accurately reflect the expanded emphasis by the Commission's Office of Plans and Policy on strategic planning, the Office's name has been changed to the Office of Strategic Planning and Policy Analysis. Since this name change pertains to agency organization, procedure, and practice, the notice and comment provisions of the Administrative Procedure Act contained in 5 U.S.C. 553(b) are not applicable.

Federal Communications Commission.

Andrew S. Fishel,

Managing Director.

For the reasons set forth in the preamble, the Federal Communications Commission amends 47 CFR part 0 as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

§§ 0.5, 0.21, 0.31, and 0.271 [Amended]

2. In part 0 remove the words "Office of Plans and Policy" and add, in their place, the words "Office of Strategic Planning and Policy Analysis" in the following places:

a. Center heading before §§ 0.21 and 0.271;

b. Section 0.5(a)(4);

c. Section 0.21 introductory text;

d. Section 0.31(g); and

e. Section 0.271(a).

[FR Doc. 03–5829 Filed 3–11–03; 8:45 am]

BILLING CODE 6712–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1825

RIN 2700–AC33

Trade Agreements Act—Exception for U.S.-Made End Products

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This final rule adopts without change the proposed rule published in the **Federal Register** (67 FR 68551) on November 12, 2002. This final rule amends the NASA FAR Supplement (NFS) to implement the determination of the Assistant Administrator for Procurement that, for procurements subject to the Trade Agreements Act, it would be inconsistent with the public interest to apply the Buy American Act for U.S.-made end products that are substantially transformed in the United States.

EFFECTIVE DATE: March 12, 2003.

FOR FURTHER INFORMATION CONTACT: Patrick Flynn, Code HK, (202) 358–0460; e-mail: *pflynn@hq.nasa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

On September 13, 2002, the Assistant Administrator for Procurement



Federal Register

Monday,
April 14, 2003

Part VII

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0080; FRL–7461–1]

RIN 2060–AH42

National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for new and existing sources at flexible polyurethane foam fabrication facilities. The EPA has identified flexible polyurethane foam fabrication facilities as major sources of hazardous air pollutants (HAP) emissions. These standards will implement section 112(d) of the Clean Air Act (CAA) by requiring all such major sources to meet HAP emission standards that reflect the application of maximum achievable control technology (MACT). The primary HAP that will be controlled with this action include hydrochloric acid (HCl), 2,4-toluene diisocyanate (TDI), and hydrogen cyanide (HCN). This action will also preclude the use of methylene chloride. Exposure to these substances has been demonstrated to cause adverse health effects such as irritation of the lung, eye, and mucous membranes, effects on the central nervous system, and cancer. We do not have the type of current detailed data on each of the facilities and the people living around the facilities covered by today's final rule for this source category that would be necessary to conduct an analysis to determine the actual population exposures to the HAP emitted from these facilities and the potential for resultant health effects. Therefore, we do not know the extent to which the adverse health effects described above occur in the populations surrounding these facilities. However, to the extent the adverse effects do occur, and today's final rule reduces emissions, subsequent exposures will be reduced. This final rule will reduce HAP emissions by 6.5 tons per year (tpy) from each new or reconstructed affected source performing flame lamination.

EFFECTIVE DATE: April 14, 2003.

ADDRESSES: *Docket.* We have established an official public docket for this action under Docket ID No. OAR–2002–0080 or A–2000–43; available for public viewing at the Office of Air and Radiation Docket and Information Center (Air Docket) in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For information concerning applicability and rule determinations, contact your State or local regulatory agency representative or the appropriate EPA Regional Office representative. For information concerning analyses performed in developing this rule, contact Ms. Maria Noell, Organic Chemicals Group, Emission Standards Division (C504–04), U.S. EPA, Research Triangle Park, North Carolina, 27711; telephone number (919) 541–5607; fax number (919) 541–0942; electronic mail address: *noell.maria@epa.gov.*

SUPPLEMENTARY INFORMATION:

Docket. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing. The EPA Docket Center 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 Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

Electronic Docket Access. You may access the final rule electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility in the above paragraph entitled "Docket." Once in the system, select "search," then key in the appropriate docket identification number.

Judicial Review. Under CAA section 307(b), judicial review of the final NESHAP is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit on or before June 13, 2003. Only those objections to the NESHAP which were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2)of the CAA, the requirements established by today's final action may not be challenged separately in any civil or criminal proceeding we bring to enforce these requirements.

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

Category	SIC[a]	NAICS[b]	Regulated entities
Industry	3086	32615	Fabricators of flexible polyurethane foam.

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

This list 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 § 63.8782 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult your State or local agency (or EPA Regional Office) described in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this final rule will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules *http://www.epa.gov/ttn/oarpg.*

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

I. Introduction and Background

A. What is the source of authority for development of NESHAP?
B. What criteria are used in the development of NESHAP?
C. How did the public participate in developing the rule?
D. Description of Source Category
II. Summary of Changes Since Proposal
III. Summary of the Final Rule
A. What are the affected sources?
B. What are the emissions limitations and compliance dates?
C. What are the testing, initial compliance, and continuous compliance requirements?
D. What are the notification, recordkeeping, and reporting requirements?
IV. Summary of Major Comments and Responses
A. What sources are subject to the rule?
B. What issues were raised regarding adhesive-use sources?
C. What issues were raised regarding flame lamination sources?
V. What are the environmental, cost, and economic impacts of the final rule?
VI. Statutory and Executive Order Reviews
A. Executive Order 12866—Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act (RFA)
D. Unfunded Mandates Reform Act of 1995
E. Executive Order 13132—Federalism
F. Executive Order 13175—Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045—Protection of Children from Environmental Health Risks and Safety Risks
H. Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act of 1995
J. Congressional Review Act

I. Introduction and Background

A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. The category of major sources covered by today's final rule was listed on July 16, 1992 (57 FR 31576). Major source under section 112 means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, 10 tpy or more of any one HAP or 25 tpy or more of any combination of HAP.

B. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT.

The minimum control level allowed for NESHAP, which we refer to as the "MACT floor," is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that standards are set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on consideration of the cost of achieving the emission reductions, any non-air quality health and environmental impacts, and energy requirements.

C. How Did the Public Participate in Developing the Rule?

Prior to proposal, we met with industry representatives and State regulatory authorities several times to discuss the data and information used to develop the proposed standards. In addition, these and other potential stakeholders, including equipment vendors and environmental groups, had opportunity to comment on the proposed standards.

The proposed rule was published in the **Federal Register** on August 8, 2001 (66 FR 41718). The preamble to the proposed rule discussed the availability of technical support documents, which described in detail the information gathered during the standards development process. Public comments were solicited at proposal, including a specific request for comments with regard to the potential existence of non-slitter adhesive use by major sources.

We received eight public comment letters on the proposed rule. The commenters represent the following affiliations: foam fabricators (2 companies), industrial trade associations (5), and one private research group. In the post-proposal period, we talked with commenters and other stakeholders to clarify comments and to assist in our analysis of the comments. Records of these contacts are found in Docket OAR–2000–0080 or Docket A–2000–43. All of the comments have been carefully considered, and, where appropriate, changes have been made for the final rule.

D. Description of Source Category

Today's NESHAP apply to the Flexible Polyurethane Foam Fabrication Operations source category. This source category includes operations engaged in cutting, gluing, and/or laminating pieces of flexible polyurethane foam. This includes fabrication operations that are located at foam production plants, as well as those that are located off-site from foam production plants.

We have identified two subcategories under the Flexible Polyurethane Foam Fabrication Operations source category. These subcategories are loop slitter HAP-based adhesive use and flame lamination.

Loop Slitter Adhesive Use: A loop slitter is a large machine used to create thin sheets of foam from the large blocks of foam or "buns" created at a foam production plant. In order to comply with Occupational Health and Safety Administration (OSHA) regulations, loop slitters have converted from a reliance on methylene chloride-based adhesives to other non-HAP alternatives since the mid-1990's. As a result of the OSHA regulations, we believe that the foam fabrication industry has effectively discontinued the use of methylene chloride-based adhesives on loop slitters. Consequently, our estimate of current nationwide HAP emissions from loop slitter adhesive use prior to the development of the NESHAP (referred to as "baseline emissions") is zero.

Flame Lamination: In the flame lamination process, foam is scorched to adhere it to various substrates. This process releases particulates and HAP. We have identified HCN, TDI, and HCl as HAP emitted as a result of flame lamination. Specific HAP released are dependent on the contents of the foam being laminated at a given time. With the exception of HCl, these HAP are generally released in very small amounts.

II. Summary of Changes Since Proposal

In response to comments received on the proposed NESHAP and further analysis, we made two significant changes for the final rule, and a small number of other changes for editorial purposes and clarification.

The proposed rule included an emission limit for loop slitters of zero HAP emissions. Information subsequently supplied by commenters and industry contacts demonstrated that the widely used n-propyl bromide adhesives originally believed to be non-HAP actually contain small amounts of HAP.

In accordance with the definition of "HAP-based" in the Flexible Polyurethane Foam Production NESHAP (40 CFR part 63, subpart III), we have changed the definition of "HAP-based adhesive" to contain 5 percent (by weight) or more of HAP. We also changed the emission limit accordingly.

At post proposal, it came to our attention that the test methods specified for measurement of HCN emissions from process, storage tank, and transfer vents (EPA Methods 18, 25, and 25A) have not been validated for measurement of HCN. Test methods that have been used for measurement of HCN include the EPA Conditional Test Method CTM–033 "Draft Method for Sampling and Analysis of Hydrogen Cyanide Emissions for Stationary Sources" and California Air Resources Board Method 426 (*http://www.epa.gov/ttn/emc/ctm.html*) modified to use ion chromatography for sample analysis. However, neither of these methods have been fully validated at this time. Consequently, the final rule has been written to require that the data from any test method used to measure HCN emissions from flame lamination sources must be validated using EPA Method 301.

Another change made for the final rule was the addition of a definition for "research and development process" to clarify the provision in § 63.8782(d)(2) that such processes are not subject to the rule, and a change to § 63.8786(e) so that collection of compliance data prior to the compliance date is no longer required.

We proposed to exclude non-slitters from the source category based on our findings that there were no non-slitters using HAP-based adhesives located on the site of a major source, and solicited comment and supporting information regarding that issue. We received no comment or supporting information contrary to our findings, therefore, we are excluding the non-slitter adhesive use from the source category definition. Additional changes were insignificant and editorial in nature.

III. Summary of Final Rule

A. What Are the Affected Sources?

The final rule defines two affected sources (units or collections of units to which a given standard or limit applies) corresponding to the two subcategories, loop slitter adhesive use and flame lamination. The loop slitter adhesive use affected source is the collection of loop slitters and associated adhesive application equipment used to apply HAP-based adhesives to bond foam to foam at a flexible polyurethane foam fabrication plant site. Loop slitter affected sources, located at plant sites that are major sources of HAP, that are using HAP-based adhesives on or after April 14, 2003, are subject to the NESHAP, including the applicable emission limit and reporting and recordkeeping requirements. However, loop slitter affected sources that have eliminated use of HAP-based adhesives by April 14, 2003, are not subject to the NESHAP. The flame lamination affected source is the collection of all flame laminators and associated rollers at a flexible polyurethane foam fabrication plant site associated with the flame lamination of foam to any substrate.

B. What Are the Emission Limitations and Compliance Dates?

If you own or operate an existing, new, or reconstructed loop slitter adhesive use affected source, the final rule prohibits you from using any HAP-based adhesives. We are defining HAP-based adhesives as adhesives containing 5 percent (by weight) or greater of HAP, where the concentration of HAP may be determined using EPA Method 311 (Analysis of Hazardous Air Pollutant Compounds in Paints and Coatings by Direct Injection Into a Gas Chromatograph) or other approved information. Existing affected sources must be in compliance by April 14, 2004. New or reconstructed sources must be in compliance by the date of startup of the affected source, or by April 14, 2003, whichever is later.

If you own or operate an existing flame lamination affected source, you are not required to meet any emission limitation; you are only subject to a requirement to submit an initial notification within 120 days after April 14, 2003. If you own or operate a new or reconstructed flame lamination affected source, the NESHAP requires that you reduce HAP emissions from the affected source by 90 percent. Your new or reconstructed flame lamination affected source must be in compliance with the emission limit upon startup or by April 14, 2003, whichever is later.

C. What Are the Testing, Initial Compliance, and Continuous Compliance Requirements?

If you own or operate a flexible polyurethane foam fabrication loop slitter adhesive use or flame lamination affected source, you must comply with the testing, initial compliance, and continuous compliance requirements in the following paragraphs.

Loop Slitter Adhesive Use

If you own or operate a loop slitter affected source, you must demonstrate initial and continuous compliance by certifying that no HAP-based adhesives are or will be used. You must submit this initial certification within 60 days of the compliance date. The certification must be accompanied by documentation stating what the facility will use for adhesives, along with supporting information to document the HAP content of adhesives used at the facility, such as Method 311 results or other approved information. Thereafter, on a yearly basis, you must recertify compliance, including HAP content information on any new adhesives used at the source.

The final rule allows you to use methods other than Method 311, including an approved alternative method or any other reasonable means to determine the HAP content of adhesives. Other reasonable means include a material safety data sheet (MSDS), a certified product data sheet (CPDS), or a manufacturer's hazardous air pollutant data sheet. However, if the results of an analysis by EPA Method 311 are different from the HAP content determined by another means, the EPA Method 311 results will govern compliance determinations. You are not required to test the materials used, but the Administrator may require a test using EPA Method 311 (or an approved alternative method) to confirm the reported HAP content.

Flame Lamination

If you own or operate a new or reconstructed flame lamination affected source, the final rule requires that you demonstrate initial compliance by conducting a performance test within 180 days after the compliance date that demonstrates that HAP emissions are being reduced by 90 percent. In order to demonstrate continuous compliance with this emissions limit, you must continuously monitor control device parameters. Specifically for venturi scrubbers, which we believe will be the control device of choice in most situations, you are required to continuously monitor the pH of the

scrubber effluent, the scrubber liquid flow rate, and the pressure drop across the venturi. You must demonstrate continuous compliance by these monitored parameters staying within the operating limits. Operating limits must be established for each parameter based on monitoring conducted during the initial performance test and reported in your facility's Notification of Compliance Status Report.

D. What Are the Notification, Recordkeeping, and Reporting Requirements?

If you own or operate foam fabrication operations at major sources, you must submit several notifications and reports, which are listed and then briefly described in this section. First, you must submit an initial notification. In addition, if you own or operate a flexible polyurethane loop slitter adhesive use affected source or a new or reconstructed flame lamination affected source, you must also submit the following notification and reports:

- Notification of Intent to Conduct a Performance Test (new or reconstructed flame laminators only);
- Notification of Compliance Status reports;
- Periodic Compliance reports; and
- Startup, Shutdown, and Malfunction reports (new or reconstructed flame laminators only).

For the Initial Notification, you must notify us that your facility is subject to the Flexible Polyurethane Foam Fabrication Operations NESHAP, and provide specified basic information about your facility. You must submit this notification within 120 days after April 14, 2003, for existing affected sources. If you own or operate a new or reconstructed affected source, you are required to submit the application for construction or reconstruction required by § 63.9(b)(iii) of the 40 CFR part 63, subpart A, in lieu of the Initial Notification.

For the Notification of Intent report, for each new or reconstructed flame lamination affected source that you own or operate, you must notify us in writing of the intent to conduct a performance test at least 60 days before the performance test is scheduled to begin. You must submit the Notification of Compliance Status report within 60 days of completion of the performance test. As part of the Notification of Compliance Status, you must include a certified notification of compliance that states the compliance status of the facility, along with supporting information (*e.g.*, performance test results and operating parameter values and ranges).

If you own or operate a source complying with the standards for loop slitter adhesive use, you must submit the Notification of Compliance Status within 60 days of the compliance date. In the Notification of Compliance Status, you must list each adhesive used at the affected source, the manufacturer or supplier of each, and the individual HAP content (percent by mass) of each adhesive that is used.

If you own or operate a facility that is subject to control requirements under these NESHAP, you must submit a Periodic Compliance report, which reports continued compliance with the flame lamination new source emission limit semiannually, and continued compliance with the loop slitter adhesive use HAP-based usage limit annually.

Finally, for the Startup, Shutdown, and Malfunction report, if you own or operate a new or reconstructed flame lamination affected source, you must report any startup, shutdown, or malfunction during the reporting period which does not meet the emission limitations set out in 40 CFR 63.8790 and is not in the facility's startup, shutdown, and malfunction plan.

If you own or operate a flame lamination or loop slitter adhesive use source, you must maintain records of reported information and other information necessary to document compliance (*e.g.*, records related to malfunction, records that show continuous compliance with emission limits) for 5 years.

IV. Summary of Major Comments and Responses

This section includes discussion of significant comments on the proposed rule. For a complete summary of all the comments received on the proposed rule and our responses to them, refer to the "Background Information Document for Promulgation of National Emissions Standards for Hazardous Air Pollutant (NESHAP): Flexible Polyurethane Foam Fabrication" (hereafter called the "response to comments document") in Docket OAR–2002–0080 or A–2000–43. The docket also contains the actual comment letters and supporting documentation developed for the final rule.

A. What Sources Are Subject to the Rule?

Comment: We received one comment requesting that we regulate area sources in the flexible polyurethane foam fabrication industry. The commenter asserted that there are a large number of area sources in this source category and cited examples of other source categories for which both area and major sources are regulated.

Response: According to section 112(c)(3) of the CAA, the Administrator must list area source categories separately from major source categories, and only if the Administrator finds that a category of area sources "* * * presents a threat of adverse effects to human health or the environment (by such sources individually or in the aggregate) warranting regulation under this section." We have listed flexible foam fabrication operations as an area source category for further scrutiny and will address the emissions from area sources in this source category in a separate action (64 FR 38721, July 19, 1999).

B. What Issues Were Raised Regarding Adhesive-Use Sources?

Comment: The proposed rule included a provision that loop slitters could use no HAP-based adhesives, with HAP-based adhesives defined as "an adhesive containing detectable HAP, according to EPA Method 311 or another approved alternative." The data for existing loop slitters that were available to us during the development of the proposed rule indicated that 22 of 30 facilities use no HAP-based adhesives. Several commenters asserted that the adhesives commonly used by the industry on their loop slitters do contain small amounts of HAP. A survey conducted by one of the commenters indicated that 11 of the 20 loop slitter facilities surveyed use an n-propyl bromide adhesive which contains 0.32 to 1.0 percent 1,2-Epoxybutane by weight.

Response: The information supplied by commenters and industry contacts demonstrates that the widely-used n-propyl bromide adhesives, originally believed to be non-HAP, actually contain trace amounts of HAP, which we believe are present mostly as impurities. In accordance with the definition of "HAP-based" in the Flexible Polyurethane Foam Production NESHAP (40 CFR part 63, subpart III), we have written the definition of "HAP-based adhesive" in the final rule to contain 5 percent (by weight) or more of HAP.

Comment: Several commenters recommended that we set a numerical, technology-based emission limitation for loop slitters, rather than banning the use of HAP-based adhesives. The commenters explained that a numerical or technology-based MACT standard would allow industry to lower their emissions using control technologies that are currently available or being developed.

Response: Our determination that the MACT floor for loop slitter adhesive use is no HAP-based adhesives makes the use of a numerical or technology-based emission limitation inappropriate. Although it may be possible to greatly reduce HAP emissions through use of technology, we believe that elimination of the use of HAP-based adhesives in loop slitter operations is required by section 112(d)(3) of the CAA because of the number of facilities using no HAP-based adhesives in their loop slitter operations. Accordingly, no changes were made for the final rule with regard to this issue.

Comment: Comments were received encouraging us to regulate non-slitter adhesive use applications in order to control emissions of methylene chloride. The commenter asserted that many major source facilities are still using methylene chloride-based adhesives in non-loop slitter applications.

Response: In the preamble to the proposed rule, we specifically requested comments on this issue. We stated that if comments demonstrated that "there are non-sliter adhesive sources using HAP-based adhesives that are located on the site of a major source, we would retain them in the source category and treat them as a third subcategory." Based on available information, we found no non-slitters on sites of major sources. Thus, there is no basis to retain non-slitter adhesive use sources in this category. We have listed flexible foam fabrication operations as an area source category for further scrutiny and will address the emissions from area sources under section 112(k) of the CAA.

Comment: Several comments were received expressing concerns regarding the adhesives being used as alternatives to HAP-based adhesives, for both loop slitter and non-slitter adhesive applications. Some commenters mentioned that n-propyl bromide has been the subject of a number of "substantial risk" notifications under the Toxic Substances Control Act and is also the subject of toxicity testing under the National Toxicology Program, and urged us to consider regulating n-propyl bromide emissions.

Response: We are aware of this situation, but have no authority under section 112 to regulate n-propyl bromide since it is not currently listed as a HAP.

Comment: Another commenter asked us to investigate and identify the secondary air impacts of HAP or volatile organic compounds (VOC) from the use of the adhesives being used as alternatives to methylene chloride. If they emit VOC, the commenter recommended that we regulate those emissions so as not to exacerbate local efforts to comply with other air pollution regulations.

Response: The NESHAP for foam fabrication operations protects air quality and promotes the public health by reducing emissions of some of the HAP listed in section 112(b)(1) of the CAA. The mandate for the NESHAP program does not extend to control of VOC (unless they are HAP). Additionally, VOC emissions are addressed elsewhere in the CAA, both in section 110 which addresses State implementation plans for States with ozone nonattainment areas under the national ambient air quality standards; and in section 111, which includes new source performance standards. Moreover, the current record does not indicate that there are any significant secondary air impacts (*i.e.*, increased emissions of other HAP or VOC) from the use of alternatives to methylene chloride. Thus, the Agency finds that the investigation requested by the commenter is unwarranted. We believe that the reporting requirements that were proposed for loop slitter facilities are adequate, and they remain unchanged for the final rule.

C. What Issues Were Raised Regarding Flame Lamination Sources?

Comment: One commenter asserted that the proposed MACT for existing flame lamination sources (no additional control) is not the maximum degree of HAP reduction that could be achieved and requested that MACT for these sources be based on "the performance of the best two facilities," excluding consideration of uncontrolled sources.

Response: We are required to calculate the MACT floor for existing sources based on the central tendency of the emission limitation achieved by the best performing five major sources for a subcategory with less than 30 major sources (such as flame lamination). Evaluation of only the two best performing sources, as requested by the commenter, is not consistent with this statutory requirement.

The data for existing flame lamination sources that were available during the development of the proposed rule indicated that two of the top five major sources control HAP emissions using a scrubber and three do not control HAP emissions. We chose not to use the mean as the measure of central tendency because it would result in a MACT floor that does not represent the performance of an actual control device. In this case, using the median or the mode resulted in the same MACT floor (no additional control).

In addition to controls, we also investigated the possibility that materials substitution or work practice standards could represent the MACT floor.

The flame lamination of any foam generates HAP emissions, most notably HCN and TDI. These compounds are present in the foam as a result of the polyurethane foam manufacturing process, which is regulated under separate MACT standards. Changing the use of these compounds would change the inherent properties of the foam and, thus, we rejected this raw material substitution as a potential MACT floor control strategy.

In addition, the flame lamination of foams containing chlorinated fire retardants also results in emission of the HAP HCl. The frequency of use of chlorinated fire retardant foams varies considerably from one facility to another, and may also vary over time at any single facility. Although some facilities do not use fire retardant foams at all, most use them some of the time. The fire retardancy is a necessary characteristic of the foam where the customer requires fire retardancy as a product specification, *e.g.*, foam in automobiles and bedding.

The top two facilities on our list stated that they laminated fire retardant foam approximately 30 percent of the time for the years the data were gathered. As product mix and customer demands change, the percent of fire retardant foam flame laminated at a facility can vary considerably. Because there is no clear subdivision of the industry between facilities that use fire retardant foams and those that do not, we deemed any further subdivision of the industry because of this issue to be unreasonable.

Although there may be non-chlorinated fire retardant foams available to flame laminators, they are not currently in use by any of the lowest-emitting five flame lamination facilities. Thus, we determined that product substitution does not represent the MACT floor for the flame lamination subcategory.

We also considered the possibility that the MACT floor might be represented by work practices. The nature of the flame lamination process does not lend itself to any typical work practices used to minimize HAP emissions. There are no emissions related to transport and storage of raw materials, or to cleaning of the equipment, and there is no HAP-containing waste. In fact, the HAP emissions are created during the process by the physical act of scorching the foam. The scorching makes the foam

sticky so it will adhere to the other substrate, but also releases HAP. Because there are no emission-reducing work practice standards in use at flame lamination facilities we did not find that the MACT floor may be represented by any work practice standards.

We considered more stringent "above-the-floor" options for MACT, including 90 percent reduction of HCl and HCN, 95 percent reduction of HCN and TDI, and banning the flame lamination of chlorinated fire retardant foam. We rejected the first two options as unreasonably costly with respect to the incremental emission reduction that would be achieved ($9,700 per ton for the first option and $70,300 per ton for the second option). We rejected the third option as technically infeasible because no alternative fire retardant has been identified that would be adequate and appropriate for all flame lamination applications in which fire retardant foam is required. Discussions with industry suggest that alternative materials could present product quality issues and result in products that do not meet product specifications. We have received no further data or information which would lead to the selection of a different MACT for existing flame lamination sources. Therefore, we have not changed the emission limitation for existing flame lamination sources.

V. What Are the Environmental, Cost, and Economic Impacts of the Final Rule?

We estimate that current HAP emissions from loop slitter adhesive users are essentially zero because of changes in adhesive composition as a result of the OSHA permissible exposure limit (PEL) for methylene chloride. Therefore, we do not expect any decreases from this subcategory resulting from the NESHAP. Costs should be minimal as well, as most sources will already be maintaining the necessary records in order to comply with OSHA regulations regarding availability of MSDS.

We estimated baseline emissions for flame laminators from data obtained from individual facilities, as well as from State agencies to which facilities reported their annual emissions. Where reported emissions were not available, we calculated emission estimates using a HAP emission factor, the laminator's operating schedule, the number of flame lamination lines, and the percent of the operating time that fire retardant foam is laminated (used only when calculating HCl emissions).

Our estimates of nationwide baseline emissions from all existing facilities in the flame lamination subcategory are 58.8 tpy HCl, 10.3 tpy HCN, and 3.0 tpy TDI, for a total of 72.1 tpy HAP. We have not promulgated any emissions limitations for existing flame lamination sources; therefore, we do not expect any emissions reductions from the baseline. However, the NESHAP should result in a 90 percent reduction in HCl and HCN emissions from any new or reconstructed major sources. We calculate that a typical flame lamination operation emits 7.3 tpy of combined HCl and HCN, which would be reduced by 90 percent, for a total HAP emission reduction of 6.5 tpy from each new or reconstructed affected source. In addition, particulate matter emissions from flame lamination would also be reduced by any scrubber used to reduce the HAP emissions.

Based on our analysis, we calculate that 64,700 gallons per year of wastewater will be generated by a new or reconstructed flame lamination source. Our estimate of the annual cost to treat this wastewater is less than $250 per year. We do not expect that there will be any significant adverse non-air health, environmental, or energy impacts associated with the NESHAP for flexible polyurethane foam fabrication operations.

There will be no capital costs for loop slitter adhesive users and existing flame laminators because the final rule states that these sources are only subject to reporting and recordkeeping costs. We estimate that up to three new flame laminators may be built in the next 3 years, but only one of these would be a major source subject to the NESHAP. That source would face capital costs of approximately $65,000 associated with installation of a control device (*e.g.*, scrubber) and monitoring equipment. We estimate that the average annualized cost for that source would be approximately $63,000 per year, including annualized capital costs for a control device and monitoring equipment; labor costs associated with monitoring, reporting, and recordkeeping requirements; and the operation and maintenance of the required control equipment.

In summary, we do not expect any emissions reductions from existing foam fabrication sources, and we estimate HAP emission reductions of 6.5 tpy from the single new flame lamination source we assume will be constructed during the three years following the promulgation of this rule. The total annualized cost of the final rule has been estimated at $64,000, including $63,000 annually for the single new flame lamination facility subject to the provisions of the final rule, and additional one-time labor costs for existing facilities to read the rule. Given that only one source will need to install new controls as a result of the rule, and cost of control is a very small portion of industry revenues, we consider the economic impacts associated with the final rule to be minimal.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that the final rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

The information collection requirements in the final rule have been submitted for approval to OMB under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 2027.02), and a copy may be obtained from Susan Auby by mail at the Office of Environmental Information, Collection Strategies Division (2822), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at *"auby.susan@epa.gov,"* or by calling (202) 566–1672. A copy may also be downloaded from the internet at *http://www.epa.gov/icr.* The information requirements are not effective until OMB approves them.

The information requirements are based on notifications, records, and reports required by the General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized under section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made will be safeguarded according to Agency policies in 40 CFR part 2, subpart B, Confidentiality of Business Information.

According to the ICR, the total 3-year monitoring, reporting, and recordkeeping burden for this collection is 3,634 labor hours, and the annual average burden is 1,211 labor hours. The total annualized cost of monitoring, reporting, and recordkeeping is approximately $54,124. The labor cost over the 3-year period is $154,399 or $51,466 per year. The annualized capital cost for monitoring equipment is $997. Annual operation and maintenance costs are $4,982 over 3 years, averaging $1,661 per year. This estimate includes a one-time plan for demonstrating compliance, annual compliance certificate reports, notifications, and recordkeeping.

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 purpose of collecting, validating, and verifying information; process and maintain information and disclose and provide information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing 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 are listed in 40 CFR part 9 and 48 CFR chapter 15. The OMB control number(s) for the information collection requirements in the final rule will be listed in an amendment to 40 CFR part 9 or 48 CFR chapter 15 in a subsequent **Federal Register** document after OMB approves the ICR.

C. Regulatory Flexibility Analysis

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) a small business according to the Small Business Administration (SBA) size standards by NAICS code (a maximum of 500 employees for the polyurethane foam fabrication industry); (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, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. We have determined that one of approximately 48 affected sources is a small entity, and that the impact will consist primarily of recordkeeping and reporting requirements.

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, we generally must prepare a written statement, including 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 with other than the least costly, most cost-effective, or least burdensome alternative if we publish 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 our regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that the final rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or the private sector in any 1 year. The total annualized cost of the final rule has been estimated at $64,000. This figure includes the $63,000 annually for the single new flame lamination facility subject to the provisions of the final rule, and additional labor costs for existing facilities. Thus, today's final rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, we have determined that the final rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no regulatory requirements that apply to such governments or impose obligations upon them. Therefore, the final rule 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" 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."

The 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. The standards apply only to flexible polyurethane foam fabricators and do not pre-exempt States from adopting more stringent standards or otherwise regulate State or local governments. Thus, Executive Order 13132 does not apply to the final rule.

Although section 6 of Executive Order 13132 does not apply to the final rule, EPA did consult with State and local officials in developing the final rule. No concerns were raised by these officials during this consultation.

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 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." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

The final rule does not have tribal implications. 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, as specified in Executive Order 13175. This is because no tribal governments own or operate a flexible polyurethane foam fabrication facility. Thus, Executive Order 13175 does not apply to the final rule.

G. Executive Order 13045—Protection of Children From Environmental Health Risks 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, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned rule is preferable to other potentially effective and reasonably feasible alternatives that we considered.

The final rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866. In addition, EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health and safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. The 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

The final rule 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 it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. No. 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement 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, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to the Office of Management and Budget (OMB), with explanations when an agency does not use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. The EPA cites in the final rule the EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 4, 26A, 311, and any method to measure hydrogen cyanide from flame lamination sources (validated with EPA Method 301). Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods. No applicable voluntary consensus standards were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 311, and a method to measure hydrogen cyanide. The search and review results have been documented and are placed in the docket (OAR–2002–0080 or A–2000–43) for the final rule.

Five voluntary consensus standards: ASTM D1979–91, ASTM D3432–89, ASTM D4747–87, ASTM D4827–93, and ASTM PS9–94 are incorporated by reference in EPA Method 311.

The search for emission measurement procedures identified seven voluntary consensus standards potentially applicable to the final rule. The EPA determined that five of these seven standards were impractical alternatives to EPA test methods for the purposes of this rulemaking. Therefore, EPA will not adopt these standards today. The reasons for this determination for the five methods are in the docket.

The following two voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of this rulemaking because they are under development by a voluntary consensus body: ASME/BSR MFC 13M, "Flow Measurement by Velocity Traverse," for EPA Method 2 (and possibly 1); and ASME/BSR MFC 12M, "Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters," for EPA Method 2.

Sections 63.8800 and 63.8802 and Table 3 to subpart MMMMM list the EPA testing methods included in the final rule. Under 40 CFR 63.7(f) and 63.8(f), a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any of the EPA testing methods, performance specifications, or procedures.

J. 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. The EPA will submit a report containing this 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**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). The final rule will be effective on April 14, 2003.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure,

Air pollution control, Hazardous substances, Intergovernmental relations, Recordkeeping and reporting requirements.

Dated: February 28, 2003.

Christine Todd Whitman,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of the 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.*

■ 2. Part 63 is amended by adding subpart MMMMM to read as follows:

Sec.

Subpart MMMMM—National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations

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Table 2 to Subpart MMMMM of Part 63—Operating Limits for New or Reconstructed Flame Lamination Affected Sources
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Table 7 to Subpart MMMMM of Part 63—Applicability of General Provisions to Subpart MMMMM

What This Subpart Covers

§ 63.8780 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) emitted from flexible polyurethane foam fabrication operations. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission standards.

§ 63.8782 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a flexible polyurethane foam fabrication plant site that operates a flame lamination affected source, as defined at § 63.8784(b)(2), and that is located at, or is part of a major emission source of hazardous air pollutants (HAP) or that operates a loop slitter affected source, as defined at § 63.8784(b)(1), that meets the criteria in paragraphs (a)(1) and (2) of this section.

(1) The loop slitter affected source uses one or more HAP-based adhesives at any time on or after April 14, 2003.

(2) The loop slitter affected source is located at or is part of a major source of HAP.

(b) A flexible polyurethane foam fabrication plant site is a plant site where pieces of flexible polyurethane foam are bonded together or to other substrates using HAP-based adhesives or flame lamination.

(c) A major source of HAP is a plant site 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.

(d) This subpart does not apply to the following processes in paragraphs (d)(1) and (2) of this section:

(1) Processes that produce flexible polyurethane or rebond foam as defined in subpart III of this part.

(2) A research and development facility, as defined in section 112(c)(7) of the Clean Air Act (CAA).

§ 63.8784 What parts of my plant does this subpart cover?

(a) This subpart applies to each existing, new, or reconstructed affected source at facilities engaged in flexible polyurethane foam fabrication.

(b) The affected sources are defined in this section in paragraphs (b)(1) and (2) of this section.

(1) The loop slitter adhesive use affected source is the collection of all loop slitters and associated adhesive application equipment used to apply HAP-based adhesives to bond foam to foam at a flexible polyurethane foam fabrication plant site.

(2) The flame lamination affected source is the collection of all flame lamination lines associated with the flame lamination of foam to any substrate at a flexible polyurethane foam fabrication plant site.

(c)(1) A new affected source is one that commences construction after August 8, 2001 and meets the applicability criteria of § 63.8782 at the time construction commences.

(2) If you add one or more flame lamination lines at a plant site where flame lamination lines already exist, the added line(s) shall be a new affected source and meet new source requirements if the added line(s) has the potential to emit 10 tons per year or more of any HAP or 25 tons or more per year of any combination of HAP.

(d) A reconstructed affected source is one that commences reconstruction after August 8, 2001 and meets the criteria for reconstruction as defined in § 63.2.

(e) An affected source is existing if it is not new or reconstructed.

§ 63.8786 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, you must comply with this subpart according to paragraphs (a)(1) and (2) of this section.

(1) If you start up your new or reconstructed affected source before April 14, 2003, then you must comply with the emission standards for new or reconstructed sources in this subpart no later than April 14, 2003.

(2) If you start up your new or reconstructed affected source on or after April 14, 2003, then you must comply with the emission standards for new or

reconstructed sources in this subpart upon startup of your affected source.

(b) If you have an existing loop slitter affected source, you must comply with the emission standards for existing sources no later than 1 year after April 14, 2003.

(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 and an affected source subject to this subpart, the provisions in paragraphs (c)(1) and (2) of this section apply.

(1) A new affected source as specified at § 63.8784(c) or a reconstructed affected source as specified at § 63.8784(d) must be in compliance with this subpart upon startup.

(2) An existing affected source as specified at § 63.8784(e) must be in compliance with this subpart no later than 1 year after the date on which the area source became a major source.

(d) You must meet the notification requirements in § 63.8816 according to the schedule in § 63.8816 and in subpart A of this part. Some of the notifications must be submitted before you are required to comply with the emission standards in this subpart.

(e) If you have a loop slitter affected source, you must have data on hand beginning on the compliance date specified in paragraph (b) of this section as necessary to demonstrate that your adhesives are not HAP-based. The types of data necessary are described in §§ 63.8802 and 63.8810.

Emission Limitations

§ 63.8790 What emission limitations must I meet?

(a) You must meet each emission limit in Table 1 to this subpart that applies to you.

(b) You must meet each operating limit in Table 2 to this subpart that applies to you.

General Compliance Requirements

§ 63.8794 What are my general requirements for complying with this subpart?

(a) For each loop slitter adhesive use affected source, you must be in compliance with the requirements in this subpart at all times.

(b) For each new or reconstructed flame lamination affected source, you must be in compliance with the requirements in this subpart at all times, except during periods of startup, shutdown, and malfunction.

(c) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(d) During the period between the compliance date specified for your new or reconstructed flame lamination affected source in § 63.8786, and the date upon which continuous compliance monitoring systems have been installed and verified and any applicable operating limits have been set, you must maintain a log detailing the operation and maintenance of the process and emissions control equipment.

(e) For each new or reconstructed flame lamination affected source, you must develop and implement a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

(f) For each monitoring system required in this section for new or reconstructed flame lamination sources, you must develop and submit for approval a site-specific monitoring plan that addresses the requirements in paragraphs (f)(1) through (3) of this section.

(1) Installation of the continuous monitoring system (CMS) sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (*e.g.*, on or downstream of the last control device);

(2) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system; and

(3) Performance evaluation procedures and acceptance criteria (*e.g.*, calibrations).

(g) In your site-specific monitoring plan, you must also address the ongoing procedures specified in paragraphs (g)(1) through (3) of this section.

(1) Ongoing operation and maintenance procedures in accordance with the general requirements of §§ 63.8(c)(1), (3), (4)(ii), (7), and (8), and 63.8804;

(2) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d); and

(3) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c), (e)(1), and (e)(2)(i).

Testing and Initial Compliance Requirements

§ 63.8798 By what date must I conduct performance tests or other initial compliance demonstrations?

(a) For each loop slitter affected source, you must conduct the initial compliance demonstration by the compliance date that is specified for your source in § 63.8786.

(b) For each new or reconstructed flame lamination affected source, you must conduct performance tests within 180 calendar days after the compliance date that is specified for your source in § 63.8786 and according to the provisions in § 63.7(a)(2).

§ 63.8800 What performance tests and other procedures must I use to demonstrate compliance with the emission limit for flame lamination?

(a) You must conduct each performance test in Table 3 to this subpart that applies to you.

(b) Each performance test must be conducted according to the requirements in § 63.7(e)(1) and under the specific conditions in Table 3 to this subpart.

(c) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(d) You must conduct at least three separate test runs for each performance test required in this section, as specified in § 63.7(e)(3). Each test run must last at least 1 hour.

(e) You must determine the percent reduction of HAP emissions during the performance test according to paragraphs (e)(1) through (3) of this section.

(1) If you use chlorinated fire retardant foams, determine the percent reduction of HCl to represent HAP emissions from the source. If you do not use chlorinated fire retardant foams, determine the percent reduction of HCN to represent HAP emissions from the source.

(2) Calculate the concentration of HAP at the control device inlet and at the control device outlet using the procedures in the specified test method.

(3) Compare the calculated HAP concentration at the control device inlet to the calculated HAP concentration at the control device outlet to determine the percent reduction over the period of the performance test, using Equation 1 of this section:

$$R = \frac{\sum_{i=1}^{n} E_{inlet,\,i} - \sum_{i=1}^{n} E_{outlet,\,i}}{\sum_{i=1}^{n} E_{inlet,\,i}} (100) \quad \text{[Eq. 1]}$$

Where:

R=Efficiency of control device, percent.

$E_{inlet,i}$=HAP concentration of control device inlet stream for test run i, mg/dscm.

$E_{outlet,i}$=HAP concentration of control device outlet stream for test run i, mg/dscm.

n=Number of runs conducted for the performance test.

(f) You must also meet the requirements in paragraphs (f)(1) and (2) of this section.

(1) Conduct the performance tests using foams that are representative of foams typically used at your flame lamination affected source. If you use foams containing chlorinated fire retardants, you must conduct the performance tests using these foams.

(2) Establish all applicable operating limits that correspond to the control system efficiency as described in Table 3 to this subpart.

§ 63.8802 What methods must I use to demonstrate compliance with the emission limitation for loop slitter adhesive use?

(a) *Determine the HAP content for each material used.* To determine the HAP content for each material used in your foam fabrication operations, you must use one of the options in paragraphs (a)(1) through (3) of this section. If you use the option in paragraph (a)(3) of this section, you are subject to the provisions of paragraph (a)(4) of this section.

(1) *Method 311 (appendix A to 40 CFR part 63).* You may use Method 311 for determining the mass fraction of HAP. Use the procedures specified in paragraphs (a)(1)(i) and (ii) of this section when determining HAP content by Method 311.

(i) Include in the HAP total each HAP that is measured to be present at 0.1 percent by mass or more for Occupational Safety and Health Administration (OSHA)-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and at 1.0 percent by mass or more for other compounds. For example, if toluene (not an OSHA carcinogen) is measured to be 0.5 percent of the material by mass, you do not need to include it in the HAP total. Express the mass fraction of each HAP you measure as a value truncated to four places after the decimal point (for example, 0.1234).

(ii) Calculate the total HAP content in the test material by adding up the individual HAP contents and truncating the result to three places after the decimal point (for example, 0.123).

(2) *Alternative method.* You may use an alternative test method for determining mass fraction of HAP if you obtain prior approval by the Administrator. You must follow the procedure in § 63.7(f) to submit an alternative test method for approval.

(3) *Information from the supplier or manufacturer of the material.* You may rely on information other than that generated by the test methods specified in paragraphs (a)(1) and (2) of this section to determine the mass fraction of HAP according to paragraphs (a)(3)(i) and (ii) of this section. This information may include, but is not limited to, a material safety data sheet (MSDS), a certified product data sheet (CPDS), or a manufacturer's hazardous air pollutant data sheet.

(i) Include in the HAP total each HAP that is present at 0.1 percent by mass or more for OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and at 1.0 percent by mass or more for other compounds. For example, if toluene (not an OSHA carcinogen) is 0.5 percent of the material by mass, you do not have to include it in the HAP total.

(ii) If the HAP content is provided by the material supplier or manufacturer as a range, then you must use the upper limit of the range for determining compliance.

(4) *Verification of supplier or manufacturer information.* Although you are not required to perform testing to verify the information obtained according to paragraph (a)(3) of this section, the Administrator may require a separate measurement of the total HAP content using the methods specified in paragraph (a)(1) or (2) of this section. If this measurement exceeds the total HAP content provided by the material supplier or manufacturer, then you must use the measured HAP content to determine compliance.

(b) [Reserved]

§ 63.8806 How do I demonstrate initial compliance with the emission limitations?

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

(b) You must establish each site-specific operating limit in Table 2 to this subpart that applies to you according to the requirements in § 63.8800 and Table 3 to this subpart.

(c) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.8816(e) through (h).

Continuous Compliance Requirements

§ 63.8810 How do I monitor and collect data to demonstrate continuous compliance?

(a) If you own or operate a loop slitter adhesive use affected source, you must meet the requirements in paragraphs (a)(1) and (2) of this section.

(1) Maintain a list of each adhesive and the manufacturer or supplier of each.

(2) Maintain a record of EPA Method 311 (appendix A to 40 CFR part 63), approved alternative method, or other reasonable means of HAP content determinations indicating the mass percent of each HAP for each adhesive.

(b) If you own or operate a new or reconstructed flame lamination affected source, you must meet the requirements in paragraphs (b)(1) through (3) of this section if you use a scrubber, or paragraph (b)(4) of this section if you use any other control device.

(1) Keep records of the daily average scrubber inlet liquid flow rate.

(2) Keep records of the daily average scrubber effluent pH.

(3) If you use a venturi scrubber, keep records of daily average pressure drop across the venturi.

(4) Keep records of operating parameter values for each operating parameter that applies to you.

(c) If you own or operate a new or reconstructed flame lamination affected source, you must meet the requirements in paragraphs (c)(1) through (4) of this section.

(1) Except for periods of monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating. This includes periods of startup, shutdown, and malfunction when the affected source is operating. A monitoring malfunction includes, but is not limited to, any sudden, infrequent, not reasonably preventable failure of the monitoring device to provide valid data. Monitoring failures that are caused by poor maintenance or careless operation are not malfunctions.

(2) In data average calculations and calculations used to report emission or operating levels, you may not use data recorded during monitoring malfunctions, associated repairs, or recorded during required quality assurance or control activities. Nor may such data be used in fulfilling any applicable minimum data availability requirement. You must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

(3) You must conduct a performance evaluation of each CMS in accordance with your site-specific monitoring plan.

(4) You must operate and maintain the CMS in continuous operation according to the site-specific monitoring plan.

§ 63.8812 How do I demonstrate continuous compliance with the emission limitations?

(a) You must demonstrate continuous compliance with each emission limit and operating limit in Tables 1 and 2 to this subpart that applies to you according to the methods specified in Table 5 to this subpart.

(b) You must report each instance in which you did not meet each emission limit and each operating limit in Tables 1 and 2 to this subpart that apply to you. For new or reconstructed flame lamination affected sources, this includes periods of startup, shutdown, and malfunction. These instances are deviations from the operating limits in this subpart. These deviations must be reported according to the requirements in § 63.8818.

(c) For each new or reconstructed flame lamination affected source, you must operate in accordance with the startup, shutdown, and malfunction plan during periods of startup, shutdown, and malfunction.

(d) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur at a new or reconstructed flame lamination affected source during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the startup, shutdown, and malfunction plan. The Administrator will determine whether deviations that occur at a new or reconstructed flame lamination affected source during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

(e) You also must meet the following requirements if you are complying with the adhesive use ban for loop slitter adhesive use described in § 63.8790(a).

(1) If, after you submit the Notification of Compliance Status, you use an adhesive for which you have not previously verified percent HAP mass using the methods in § 63.8802, you must verify that each adhesive used in the affected source meets the emission limit, using any of the methods in § 63.8802.

(2) You must update the list of all the adhesives used at the affected source.

(3) With the compliance report for the reporting period during which you used the new adhesive, you must submit the updated list of all adhesives and a statement certifying that, as purchased, each adhesive used at the affected source during the reporting period met the emission limit in Table 1 to this subpart.

Notification, Reports, and Records

§ 63.8816 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.7(b) and (c), 63.8(f), and 63.9(b) through (h) that apply to you.

(b) If you own or operate an existing loop slitter or flame lamination affected source, submit an initial notification no later than 120 days after April 14, 2003.

(c) If you own or operate a new or reconstructed loop slitter or flame lamination affected source, submit the application for construction or reconstruction required by § 63.9(b)(1)(iii) in lieu of the initial notification.

(d) If you own or operate a new or reconstructed flame lamination affected source, submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin, as required in § 63.7(b)(1).

(e) If you own or operate a loop slitter affected source, submit a Notification of Compliance Status according to § 63.9(h)(2)(ii) within 60 days of the compliance date specified in § 63.8786.

(f) If you own or operate a new or reconstructed flame lamination affected source, submit a Notification of Compliance Status according to § 63.9(h)(2)(ii) that includes the results of the performance test conducted according to the requirements in Table 3 to this subpart. You must submit the notification before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2).

(g) For each new or reconstructed flame lamination affected source, the Notification of Compliance Status must also include the information in paragraphs (g)(1) and (2) that applies to you.

(1) The operating parameter value averaged over the full period of the performance test (for example, average pH).

(2) The operating parameter range within which HAP emissions are reduced to the level corresponding to meeting the applicable emission limits in Table 1 to this subpart.

(h) For each loop slitter adhesive use affected source, the Notification of Compliance Status must also include the information listed in paragraphs (h)(1) and (2) of this section.

(1) A list of each adhesive used at the affected source, its HAP content (percent by mass), and the manufacturer or supplier of each.

(2) A statement certifying that each adhesive that was used at the affected source during the reporting period met the emission limit in Table 1 to this subpart.

§ 63.8818 What reports must I submit and when?

(a) You must submit each report in Table 6 to this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each compliance report for new or reconstructed flame lamination affected sources semiannually according to paragraphs (b)(1) through (4) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.8786 and ending on June 30 or December 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in § 63.8786.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date that is specified for your affected source in § 63.8786.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(c) For each loop slitter adhesive use affected source, you may submit annual compliance reports in place of semiannual reports.

(d) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section.

(e) The compliance report must contain the information in paragraphs (e)(1) through (5) of this section.

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy

and completeness of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If there are no deviations from any emission limitations (emission limit or operating limit) that applies to you, a statement that there were no deviations from the emission limitations during the reporting period.

(5) For each deviation from an emission limitation that occurs, the compliance report must contain the information specified in paragraphs (e)(5)(i) through (iii) of this section.

(i) The total operating time of each affected source during the reporting period.

(ii) Information on the number, duration, and cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

(iii) Information on the number, duration, and cause for continuous parameter monitoring system (CPMS) downtime incidents, if applicable, other than downtime associated with zero and span and other daily calibration checks.

(f) The compliance report for a new or reconstructed flame lamination affected source must also contain the following information in paragraphs (f)(1) through (3) of this section.

(1) If you had a startup, shutdown or malfunction at your new or reconstructed flame lamination affected source during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).

(2) If there were no periods during which the CPMS was out-of-control in accordance with the monitoring plan, a statement that there were no periods during which the CPMS was out-of-control during the reporting period.

(3) If there were periods during which the CPMS was out-of-control in accordance with the monitoring plan, the date, time, and duration of each out-of-control period.

(g) The compliance report for a loop slitter adhesive use affected source must also contain the following information in paragraphs (g)(1) and (2) of this section.

(1) For each annual reporting period during which you use an adhesive that was not included in the list submitted with the Notification of Compliance Status in § 63.8816(h) (1), an updated list of all adhesives used at the affected source.

(2) A statement certifying that each adhesive that was used at the affected source during the reporting period met the emission limit in Table 1 to this subpart.

(h) Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 40 CFR part 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If an affected source submits a compliance report pursuant to Table 6 to this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the compliance report includes all required information concerning deviations from any emission limitation (including any operating limit) in this subpart, submission of the compliance report shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permit authority.

(i) For each startup, shutdown, or malfunction during the reporting period where the source does not meet the emission limitations set out in § 63.8790 that occurs at a new or reconstructed flame lamination affected source and that is not consistent with your startup, shutdown, and malfunction plan, you must submit an immediate startup, shutdown and malfunction report.

(1) An initial report containing a description of the actions taken for the event must be submitted by fax or telephone within 2 working days after starting actions inconsistent with the plan.

(2) A followup report containing the information listed in § 63.10(d)(5)(ii) must be submitted within 7 working days after the end of the event unless you have made alternative reporting arrangements with the permitting authority.

§ 63.8820 What records must I keep?

(a) You must keep a copy of each notification and report that you submit to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(b) For each new or reconstructed flame lamination affected source, you must also keep the following records specified in paragraphs (b)(1) through (4) of this section.

(1) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(2) Records of performance tests, as required in § 63.10(b)(2)(viii).

(3) Records of operating parameter values.

(4) Records of the date and time that each deviation started and stopped and whether the deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(c) For each loop slitter adhesive use affected source, you must keep the following records specified in paragraphs (c)(1) and (2) of this section.

(1) A list of each adhesive and the manufacturer or supplier of each.

(2) A record of EPA Method 311 (appendix A to 40 CFR part 63), approved alternative method, or other reasonable means of determining the mass percent of total HAP for each adhesive used at the affected source.

§ 63.8822 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.8826 What parts of the General Provisions apply to me?

Table 7 to this subpart shows which sections of the General Provisions in §§ 63.1 through 63.15 apply to you.

§ 63.8828 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. Environmental Protection Agency (U.S. EPA), or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to

a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities in paragraphs (c)(1) through (4) that cannot be delegated to State, local, or tribal agencies are as follows:

(1) Approval of alternatives to requirements in §§ 63.8780, 63.8782, 63.8784, 63.8786, and 63.8790.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.8830 What definitions apply to this subpart?

Terms used in this subpart are defined in the CAA, in 40 CFR 63.2, and in this section as follows:

Adhesive means any chemical substance that is applied for the purpose of bonding foam to foam, foam to fabric, or foam to any other substrate, other than by mechanical means. Products used on humans and animals, adhesive tape, contact paper, or any other product with an adhesive incorporated onto it in an inert substrate shall not be considered adhesives under this subpart.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limitation (including any operating limit); or

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation (including any operating limit) in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Emission limitation means any emission limit or operating limit.

Flame lamination means the process of bonding flexible foam to one or more layers of material by heating the foam surface with an open flame.

Flame lamination line means the flame laminator and associated rollers.

HAP-based adhesive means an adhesive containing 5 percent (by weight) or more of HAP, according to EPA Method 311 (appendix A to 40 CFR part 63) or another approved alternative.

Loop slitter means a machine used to create thin sheets of foam from the large blocks of foam or "buns" created at a slabstock flexible polyurethane foam production plant.

Research and development process means a laboratory or pilot plant operation whose primary purpose is to conduct research and development into new processes and products where the operations are under the close supervision of technically trained personnel, and which is not engaged in the manufacture of products for commercial sale, except in a *de minimis* manner.

Responsible official means responsible official as defined in 40 CFR 70.2.

Tables to Subpart MMMMM of Part 63

TABLE 1 TO SUBPART MMMMM OF PART 63.—EMISSION LIMITS

[As stated in § 63.8790(a), you must comply with the emission limits in the following table:]

For . . .	You must . . .
1. Each existing, new, or reconstructed loop slitter adhesive use affected source.	Not use any HAP-based adhesives.
2. Each new or reconstructed flame lamination affected source	Reduce HAP emissions by 90 percent.
3. Each existing flame lamination affected sources	There are no emission limits for existing flame lamination sources. However, you must submit an initial notification per § 63.8816(b).

TABLE 2 TO SUBPART MMMMM OF PART 63.—OPERATING LIMITS FOR NEW OR RECONSTRUCTED FLAME LAMINATION AFFECTED SOURCES

[As stated in § 63.8790(b), you must comply with the operating limits in the following table:]

For each . . .	You must . . .
1. Scrubber	a. Maintain the daily average scrubber inlet liquid flow rate above the minimum value established during the performance test. b. Maintain the daily average scrubber effluent pH within the operating range value established during the performance test. c. If you use a venturi scrubber, maintain the daily average pressure drop across the venturi within the operating range value established during the performance test.
2. Other type of control device to which flame lamination emissions are ducted	Maintain your operating parameter(s) within the ranges established during the performance test and according to your monitoring plan.

TABLE 3 TO SUBPART MMMMM OF PART 63.—PERFORMANCE TEST REQUIREMENTS FOR NEW OR RECONSTRUCTED FLAME LAMINATION AFFECTED SOURCES

[As stated in § 63.8800, you must comply with the requirements for performance tests for new or reconstructed flame lamination affected sources in the following table using the requirements in rows 1 through 5 of the table if you are measuring HCl and using a scrubber, row 6 if you are measuring HCN and using a scrubber, and row 7 if you are using any other control device:]

For each new or reconstructed flame lamination affected source, you must . . .	Using . . .	According to the following requirements . . .
1. Select sampling port's location and the number of traverse ports.	Method 1 or 1A in appendix A to part 60 of this chapter.	Sampling sites must be located at the inlet and outlet of the scrubber and prior to any releases to the atmosphere.
2. Determine velocity	Method 2, 2A, 2C, 2D, 2F, or 2G in appendix A to part 60 of this chapter.	
3. Determine gas molecular weight	Not applicable	Assume a molecular weight of 29 (after moisture correction) for calculation purposes.
4. Measure moisture content of the stack gas.	Method 4 in appendix A to part 60 of this chapter.	
5. Measure HCl concentration if you use chlorinated fire retardants in the laminated foam.	a. Method 26A in appendix A to part 60 of this chapter.	i. Measure total HCl emissions and determine the reduction efficiency of the control device using Method 26A. ii. Collect scrubber liquid flow rate, scrubber effluent pH, and pressure drop (pressure drop data only required for venturi scrubbers) every 15 minutes during the entire duration of each 1-hour test run, and determine the average scrubber liquid flow rate, scrubber effluent pH, and pressure drop (pressure drop data only required for Venturi scrubbers) over the period of the performance test by computing the average of all of the 15-minute readings.
6. Measure HCN concentration if you do not use chlorinated fire retardants in the laminated foam.	a. A method approved by the Administrator.	i. Conduct the performance test according to the site-specific test plan submitted according to § 63.7(c)(2)(i). Measure total HCN emissions and determine the reduction efficiency of the control device. Any performance test which measures HCN concentrations must be submitted for the administrator's approval prior to testing. You must use EPA Method 301 (40 CFR part 63, Appendix A) to validate your method. ii. Collect scrubber liquid flow rate, scrubber effluent pH, and pressure drop (pressure drop data only required for venturi scrubbers) every 15 minutes during the entire duration of each 1-hour test run, and determine the average scrubber liquid flow rate, scrubber effluent pH, and pressure drop (pressure drop data only required for venturi scrubbers) over the period of the performance test by computing the average of all of the 15-minute readings.
7. Determine control device efficiency and establish operating parameter limits with which you will demonstrate continuous compliance with the emission limit that applies to the source if you use any control device other than a scrubber.	a. EPA-approved methods and data from the continuous parameter monitoring system.	i. Conduct the performance test according to the site-specific test plan submitted according to § 63.7(c)(2)(i). ii. Collect operating parameter data as specified in the site-specific test plan.

TABLE 4 TO SUBPART MMMMM OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITS

[As stated in § 63.8806, you must comply with the requirements to demonstrate initial compliance with the applicable emission limits in the following table:]

For . . .	For the following emission limit . . .	You have demonstrated initial compliance if . . .
1. Each new, reconstructed, or existing loop slitter adhesive use affected source.	Eliminate use of HAP-based adhesives	You do not use HAP-based adhesives.
2. Each new or reconstructed flame lamination affected source using a scrubber.	Reduce HAP emissions by 90 percent	The average HAP emissions, measured over the period of the performance test(s), are reduced by 90 percent.
3. Each new or reconstructed flame lamination affected source using any other control device emissions by.	Reduce HAP emissions by 90 percent	The average HAP emissions, measured over the period of the performance test(s), are reduced by 90 percent.

TABLE 5 TO SUBPART MMMMM OF PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITS AND OPERATING LIMITS

[As stated in §63.8812(a), you must comply with the requirements to demonstrate continuous compliance with the applicable emission limits or operating limits in the following table:]

For . . .	For the following emission limits or operating limits . . .	You must demonstrate continuous compliance by . . .
1. Each new, reconstructed, or existing loop slitter affected source.	Eliminate use of HAP-based adhesives	Not using HAP-based adhesives.
2. Each new or reconstructed flame lamination affected source using a scrubber.	a. Maintain the daily average scrubber inlet liquid flow rate above the minimum value established during the performance. b. Maintain the daily average scrubber effluent pH within the operating range established during the performance test. c. Maintain the daily average pressure drop across the venturi within the operating range established during the performance test. If you use another type of scrubber (*e.g.*, packed bed or spray tower scrubber), monitoring pressure drop is not required.	i. Collecting the scrubber inlet liquid flow rate and effluent pH monitoring data according to §63.8804(a) through (c). ii. Reducing the data to 1-hour and daily block averages according to the requirements in §63.8804(a). iii. Maintaining each daily average scrubber inlet liquid flow rate above the minimum value established during the performance test. iv. Maintaining the daily average scrubber effluent pH within the operating range established during the performance test. v. If you use a venturi scrubber, maintaining the daily average pressure drop across the venturi within the operating range established during the performance test.
3. Each new or reconstructed flame lamination affected source using any other control device.	a. Maintain the daily average operating parameters above the minimum value established during the performance test, or within the range established during the performance test, as applicable.	i. Collected the operating parameter data according to the site-specific test plan. ii. Reducing the data to one-hour averages according to the requirements in §63.8804(a). iii. Maintaining the daily average during the rate above the minimum value established during the performance test, or within the range established during the performance test, as applicable.

TABLE 6 TO SUBPART MMMMM OF PART 63.—REQUIREMENTS FOR REPORTS

[As stated in §63.8818(a), you must submit a compliance report that includes the information in §63.8818(e) through (g) as well as the information in the following table. Rows 1 and 3 of the following table apply to loop slitter affected sources. Rows 1 through 5 apply to flame lamination affected sources. You must also submit startup, shutdown, and malfunction reports according to the requirements in the following table if you own or operate a new or reconstructed flame lamination affected source:]

If . . .	Then you must submit a report or statement that . .
1. There are no deviations from any emission limitations that apply to you.	There were no deviations from the emission limitations during the reporting period.
2. There were no periods during which the operating parameter monitoring systems were out-of-control in accordance with the monitoring plan.	There were no periods during which the CPMS were out-of-control during the reporting period.
3. There was a deviation from any emission limitation during the reporting period.	Contains the information in §63.8818(e)(5).
4. There were periods during which the operating parameter monitoring systems were out-of-control in information in accordance with the monitoring plan.	Contains the information in §63.8818(f)(3).
5. There was a startup, shutdown, or malfunction where the source did not meet the emission limitations set out in §63.8790 at a new or reconstructed flame lamination affected source during the reporting period that is not consistent with your startup, shutdown, and malfunction plan..	Contains the information in §63.8818(i).

TABLE 7 TO SUBPART MMMMM OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART MMMMM

[As stated in §63.8826, you must comply with the applicable General Provisions requirements according to the following table:]

Citation	Requirement	Applies to subpart MMMMM	Explanation
§63.1	Initial applicability determination; applicability after standard established; permit requirements; extensions; notifications.	Yes.	
§63.2	Definitions	Yes	Additional definitions are found in §63.8830.

TABLE 7 TO SUBPART MMMMM OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART MMMMM—Continued

[As stated in § 63.8826, you must comply with the applicable General Provisions requirements according to the following table:]

Citation	Requirement	Applies to subpart MMMMM	Explanation
§ 63.3	Units and abbreviations	Yes.	
§ 63.4	Prohibited activities; compliance date; circumvention, severability.	Yes.	
§ 63.5	Construction/reconstruction applicability; applications; approvals.	Yes.	
§ 63.6(a)	Compliance with standards and maintenance requirements-applicability.	Yes.	
§ 63.6(b)(1)–(4)	Compliance dates for new or reconstructed sources.	Yes	§ 63.8786 specifies compliance dates.
§ 63.6(b)(5)	Notification if commenced construction or reconstruction after proposal.	Yes.	
§ 63.6(b)(6)	[Reserved]	Yes.	
§ 63.6(b)(7)	Compliance dates for new or reconstructed area sources that become major.	Yes	§ 63.8786 specifies compliance dates.
§ 63.6(c)(1)–(2)	Compliance dates for existing sources	Yes	§ 63.8786 specifies compliance dates.
§ 63.6(c)(3)–(4)	[Reserved]	Yes.	
§ 63.6(c)(5)	Compliance dates for existing area sources that become major.	Yes	§ 63.8786 specifies compliance dates.
§ 63.6(d)	[Reserved]	Yes.	
§ 63.6(e)(1)	Operation and maintenance requirements.	Yes.	
§ 63.6(e)(2)	[Reserved]	Yes.	
§ 63.6(e)(3)	Startup, shutdown, and malfunction plans.	Yes	Only applies to new or reconstructed flame lamination affected sources.
§ 63.6(f)(1)	Compliance except during SSM	Yes	Only applies to new or reconstructed flame lamination affected sources.
§ 63.6(f)(2)–(3)	Methods for determining compliance	Yes.	
§ 63.6(g)	Use of an alternative nonopacity emission standard.	Yes.	
§ 63.6(h)	Compliance with opacity/visible emission standards.	No	Subpart MMMMM does not specify opacity or visible emission standards.
§ 63.6(i)	Extension of compliance with emission standards.	Yes.	
§ 63.6(j)	Presidential compliance exemption	Yes.	
§ 63.7(a)(1)–(2)	Performance test dates	Yes	Except for loop slitter affected sources as specified in in § 63.8798(a).
§ 63.7(a)(3)	Administrator's section 114 authority to require a performance test.	Yes.	
§ 63.7(b)	Notification of performance test and rescheduling.	Yes.	
§ 63.7(c)	Quality assurance program and site-specific test plans.	Yes.	
§ 63.7(d)	Performance testing facilities	Yes.	
§ 63.7(e)(1)	Conditions for conducting performance tests.	Yes.	
§ 63.7(f)	Use of an alternative test method	Yes.	
§ 63.7(g)	Performance test data analysis, recordkeeping, and reporting.	Yes.	
§ 63.7(h)	Waiver of performance tests	Yes.	
§ 63.8(a)(1)–(2)	Applicability of monitoring requirements	Yes	Unless otherwise specified, all of § 63.8 applies only to new or reconstructed flame lamination sources. Additional monitoring requirements for these sources are found in §§ 63.8794(f) and (g) and 63.8804.
§ 63.8(a)(3)	[Reserved]	Yes.	
§ 63.8(a)(4)	Monitoring with flares	No	Subpart MMMMM does not refer directly or indirectly to § 63.11.
§ 63.8(b)	Conduct of monitoring and procedures when there are multiple effluents and multiple monitoring systems.	Yes.	
§ 63.8(c)(1)–(3)	Continuous monitoring system (CMS) operation and maintenance.	Yes	Applies as modified by § 63.8794(f) and (g).
§ 63.8(c)(4)	Continuous monitoring system requirements during breakdown, out-of-control, repair, maintenance, and high-level calibration drifts.	Yes	Applies as modified by § 63.8794(g).

TABLE 7 TO SUBPART MMMMM OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART MMMMM—Continued

[As stated in § 63.8826, you must comply with the applicable General Provisions requirements according to the following table:]

Citation	Requirement	Applies to subpart MMMMM	Explanation
§ 63.8(c)(5)	Continuous opacity monitoring system (COMS) minimum procedures.	No	Subpart MMMMM does not have opacity or visible emission standards.
§ 63.8(c)(6)	Zero and high level calibration checks	Yes	Applies as modified by § 63.8794(f).
§ 63.8(c)(7)–(8)	Out-of-control periods, including reporting.	Yes.	
§ 63.8(d)–(e)	Quality control program and CMS performance evaluation.	No	Applies as modified by § 63.8794(f) and (g).
§ 63.8(f)(1)–(5)	Use of an alternative monitoring method	Yes.	
§ 63.8(f)(6)	Alternative to relative accuracy test	No	Only applies to sources that use continuous emissions monitoring systems (CEMS).
§ 63.8(g)	Data reduction	Yes	Applies as modified by § 63.8794(g).
§ 63.9(a)	Notification requirements—applicability	Yes.	
§ 63.9(b)	Initial notifications	Yes	Except § 63.8816(c) requires new or reconstructed affected sources to submit the application for construction or reconstruction required by § 63.9(b)(1)(iii) in lieu of the initial notification.
§ 63.9(c)	Request for compliance extension	Yes.	
§ 63.9(d)	Notification that a new source is subject to special compliance requirements.	Yes.	
§ 63.9(e)	Notification of performance test	Yes.	
§ 63.9(f)	Notification of visible emissions/opacity test.	No	Subpart MMMMM does not have opacity or visible emission standards.
§ 63.9(g)(1)	Additional CMS notifications—date of CMS performance evaluation.	Yes.	
§ 63.9(g)(2)	Use of COMS data	No	Subpart MMMMM does not require the use of COMS.
§ 63.9(g)(3)	Alternative to relative accuracy testing	No	Applies only to sources with CEMS.
§ 63.9(h)	Notification of compliance status	Yes.	
§ 63.9(i)	Adjustment of submittal deadlines	Yes.	
§ 63.9(j)	Change in previous information	Yes.	
§ 63.10(a)	Recordkeeping/reporting applicability	Yes.	
§ 63.10(b)(1)	General recordkeeping requirements	Yes	§§ 63.8820 and 63.8822 specify additional recordkeeping requirements.
§ 63.10(b)(2)(i)–(xi)	Records related to startup, shutdown, and malfunction periods and CMS.	Yes	Only applies to new or reconstructed flame lamination affected sources.
§ 63.10(b)(2)(xii)	Records when under waiver	Yes.	
§ 63.10(b)(2)(xiii)	Records when using alternative to relative accuracy test.	No	Applies only to sources with CEMS.
§ 63.10(b)(2)(xiv)	All documentation supporting initial notification and notification of compliance status.	Yes	
§ 63.10(b)(3)	Recordkeeping requirements for applicability determinations.	Yes.	
§ 63.10(c)	Additional recordkeeping requirements for sources with CMS.	Yes	Applies as modified by § 63.8794(g).
§ 63.10(d)(1)	General reporting requirements	Yes	§ 63.8818 specifies additional reporting requirements.
§ 63.10(d)(2)	Performance test results	Yes	
§ 63.10(d)(3)	Opacity or visible emissions observations.	No	Subpart MMMMM does not specify opacity or visible emission standards.
§ 63.10(d)(4)	Progress reports for sources with compliance extensions.	Yes.	
§ 63.10(d)(5)	Startup, shutdown, and malfunction reports.	Yes	Only applies to new or reconstructed flame lamination affected sources.
§ 63.10(e)(1)	Additional CMS reports—general	Yes	Applies as modified by § 63.8794(g).
§ 63.10(e)(2)(i)	Results of CMS performance evaluations.	Yes	Applies as modified by § 63.8794(g).
§ 63.10(e)(2)	Results of continuous opacity monitoring systems performance evaluations.	No	Subpart MMMMM does require the use of COMS.
§ 63.10(e)(3)	Excess emissions/CMS performance reports.	Yes	Only applies to new or reconstructed flame lamination affected sources.
§ 63.10(e)(4)	Continuous opacity monitoring system data reports.	No	Subpart MMMMM does not require the use of COMS.
§ 63.10(f)	Recordkeeping/reporting waiver	Yes	

TABLE 7 TO SUBPART MMMMM OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART MMMMM—Continued

[As stated in § 63.8826, you must comply with the applicable General Provisions requirements according to the following table:]

Citation	Requirement	Applies to subpart MMMMM	Explanation
§ 63.11.	Control device requirements—applicability.	No	Facilities subject to subpart MMMMM do not use flares as control devices.
§ 63.12	State authority and delegations	Yes	§ 63.8828 lists those sections of subparts MMMMM and A that are not delegated.
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by reference	Yes	Subpart MMMMM does not incorporate any material by reference.
§ 63.15	Availability of information/confidentiality.	Yes.	

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Part III

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[Docket ID No. OAR–2002–0085; FRL–7462–3]

RIN 2060–AH55

National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for coke ovens. The final standards establish emission limitations and work practice requirements for control of hazardous air pollutants (HAP) from pushing, quenching, and battery stacks at new and existing coke oven batteries. The HAP emitted from pushing, quenching, and battery stacks include coke oven emissions, as well as polycyclic organic matter (POM) and volatile organic compounds (VOC) such as benzene and toluene. Exposure to these substances has been demonstrated to cause chronic and acute health effects. These final standards will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting application of the maximum achievable control technology (MACT). The EPA previously promulgated emission standards addressing emissions from coke oven charging, topside leaks, and door leaks.

EFFECTIVE DATE: April 14, 2003.

ADDRESSES: *Docket.* The official public docket is the collection of materials used in developing the final rule and is available for public viewing at the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lula Melton, Metals Group (C439–02), Emission Standards Division, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–2910, electronic mail (e-mail) address, *melton.lula@epa.gov.*

SUPPLEMENTARY INFORMATION:

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

Category	NAICS*	Example of regulated entities
Industry	331111, 324199	Coke plants and integrated iron and steel mills.
Federal government		Not affected.
State/local/tribal government		Not affected.

* 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 facility is regulated by this action, you should examine the applicability criteria in § 63.7281 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.

Docket. The EPA has established an official public docket for this action under Docket ID No. OAR–2002–0085. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center 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 Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

Electronic Docket Access. You may access the final rule electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility in the above paragraph entitled "Docket." Once in the system, select "search," then key in the appropriate docket identification number.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of the final rule will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the final rule will be placed 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. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Judicial Review. This action constitutes final administrative action on the proposed NESHAP for coke oven pushing, quenching, and battery stacks (66 FR 35326, July 3, 2001). Under CAA section 307(b)(1), judicial review of the final rule is achievable only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by June 13, 2003. Under CAA section 307(b)(2), the requirements that are the subject of this document may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

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

I. Background
  A. What Is the Source of Authority for NESHAP?
  B. What Criteria Are Used in the Development of NESHAP?
  C. How Did We Develop the Final Rule?
II. Summary of the Final Rule
  A. What Are the Affected Sources and Emission Points?
  B. What Are the Requirements for Pushing?
  C. What Are the Requirements for Soaking?
  D. What Are the Requirements for Quenching?
  E. What Are the Requirements for Battery Stacks?
  F. What Are the Operation and Maintenance (O&M) Requirements?
  G. What Are the Notification, Recordkeeping, and Reporting Requirements?
  H. What Are the Compliance Deadlines?
III. Summary of Responses to Major Comments

A. Why Did We Select a Work Practice Standard for Fugitive Pushing Emissions?
B. What Changes Did We Make to the Work Practice Standard for Fugitive Pushing Emissions?
C. What Changes Did We Make to the Requirements for Pushing Emission Control Devices (PECD)?
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H. Why Did We Change the Compliance Dates for Existing Sources?
IV. Summary of Environmental, Energy, and Economic Impacts
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V. Statutory and Executive Order Reviews
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B. Paperwork Reduction Act
C. Regulatory Flexibility Analysis
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer Advancement Act
J. Congressional Review Act

I. Background

A. What Is the Source of Authority for NESHAP?

Section 112 of the CAA requires the EPA to establish technology-based regulations for all categories and subcategories of major and area sources emitting one or more of the HAP listed in section 112(b). Major sources are those that emit or have the potential to emit at least 10 tons per year (tpy) of any single HAP or 25 tpy of any combination of HAP. We previously listed the category of major sources covered by today's final rule, "Coke Ovens: Pushing, Quenching, and Battery Stacks," on July 16, 1992 (57 FR 31576). This action is a rulemaking under section 307(d) of the CAA.

B. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as MACT.

The MACT floor is the minimum level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources (for which we have emissions information) in the category or subcategory or by the best-performing 5 sources (for which we have or could reasonably obtain emissions information) for categories or subcategories with fewer than 30 sources.

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost of achieving the emissions reductions, non-air quality health and environmental impacts, and energy impacts.

C. How Did We Develop the Final Rule?

We proposed the NESHAP for the Coke Ovens: Pushing, Quenching, and Battery Stacks source category on July 3, 2001 (66 FR 35326). We provided a 90-day comment period for the proposed rule. We received a total of 18 comment letters. A copy of each of these comment letters is available in the docket for this rulemaking (Docket No. OAR–2002–0085).

The final rule reflects full consideration of all the comments we received. Major public comments on the proposed rule along with our responses to these comments are summarized in this document. A detailed response to all comments is included in the Background Information Document (BID) for the promulgated standards (Docket No. OAR–2002–0085).

Since publication of the proposal, six coke plants with 12 batteries have permanently closed. The plants have closed primarily because of the distressed economic condition of the iron and steel industry, and none of the closures are due to the cost of installing emission control systems. The requirements in the final rule take into account the levels of control that have been demonstrated as achievable, including in some cases levels achieved by batteries that are no longer operating. We believe it is appropriate to consider all of the data collected and relied upon for the proposed rule. These data reflect the level of performance of batteries operating concurrently with this rulemaking effort, and provide useful and relevant information about the emission limits that such sources can achieve.

II. Summary of the Final Rule

A. What Are the Affected Sources and Emission Points?

The affected source is each new or existing coke oven battery at a plant that is a major source of HAP emissions. A new affected source is one constructed or reconstructed after July 3, 2001. An existing affected source is one constructed or reconstructed on or before July 3, 2001. The final rule covers fugitive pushing emissions, emissions from control devices applied to pushing emissions, and emissions from quenching, soaking, and battery stacks.

B. What Are the Requirements for Pushing?

1. By-Product Coke Oven Batteries With Vertical Flues

We proposed two options for controlling fugitive pushing emissions—numerical opacity limits (Option 1) and a work practice standard (Option 2). Based on comments received on the proposed rule and further consideration of the proposed options, we are promulgating a work practice standard.

Under the work practice standard, owners or operators must observe and record the opacity from four consecutive pushes each operating day. If the average opacity of the six highest 15-second consecutive readings for any individual push is more than 30 percent for a short battery or 35 percent for a tall battery, the owner or operator must take corrective action and/or increase coking time to fix the problem within a specified time frame. To demonstrate the corrective action and/or increased coking time was successful, the owner or operator must observe two additional daytime pushes for the oven after completing the corrective action. If the corrective action is not successful, the owner or operator must take additional corrective action. If the second attempt to fix the problem is not successful, the failure must be reported as a deviation, and the owner or operator must again take corrective action or increase the coking time. Each subsequent failure to

fix the problem on the same oven must also be reported as a deviation. We have included provisions to qualify an oven for decreased coking time after it is placed on increased coking time, which requires a demonstration that the opacity is 30 percent or less for a short battery or 35 percent or less for a tall battery when the oven is operated on the decreased coking time. If an oven fails to qualify for decreased coking time, it must be returned to the previously established increased coking time, or the owner or operator may implement some other corrective action or increased coking time. If the facility implements some other corrective action or increased coking time, it must confirm that the selected action was successful. If an individual oven fails to qualify for a decreased coking time in two or more consecutive attempts, the failure on the second and any subsequent attempts must be reported as a deviation.

The final rule requires that observers taking opacity readings to comply with the work practice standard for pushing must be certified according to Method 9 in 40 CFR part 60, appendix A. Opacity observations begin with the first detectable movement of the coke mass. The plant owner or operator must identify each oven that cannot be read using Method 9 due to obstructions, interferences, or sun angle and must propose alternative procedures to observe these ovens.

To demonstrate initial compliance, the plant owner or operator must certify, as part of the notification of compliance status, that the plant will meet each of the requirements in the work practice standard. Records of all observations and calculations are needed to document continuous compliance. Additional records are required in each instance where pushing emissions from an oven exceed 30 percent opacity for a short battery or 35 percent opacity for a tall battery.

2. By-Product Coke Oven Batteries With Horizontal Flues

Plant owners or operators must prepare and implement a written plan to prevent incomplete coking. The plan must establish minimum flue temperatures at different coking times and a lowest acceptable minimum flue temperature. The minimum temperatures must be established based on a study conducted by the plant that establishes minimum flue temperatures at different minimum coking times and an absolute minimum flue temperature. The plan must be submitted to the Administrator for approval. The authority to approve the work practice plan is retained by the Administrator and is not delegated to the State, local, or tribal agency.

In implementing the plan, owners or operators must measure and record the temperature of all flues on two ovens per day within the 2 hours before the scheduled push time. If the measured temperature is below the minimum established for an oven's coking time, the coking time must be increased by the amount specified in the plant's written plan. If the flue temperature measurement is below the lowest acceptable minimum temperature, the oven must be removed from service for repairs. If a flue temperature is below the lowest acceptable minimum after return to service, the owner or operator must report the event as a deviation.

No performance test is required to demonstrate initial compliance with the work practice standards. The plant owner or operator must certify, as part of the notification of compliance status, that the plant has submitted the written plan to prevent incomplete coking and the supporting study to the Administrator for review and approval, and that the plant will meet each of the requirements in the work practice standard beginning no later than the first day that compliance is required according to § 63.7283 of the final rule. If the plan is disapproved, the owner or operator must revise the plan as directed by the Administrator and re-submit it for approval. If an original or re-submitted plan has not been approved by the applicable compliance date, the owner or operator must operate in accordance with the last plan submitted to the Administrator.

Plant owners or operators must demonstrate continuous compliance by: (1) Measuring and recording flue temperatures for two ovens a day and for all ovens in each battery at least once a month, and (2) recording the time each oven is charged and pushed and the net coking time. Plant owners or operators must keep additional records to show that the correct procedures were followed if any measured flue temperature is below the minimum flue temperature or the lowest acceptable minimum temperature.

3. Non-Recovery Coke Oven Batteries

The final work practice standards require plant owners or operators to visually inspect each oven prior to pushing by opening the door damper and observing the bed of coke. The oven cannot be pushed unless the visual inspection confirms that there is no smoke in the open space above the coke bed, and that there is an unobstructed view of the door on the opposite side of the oven. Plant owners or operators must demonstrate initial compliance by certifying in their initial notification of compliance status that they will follow the work practice standards. Plant owners or operators must demonstrate continuous compliance by maintaining records of each visual inspection.

4. Emission Control Devices

We are establishing emission limits for particulate matter (PM) as a measure of control device performance. Plant owners or operators that currently use capture and control equipment must continue to use such equipment and must meet the applicable PM emission limits. The limits differ in form and numerical value depending on the type of capture system used (cokeside shed or moveable hood) and whether the control device is stationary (land-based) or mobile. Where a cokeside shed is used as the capture system, the PM limit is 0.01 grain per dry standard cubic foot (gr/dscf). If a moveable hood vented to a stationary control device is used to capture emissions, the PM emission limit is 0.02 pound per ton (lb/ton) of coke pushed. For mobile scrubber cars that do not capture emissions during travel, the emission limits are 0.03 lb/ton of coke for short batteries and 0.01 lb/ton of coke for tall batteries. For mobile scrubber cars that capture emissions during travel, the limit is 0.04 lb/ton of coke.

We have also established operating limits for control devices and capture systems applied to pushing emissions. If a venturi scrubber is used, the daily average pressure drop and scrubber water flow rate must remain at or above the minimum level established during the initial performance test. The final rule provides two options for a capture system applied to pushing emissions: (1) Maintain the daily average fan motor amperes at or above the minimum level established during the initial performance test, or (2) maintain the daily average volumetric flow rate at the inlet of the control device at or above the minimum level established during the initial performance test.

The final rule requires a performance test for each control device to demonstrate it meets the emission limit. The concentration of PM is to be measured using EPA Method 5 or 5D in 40 CFR part 60, appendix A. The testing requirements also include procedures for establishing operating limits for venturi scrubbers and capture systems and for revising the limits, if needed, after the performance test. To demonstrate continuous compliance with the applicable emission limit, plant owners or operators must conduct

performance tests for each control device at least twice during each term of their title V operating permit (at midterm and renewal).

If a baghouse is applied to pushing emissions, plant owners or operators must monitor the relative change in PM loading using a bag leak detection system and make inspections at specified intervals. The basic inspection requirements include daily, weekly, monthly, or quarterly inspections of specified parameters or mechanisms with monitoring of bag cleaning cycles. Each bag leak detection system must be capable of detecting PM at concentrations of 10 milligrams per actual cubic meter or less and provide an output of relative PM loading, and be installed and operated according to EPA guidance.[1] If the system does not work based on the triboelectric effect, it must be installed and operated consistent with the manufacturer's written specifications and recommendations. In addition, the bag leak detection system must be equipped with an alarm system that will alert operators if PM is detected above a preset level. The proposed requirement that a bag leak detection system must not sound for more than 5 percent of the time in a semiannual period has been deleted from the final rule.

To demonstrate continuous compliance, the final rule requires plant owners or operators to maintain records of corrective actions taken in response to bag leak detection system alarms. They must also keep records documenting conformance with the inspection and maintenance requirements.

If a venturi scrubber is applied to pushing emissions, plant owners or operators must monitor the daily average pressure drop and scrubber water flow rate using continuous parameter monitoring systems (CPMS). The CPMS must measure and record the pressure drop and scrubber water flow rate at least once per push and determine and record the daily average of the readings. To demonstrate continuous compliance with the operating limits, plant owners or operators must maintain the daily average pressure drop and scrubber water flow rate at levels no lower than those established during the performance test. Valid monitoring data must be available for all pushes.

Section 63.7331 of the rule establishes requirements for the installation, operation, and maintenance of continuous monitoring systems. The final rule requires owners or operators to prepare a site-specific monitoring plan for CPMS that addresses installation, performance, operation and maintenance, quality assurance, and recordkeeping and reporting procedures. These requirements replace the more detailed performance specifications contained in the proposed rule.

For a capture system applied to pushing emissions, plant owners or operators are required to check the fan motor amperes or the volumetric flow rate at least once each 8-hour period to verify the daily average is at or above the level established during the initial performance test and to record the results of each check.

C. What Are the Requirements for Soaking?

The final rule contains a work practice standard to address emissions that occur during soaking, which is the period prior to pushing when an oven is dampered off the collecting main and vented to the atmosphere through an open standpipe to relieve oven pressure. Plant owners or operators must prepare and implement a plan to mitigate potential soaking emissions. Each plan must include measures and procedures to train topside workers to identify the cause of soaking emissions and to take corrective measures to reduce or eliminate such emissions.

If soaking emissions are caused by leaks from the collecting main, actions must be taken to eliminate the emissions, such as reseating the damper, cleaning the flushing liquor piping, applying aspiration, putting the oven back on the collecting main, or igniting the emissions. If soaking emissions are not caused by leaks from the collecting main, a designated responsible party must be notified, who must then determine whether the cause of emissions is incomplete coking. If so, the oven must either be put back on the collecting main until coking is complete, or the emissions must be ignited.

To demonstrate initial compliance, the plant owner or operator must certify, as part of the notification of compliance status, that the plant has submitted the written plan for soaking to their permitting authority for review and approval, and that each of the requirements in the work practice standard will be met beginning no later than the first day that compliance is required according to § 63.7283 of the final rule. To demonstrate continuous compliance, plant owners or operators must keep records documenting conformance with these requirements.

D. What Are the Requirements for Quenching?

The equipment and work practice standards for quenching apply to all coke oven batteries. Each quench tower must be equipped with baffles such that no more than 5 percent of the cross sectional area of the tower may be uncovered or open to the sky. Baffles must be cleaned each day that the quench tower is used except when the highest measured ambient temperature during the day is below 30 degrees Fahrenheit. Each quench tower must be inspected at least monthly for damaged or missing baffles and blockage. If the monthly inspection reveals any damaged or missing baffles, plant owners or operators must initiate repairs within 30 days and complete repairs as soon as practicable.

The final rule also limits the total dissolved solids (TDS) content of water used for quenching to 1,100 milligrams per liter (mg/L). The final rule includes an alternative to the TDS limit that achieves an equivalent level of HAP control. The plant owner or operator may establish a site-specific constituent limit for the HAP that are characteristic of coke oven emissions (benzene, benzo(a)pyrene, and naphthalene). The constituent limit is based on analyses of at least nine samples of the quench water for TDS, benzene, benzo(a)pyrene, and naphthalene. The HAP limit is the highest sum of the concentrations of the HAP in any single sample that meets the TDS limit of 1,100 mg/L. We also replaced the definition of "clean water" with a definition of "acceptable makeup water," which includes surface water from a river, lake, or stream; water meeting drinking water standards; storm water runoff and production area clean up water except for water from the by-product recovery plant area; process wastewater treated to meet effluent limitations guidelines; any of these types of water that have been used only for non-contact cooling or in water seals; or water from scrubbers used to control pushing emissions.

To demonstrate initial compliance, the plant owner or operator must certify, as part of the notification of compliance status, that the equipment standard has been met, and that the work practice requirements regarding baffle repair and cleaning will be met beginning no later than the first day that compliance is required according to § 63.7283 of the final rule. The owner or operator must also conduct an initial performance test to demonstrate that the TDS content of quench water does not exceed 1,100 mg/

[1] "Fabric Filter Bag Leak Detection Guidance," EPA 454/R-98-015, September 1997, available on the TTN at *http://www.epa.gov/ttnemc01/cem/tribo.pdf*

L or that the concentration of benzene, benzo(a)pyrene, and naphthalene does not exceed the site-specific constituent limit. To demonstrate continuous compliance, plant owners or operators are required to maintain baffles in each quench tower to meet the rule requirements, test quench water for TDS at least weekly or at least monthly for benzene, benzo(a)pyrene, and naphthalene, and keep records documenting conformance with the work practice requirements regarding baffle repair and cleaning.

Backup quench stations at existing coke oven batteries that are used for less than 5 percent of the quenches in a 12-month calendar period are not subject to the baffle requirements for quench towers. However, backup quench stations at new batteries are subject to the requirements for baffles.

E. What Are the Requirements for Battery Stacks?

The final rule requires plant owners or operators to monitor the opacity of emissions from each battery stack using a continuous opacity monitoring system (COMS) and to meet specified opacity limits at all times. The opacity limits are a daily average of 15 percent for a by-product coke oven battery on a normal coking cycle and a daily average of 20 percent for a by-product coke oven battery on a batterywide extended coking cycle. A battery is on batterywide extended coking if the average coking time for all ovens in a battery is increased by 25 percent or more over the manufacturer's specified design rate.

Initial compliance must be demonstrated through a performance test using a COMS. The opacity of emissions from each battery stack must be monitored for 24 hours and the daily average determined. A performance evaluation is also required to show that the COMS meets Performance Specification (PS) 1 in appendix B to 40 CFR part 60. To demonstrate continuous compliance, plant owners or operators must monitor opacity using the COMS and determine and record the 24-hour average opacity.

F. What Are the Operation and Maintenance (O&M) Requirements?

All plant owners or operators are required to prepare and implement a written startup, shutdown, and malfunction plan according to the O&M requirements in 40 CFR 63.6(e). Operation and maintenance plans are also required for each by-product coke oven battery and for capture systems and control devices applied to pushing emissions.

The plan for general O&M of each by-product coke oven battery must address procedures (and frequency of measurements, where appropriate) for underfiring gas parameters, flue and cross-wall temperatures, preventing ovens from being pushed before they are fully coked, preventing overcharging and undercharging of ovens, and inspecting flues, burners, and nozzles.

The O&M plan for capture systems and control devices applied to pushing emissions must describe procedures for monthly inspections of capture systems, preventative maintenance requirements for control devices, and corrective action requirements for baghouses. In the event of a bag leak detection system alarm, the plan must include specific requirements for initiating corrective action to determine the cause of the problem within 1 hour, initiating corrective action to fix the problem within 1 working day, and completing all corrective actions needed to fix the problem as soon as practicable.

To demonstrate initial compliance, plant owners or operators must certify in their notification of compliance status that they have prepared the plan according to the rule requirements and that the plant will operate according to the plan beginning no later than the first day that compliance is required under § 63.7283 of the final rule. To demonstrate continuous compliance, plant owners or operators must adhere to the requirements in the plan and keep records documenting conformance with these requirements.

G. What Are the Notification, Recordkeeping, and Reporting Requirements?

The notification, recordkeeping, and reporting requirements rely on the NESHAP General Provisions in 40 CFR part 63, subpart A. Table 1 of the final rule (subpart CCCCC) shows each of the requirements in the General Provisions (§§ 63.2 through 63.15) and whether they apply.

The final rule requires the owner or operator to submit each initial notification in the NESHAP General Provisions that applies to them. An initial notification of applicability with general information about the plant must be submitted within 120 days of April 14, 2003 (or for a new affected source, 120 days after becoming subject to the rule). A notification of performance tests must be provided at least 60 calendar days before each test. A notification of compliance status must be submitted within 60 calendar days of the compliance demonstration if a performance test is required or within 30 calendar days if no performance test is required. For the work practice standard for pushing for a by-product coke oven battery with horizontal flues, plant owners or operators must provide prior written notification of the date the study of flue temperatures will be initiated. Other notification requirements that may apply are shown in Table 1 of the final rule (subpart CCCCC).

The final rule requires plant owners or operators to maintain the records required by the NESHAP General Provisions that are needed to document compliance, such as performance test results; copies of startup, shutdown, and malfunction plans and associated corrective action records; monitoring data; and inspection records. All records must be kept for a total of 5 years, with the records from the most recent 2 years kept onsite. The final rule also requires that the current O&M plans be kept onsite and available for inspection upon request for the life of the affected source or until the affected source is no longer subject to the rule requirements.

We revised the reporting requirement for battery stacks from monthly to quarterly in response to comments. For other affected sources, semiannual reports are required for any deviation from an emission limitation (including an operating limit), work practice standard, or O&M requirement. Each report is due no later than 30 days after the end of the reporting period. If no deviation occurred and no continuous monitoring systems were out of control, only a summary report is required. If a deviation did occur, more detailed information is required.

An immediate report is required if there were actions taken during a startup, shutdown, or malfunction that were not consistent with the startup, shutdown, and malfunction plan. Deviations that occur during a period of startup, shutdown, or malfunction are not violations if the owner or operator demonstrates to the permitting authority that the source was operating in accordance with the startup, shutdown, and malfunction plan.

H. What Are the Compliance Deadlines?

We revised the compliance date for an existing affected source from 2 years to 3 years after April 14, 2003. New or reconstructed sources that startup on or before April 14, 2003. New or reconstructed sources that startup after April 14, 2003 must comply upon initial startup.

III. Summary of Responses to Major Comments

A. Why Did We Select a Work Practice Standard for Fugitive Pushing Emissions?

We proposed an opacity standard for fugitive pushing emissions as one potential option for controlling sources in the category. Because we were uncertain about the feasibility of an opacity standard for this emission point, we also proposed a work practice standard. We refer to the opacity standard as Option 1 and the work practice standard as Option 2. Both options would require observing four consecutive pushes per day and determining the average opacity of each push. The opacity limits proposed were 20 percent for short batteries and 25 percent for tall batteries based on the average of four pushes. We proposed a work practice standard that would be triggered if the average opacity of any single push exceeded 30 percent for short batteries and 35 percent for tall batteries.

Comment: Four commenters stated a preference for a work practice standard. Two commenters said that EPA has not and cannot adequately subcategorize batteries to account for the range in performance achievable by batteries implementing a state-of-the-art O&M program for the minimization of green pushes. The commenters stated there are not enough data to set standards for each subcategory reflecting the performance of the top sources over time and under the worst foreseeable conditions. Therefore, the opacity standard (Option 1) must be rejected.

One commenter prefers an opacity standard over a work practice standard because he believes a work practice standard could cause several problems: (1) It would not allow them to effectively manage their long-term wall and end flue replacement program; (2) the constant change from taking ovens out of service and putting them back into service would result in damage to the battery; and (3) many of the actions required by the work practice standard would disrupt the heating system, damage refractory, and increase emissions in other areas of the battery.

Three commenters urged EPA to combine the opacity standard with the work practice standard. One commenter noted that the opacity standard does not require that an oven be repaired, and the work practice standard may not be sufficient to keep a problem oven from continuing to operate. Two commenters prefer a combination because it would more closely approach their existing State standards. Another commenter prefers the opacity standard but would support combining it with the work practice standard if it improved compliance.

Response: The insight provided by several commenters and further consideration of the two options we proposed lead us to conclude that a work practice standard that requires owners or operators to take appropriate corrective action and to confirm that they have successfully addressed problem ovens is the most effective approach to control fugitive pushing emissions. A work practice standard is appropriate because pushing emissions are fugitive in nature and are not emitted through a conveyance designed to capture and control HAP. Moreover, there is no practicable measurement methodology to determine the mass emission rate of HAP in these fugitive emissions. Section 112(h) of the CAA explicitly permits a work practice standard in lieu of an emission standard when emissions cannot be emitted through a conveyance.

We concluded an opacity limit as proposed would not be appropriate because coke oven batteries cannot entirely avoid green pushes. While facilities can significantly reduce the frequency of green pushes by carefully monitoring emissions and responding quickly to diagnose and repair problem ovens, they cannot eliminate them altogether. (For example, a flue may become plugged unexpectedly during coking.) Any steps that we might take to allow for the periodic exceedance of an emission limit (such as averaging across several pushes) would undermine the purpose of the standard by allowing malfunctioning ovens to continue operating without diagnosis or repair. Therefore, the most meaningful approach is to establish a work practice standard that requires coke oven facilities to identify and successfully remedy problems that result in increased emissions. Accordingly, considering the nature of the pushing operation, it is appropriate for EPA to establish a work practice standard that uses opacity observations to identify problem ovens (those which produce green pushes) and requires corrective action to diagnose and correct the problem.

There was a fundamental flaw in the opacity standard as proposed in that it would not ensure that an oven producing green pushes is repaired. If the four-push average exceeds the opacity standard, one or more of the ovens may have serious problems that require immediate attention to prevent subsequent green pushes. However, these problem ovens would not have to be observed again for 90 days, and during that 90-day period, many green pushes could occur.

Additionally, an opacity standard based on the average of four pushes does not reliably indicate when a green push has or has not occurred. We analyzed data from two batteries that had frequent green pushes to compare the effectiveness of the opacity standard and work practice standard in identifying green pushes. We found cases where the four-push average had one oven with a green push (an opacity of more than 30 percent), but the proposed opacity standard was not exceeded because the other pushes had low opacity. We also found cases where the 20 percent opacity standard was marginally exceeded, but none of the pushes were green (*i.e.*, all four pushes were less than 30 percent).

In contrast, the work practice standard is triggered by opacity observations of individual ovens. When a green push occurs, the problem oven is identified. This oven is then placed on a remedial track that requires appropriate repairs in a reasonable period of time. Consequently, the work practice standard will not allow green pushes to occur unabated.

Several commenters urged us to combine the performance standard (an opacity limit) with the work practice standard. While we are not adopting a specific performance standard in the form of a hard and fast opacity limit, and we do not believe that such a standard would provide a feasible mechanism for identifying and remediating individual problem ovens, we do recognize the benefits of having a mechanism to prevent ongoing failure to repair problem ovens.

Therefore, we have revised the work practice standard to ensure that ovens are properly repaired. As proposed, the work practice standard could have allowed individual problem ovens to continue to operate, while cycling through corrective actions without ever being properly repaired. Consequently, we revised the work practice standard to require an owner or operator to report a deviation after two consecutive unsuccessful attempts at corrective action and/or increased coking time and after two consecutive unsuccessful attempts to decrease coking time on the same oven. In addition, subsequent consecutive failures to repair or remediate the same oven must be reported as deviations. There is adequate time provided to correct any problems during the two attempts—20 days or more. An owner or operator may also remove an oven from service for as long as necessary to conduct repairs.

This approach accurately reflects the performance of the best-controlled facilities in the category that already implement oven diagnosis and repair programs to successfully identify and remedy problems that lead to increased emissions. Most of the best-controlled batteries will seldom have an oven that enters the oven-directed program, and our data show that none have had the types of continuing problems that would result in a deviation under the final rule.

We believe that the work practice standard can be coordinated with a long-term repair program. The batteries upon which the MACT floor is based have a long-term repair program to address major repairs. This long-term program includes procedures for minimizing impacts on adjacent ovens and preventing excess emissions when ovens must be removed from service. In addition, these batteries have effective procedures for identifying problem ovens and making short-term repairs. There is no legitimate reason why this type of approach cannot be implemented at other coke oven batteries.

B. What Changes Did We Make to the Work Practice Standard for Fugitive Pushing Emissions?

Comment: Four commenters requested revisions to the work practice standard. They requested that the final rule require that all pushes be read exactly according to EPA Method 9 (40 CFR part 60, appendix A). They suggested that Method 9 observations begin with the first detectable movement of the coke mass because this would ensure that observations are made through the entire pushing sequence and would be consistent with how the data were generated for the proposed rule. They also requested that we not require "independent certified observers" because all Method 9 certified observers are qualified and should be treated the same.

The commenters asked that we allow the observation of more than four pushes per day so that every oven can be observed at least once every 3 months. In addition, the commenters asked that we clarify that the pushing schedule can be changed for operational reasons, but not "solely" for the purpose of changing the sequence of observations. They suggested we add a definition for "increased coking time" to prevent confusion with "batterywide extended coking time," which is a term used only in the provisions for battery stacks.

Response: We agree with some of these suggested revisions and do not agree with others. We do not agree that all ovens must be read exactly as required by Method 9 (40 CFR part 60, appendix A) because we are aware that the view of opacity from some ovens may be obstructed within the sector required by the method. In this situation, the observer may need to find an alternative position to make opacity observations. We added a provision to the final rule requiring plant owners or operators to identify ovens that cannot be observed according to Method 9 and develop alternative procedures to determine if green pushes are occurring on those ovens. The alternative procedures must be submitted to the permitting authority for review and approval. Facilities must operate according to these procedures beginning no later than the applicable compliance date. Based on the information we received, there are only a few ovens that fall into this category.

We have written the final rule to state that Method 9 observations should begin with the first detectable movement of the coke mass. In addition, we agree that any Method 9 certified observer is qualified to make Method 9 opacity observations and have changed the provision to reflect this. We also agree that more than four ovens may be observed each day because doing so provides more scrutiny of performance and greater assurance that every oven can be observed at least once every 90 days.

With respect to the comment on changing pushing schedules, we do not believe that the precise language that the commenter suggests is appropriate (specifically the word "solely" would create an extraordinarily difficult burden of proof for purposes of enforcement). However, we do agree with the general idea underlying the commenter's recommendation, and we have written the final rule to acknowledge that there may be legitimate operational reasons for changing the pushing schedule. If an oven's pushing schedule is changed and that oven was previously scheduled to be one of the four consecutive ovens to be observed, the operator must keep records to document the legitimate operational reason for changing the schedule. We have added a definition for "increased coking time" to prevent confusion with "batterywide extended coking time," which is a term used only in the provisions for battery stacks.

Comment: Several commenters said that the rule should not mandate that an oven be taken out of service if corrective actions are unsuccessful. In addition, commenters requested that after taking corrective actions or extending the coking time, we allow two coking cycles before requiring the facility to demonstrate that the action was successful. They believe it is necessary to observe only one push rather than two to show the action was successful. Finally, the commenters asked that we drop the requirement to obtain the permitting authority's permission to return an oven to service and instead change this to a notification requirement.

Response: We added a provision that requires plant owners or operators to report a deviation after two unsuccessful attempts at repair, and with this requirement, we believe that it is not necessary to require that an oven be removed from service. Our goal at proposal was to require that an oven be removed from service for repair to avoid endless cycling of unsuccessful repairs. This is accomplished in the final rule by requiring that the owner or operator repair the problem oven, and by requiring the owner or operator to bring any two or more consecutive failures to repair the same oven to the attention of the permitting authority by reporting the failure(s) as a deviation.

Based on the comments requesting more time to fix problem ovens before they are removed from service, we investigated the time that might reasonably be required to take corrective action and to demonstrate that it was successful. We discovered that there can be some situations in which it would be difficult to obtain valid opacity observations within the time period in the proposed rule. For example, the opportunity to make opacity observations according to the prescribed procedures depends on coking time, number of daylight hours, sun angle, and other factors. In some cases, it may take several days to meet the criteria in the opacity procedures for a specific oven, especially during the winter months for ovens with 22 to 26 hour coking times. Consequently, we have written the final rule to require that the opacity observations to demonstrate that corrective action and/or increased coking time was successful be made on the first two pushes that can be observed according to the procedures for opacity observations after the allowed number of days. We decreased the time period to complete corrective action or increase coking time because the time period no longer includes the demonstrative observations. We have written the final rule to allow either 10 days or the number of days determined using an equation, whichever is greater. Depending on coking time, the time period allows batteries 10 to about 20 days to diagnose the problem,

implement corrective action or increased coking time, and stabilize oven temperatures. After that period, the next two pushes that can be observed according to the procedures must be observed to evaluate the success of corrective action. Days during which the oven is removed from service do not count in the allowed number of days. We also revised the standard to allow two attempts at repair in case the problem is not initially diagnosed properly or in case a second independent problem develops.

We do not agree that two coking cycles are always necessary to stabilize an oven after corrective actions are taken. We believe there is one case in which two coking cycles are needed to allow the oven temperature to stabilize—when an oven that was placed on increased coking time has been repaired and the owner or operator attempts to qualify for decreased coking time. We have written the final rule to reflect this. There is adequate time within the allowed number of days following corrective action or increased coking time to allow the oven temperatures to stabilize. Adequate time is also provided for ovens removed from service because the time during which the oven is not operating is not counted in the allowed number of days. Relative to the comment that only one observation is needed to demonstrate the problem has been corrected, we continue to believe that two pushes should be observed rather than one to provide assurance that the repair was successful.

We agree that it is not necessary for a permitting authority to approve returning an oven to service, and the permitting authority may not be able to act within a time frame that is consistent with the legitimate needs of the operator. In addition, this requirement places a burden on the permitting authority that they may not want and may not have the resources or expertise to implement.

Comment: Three commenters stated that batteries with horizontal flues would be subject to significantly less stringent standards than batteries with vertical flues. They requested that these batteries be subject to the same pushing requirements as by-product batteries with vertical flues.

Response: As stated in the proposal preamble, unlike vertical flue batteries which include 25 to 37 individual flues along each oven wall, the horizontal flue system of the Semet Solvay design includes only five horizontal flues which convey the combustion gases from top to bottom in serpentine fashion. Because the hot combustion products flow from one flue to the next, the heat control of each upper flue materially affects the heating conditions in the next flue down. Each flue in the horizontal design affects a larger percentage of the total coke mass than for the vertical flue design. Consequently, the occurrence of a heating or combustion problem in any of the single horizontal flues could have a significant adverse effect on the degree and uniformity of coking across the entire length of the coke bed. Therefore, since these differences in design and operation affect pushing emissions, we developed a separate subcategory for batteries with horizontal flues. There are two batteries with this design, and the work practice standard is based on the procedures used by these batteries to prevent green pushes. We have received no technical information that indicates this subcategorization was inappropriate.

However, after we reviewed the proposed work practice standard, we concluded a revision was needed to ensure that a source would not be permitted to operate its ovens below the lowest acceptable minimum flue temperature. The source is required to evaluate coking time, coking temperature, and factors associated with incomplete coking to develop minimum flue temperatures and coking times. The source must then submit to the Administrator (or delegated authority) for review and approval a written plan that establishes minimum flue temperatures for different coking times, and that establishes the lowest acceptable minimum flue temperature for oven operation. The plan must also include appropriate operation and maintenance procedures to ensure compliance upon plan implementation.

C. What Changes Did We Make to the Requirements for Pushing Emission Control Devices (PECD)?

Comment: Two commenters stated that there is no legal basis for setting MACT standards for PECD given EPA's conclusion at proposal that PECD are not part of the MACT floor for pushing. One commenter also stated that EPA has no legal authority to set operating limits for PECD because they are simply a surrogate for the underlying emission limits. In addition, PECD should not be regulated because the emissions do not contain HAP. The commenter said the limits and monitoring are not necessary and are duplicative of other existing requirements, including State implementation plans, title V permits, and the compliance assurance monitoring program.

Response: We believe emission limits for PECD are appropriate and warranted. As we explained in the preamble to the proposed rule, there are several reasons we do not believe it is appropriate to include PECD as a component of the MACT floor for pushing. However, we also indicated at proposal that operation of these controls does have some HAP reduction benefits (although we are unable to specifically quantify these benefits in terms of either HAP or PM), and there is little doubt that these devices help to reduce HAP emissions, including POM and trace metals. Thus, while minimizing the frequency of green pushes is the basis for the MACT floor, and achieving this objective will significantly decrease the emission benefits of the add-on control devices, these devices will continue to reduce HAP emissions to some degree on a continuing basis. The EPA has reasonably concluded that it is important to ensure that the benefits related to the operation of these controls are maintained, and the appropriate way to accomplish this is to require that coke plants operate existing PECD at all times in a manner consistent with good air pollution control practices. Accordingly, today's requirements establish emission limitations for existing control devices that reflect the performance of well-operated PECD. The costs associated with the PECD requirements include those for periodic Method 5 testing, parametric monitoring (such as bag leak detection systems), and monthly inspections of capture and control systems. These costs are only $4,600 per year for a typical coke plant, which is a minimal cost relative to the overall costs of the final rule (less than 0.5 percent). While we are not able to quantify the HAP emission reductions associated with operation of PECD or with the PECD requirements in the final rule, we believe the requirements preserving these existing benefits of PECD's and ensuring proper operation of control devices is warranted. For example, bag leak detection systems and monthly inspections will ensure that corrective actions are taken promptly when the systems are not operating properly, and these actions will reduce excess emissions that might have occurred in the absence of the continuous monitoring.

We do not believe that the limits will duplicate existing State requirements because the limits are generally equivalent to or more stringent than those currently required by State agencies or contained in existing operating permits. By establishing these limits in national standards, we will

ensure that emissions from PECD do not increase in the future if existing State limits are relaxed or if operating permits are modified.

Comment: One commenter stated that the proposed emission limits are based on very limited data and that the limits are not achievable. In support of this claim, the commenter submitted statistical analyses that indicate that their "statistically-derived values" are much higher than the proposed limits and should be used in lieu of the proposed values. Several commenters submitted additional test data for EPA to consider and asked for higher limits.

Response: We reviewed the additional test data submitted by the commenters. These new data include additional tests on mobile scrubber cars used on short batteries and baghouses applied to cokeside sheds. We also reexamined our approach for selecting appropriate emission limits. We believe that it is not necessary to use statistical analyses to account for variability because these control devices operate uniformly over time, and the data indicate there is little variability when the device is operating properly. In addition, we have data for most of the affected control devices, including multiple tests for some units. We believe the large database inherently accounts for variability and choosing the highest three-run average means that 100 percent of the test results are below the limit. However, to account for inherent variability in the performance of the control devices (to more accurately reflect the actual performance of existing controls over time), we established the limits in the final rule by rounding the highest test results to two decimal places.

The two additional tests for mobile scrubber cars used on short batteries include one result slightly below the proposed limit and another slightly higher than the proposed limit. The tests were conducted using approved methods and appear to be representative of normal operation. In addition, the results expanded the database for this subcategory from three tests to five tests. The averages for the five tests ranged from 0.012 to 0.025 lb/ton of coke. We rounded 0.025 lb/ton to 0.03 lb/ton and established this value as the limit for mobile scrubber cars for short batteries.

We also reviewed additional test data for three batteries equipped with a cokeside shed and baghouse, including three tests conducted on a 6-meter battery at one plant and four tests conducted on two 4-meter batteries designated Batteries 1 and 4 at a second plant. The proposed limit for existing cokeside sheds and baghouses was 0.004 gr/dscf. With the additional data, we now have results for ten tests at five batteries with cokeside sheds and baghouses. All three tests on the 6-meter battery are below the proposed limit of 0.004 gr/dscf with values of 0.0009, 0.0024, and 0.0013 gr/dscf.

The additional data for the two 4-meter batteries plus one test result which we previously had gives us a total of five tests for that plant, four tests for Battery 1 and one test for Battery 4. The company acknowledged that a 1984 test which averaged 0.02 gr/dscf was performed under unrepresentative conditions because of operational problems with the baghouse during the test. We examined the other test reports for Battery 1 and found that a test conducted in 1984 averaged 0.004 gr/dscf, a 1988 test averaged 0.0036 gr/dscf, and a 1998 test averaged 0.01 gr/dscf. The test reports indicate that sampling was performed under representative conditions. Consequently, we revised the emission limit for batteries with cokeside sheds to 0.01 gr/dscf to reflect the level that has been demonstrated as achievable.

No additional data were submitted for two types of capture and control systems: mobile scrubber cars on tall batteries and mobile scrubber cars that capture during travel. We chose as limits the highest three-run average for each of these systems—0.01 lb/ton for mobile scrubber cars on tall batteries and 0.04 lb/ton for mobile scrubber cars that capture during travel. We believe the data show that these limits are achievable because they have been achieved at several different batteries over time.

Comment: One commenter requested that the 5 percent operating limit for bag leak detection system alarms be deleted. The commenter argued that the 5 percent of the operating time limit on alarms is arbitrary. In addition, the commenter stated that EPA had not demonstrated that a bag leak detection system is workable for pushing emissions given the intermittent operation of PECD (*e.g.*, 1 to 2 minutes during a push, which occurs every 15 to 20 minutes).

Response: We reexamined the proposed operating limit of 5 percent for bag leak detection systems and concluded it was not applicable for PECD. The proposed limit was adopted from other rules and was not based on data associated with baghouses applied to pushing emissions. We do not believe we can establish an appropriate limit in this application because of the intermittent operation of baghouses. For most systems, the device operates only during the push, which is 1 to 2 minutes every 10 to 15 minutes. In addition, we have no information on the effect of the initial surge when full evacuation is applied at the beginning of the push. Thus, given that emissions from PECD are not the major focus of today's final rule and are not included as part of the MACT floor calculation, we believe it is appropriate to delete the 5 percent operating limit for bag leak detection systems. However, we are requiring that corrective actions be initiated within 1 hour of an alarm.

D. What Changes Did We Make to the Requirements for Quenching?

Comment: One commenter stated that the definition of "clean water" needs to be clarified because it would be difficult or impossible for plant owners or operators to prove that some sources of water meet the definition. As proposed, "clean water" is defined to mean surface water from a river, lake, or stream; water meeting drinking water standards; water that has been used for non-contact cooling; or process wastewater that has been treated to remove organic compounds and/or dissolved solids. The commenter recommended that the definition be revised to state that any water can be used except untreated process wastewater from the by-product plant. Another commenter agreed and further stated that plant owners or operators should be allowed to use any source of makeup water that has been used historically and previously deemed acceptable by EPA. One commenter requested that the definition include water that is used in seals on standpipes; otherwise, the plant owner or operator would have to draw an additional 200,000 gallons per day from Lake Michigan and treat the same amount of water before discharge. Another commenter requested that storm water and wash down water associated with non-recovery plants be added. The commenter stated that this water does not pick up toxic chemicals at non-recovery plants, and using this water for quenching eliminates discharge to the watershed and reduces the amount of water drawn from the water supply.

Other commenters requested that the proposed definition of "clean water" be tightened by developing minimum quality standards for quench water. Two commenters suggested that "clean water" be defined as meeting Federal safe drinking water standards. Two other commenters asked that EPA establish a limit for TDS because the solids contain metals. Commenters also noted that the definition includes process water that has been treated to remove organic compounds and/or

dissolved solids. They stated that removal of both solids and organics should be required, and EPA must establish appropriate levels of treatment. If an appropriate level of treatment cannot be defined, then all process wastewater should be prohibited for quenching coke. One commenter suggested that return water from the quench tower and all process wastewater be prohibited, whether treated or not. This commenter further stated that if EPA chooses to allow treated process water, then daily sampling and analysis must be required to ensure the treatment process is removing the contaminants.

Response: We agree that altering the definition of "clean water" is necessary to clarify what types of water can be used as makeup water. We also agree that it is appropriate to establish TDS limits to control quench water quality. Our intent at proposal was that untreated process wastewater, whether contaminated with solids, organic compounds, or both, should not be used for quenching. These contaminants have been shown to increase HAP emissions from quenching, and most plants have abandoned the practice of disposing of untreated wastewater in the quenching process.

Process wastewater must be treated to remove solids and organics, as necessary, before it can be used for quenching. This can be ensured by requiring that process wastewater be treated to meet effluent limitation guidelines. It was not our intent to prohibit the use of non-contact process water, cooling water, or other miscellaneous sources of water that would not contribute to additional emissions from pushing. For example, the water used to seal standpipe caps and storm water are not process wastewater. To address the above concerns, we have replaced the term "clean water" in the proposed rule with the term "acceptable makeup water," which is defined in the final rule to mean surface water from a river, lake, or stream; water meeting drinking water standards; storm water runoff and production area cleanup water except for water from the by-product recovery plant area; process wastewater treated to meet effluent limitations guidelines; any of these types of water that has been used only for non-contact cooling or in water seals; or water from scrubbers used to control pushing emissions. We believe this change accommodates most if not all of the concerns stated in the comments.

Water used for quenching is usually taken from a sump near the base of the quench tower and consists of recycled water and makeup water. Recycled water is the runoff from quenching that is returned from the quench tower to the sump. Makeup water is from some other source, such as a river or lake, and is added to replenish the water lost by evaporation during quenching. Dissolved solids in the quench water contribute to HAP and PM emissions during quenching. We reviewed data from tests at quench towers and found that HAP emissions increase as the TDS level in the quench water increases. Several States have established TDS limits for the quench water to ensure that high levels of solids are not present to contribute to emissions from the quench tower. We agree with commenters who requested that TDS limits be established in the final rule and that the quench water be sampled periodically. We reviewed the available data on TDS levels in quench water. However, we have only limited data, much of the data included the use of by-product plant wastewater which is no longer used for quenching, and we could not validate the procedures that were used for sampling and analysis by the various plants. In addition, we have only one data point for reporting plants, which does not reflect the variability in TDS levels over time.

We also reviewed existing State and local TDS requirements and found that most of the existing limits are in the range of 800 to 1,500 mg/L. We evaluated the five most stringent State limits (12 percent of 36 quench towers) applied to quench towers at coke plants that were operating during the development of the proposed rule. Two quench towers (one in Michigan and one in Ohio) are subject to a limit of 800 mg/L, two others in Illinois are subject to a limit of 1,200 mg/L, and one in Illinois is subject to a limit of 1,500 mg/L. We chose the mean value of 1,100 mg/L as the MACT floor. We chose the mean value rather than the median value (1,200 mg/L) because we usually use the median value when that value is associated with a specific source and the operation of a particular emission control technology. In this case, the mean value is more appropriate because the State limits are not directly related to the level of control achieved by a particular control technology.

We also evaluated the test method used by the plants that comprise the MACT floor and determined that all of these plants measure TDS by drying the filterable residue at 103 to 105° C. (There is an alternative TDS method that specifies drying at 180° C.) Our data indicate that the lower drying temperature is more appropriate for coke plant quench water because the higher temperature evaporates some organic PM and results in an inaccurate measure of TDS. This organic PM contributes to the total TDS and emissions at the normal temperatures of the quench water before it is used for quenching. Consequently, we specify that TDS must be determined by drying the filterable residue at 103 to 105° C.

We believe the existing limits are a reasonable proxy for TDS levels that can be achieved, and they account for the normal variability in TDS levels. For example, the available data indicate that TDS concentrations in clean makeup water are usually less than 600 mg/L. We reviewed data for several plants and concluded that TDS in quench water is about twice that in makeup water. Therefore, we believe a level of 1,100 mg/L TDS or less is indicative of acceptable quench water. Consequently, we are establishing this level in the final rule as the maximum TDS allowed in quench water. We are also requiring weekly sampling of the quench water to ensure that water quality is maintained.

Although a TDS limit is a proven historical method for limiting emissions from quenching, we believe that plant owners or operators can achieve equivalent levels of HAP control by limiting the HAP in quench water. To provide additional flexibility, we included in the final rule an alternative to develop a site-specific limit for the quench water for the HAP that are indicators of coke oven emissions—benzene, benzo(a)pyrene, and naphthalene. To qualify for the alternative, a plant owner or operator must sample and analyze at least nine quench water samples for TDS, benzene, benzo(a)pyrene, and naphthalene. The alternative HAP limit is the highest sum of the concentrations of the HAP in any single sample that meets the TDS limit of 1,100 mg/L.

Comment: Two commenters noted that baffles control PM and that EPA had not explained why PM is a suitable surrogate for HAP emissions from quenching. One commenter said that the requirement for 95 percent coverage of quench towers by baffles is unclear and that coverage cannot be measured. Another commenter stated that the 95 percent coverage requirement is too lenient and will allow the release of significant emissions. The commenter noted that two layer baffles which cause two changes in flow direction have been installed and successfully used at coke plants in Allegheny County, Pennsylvania.

Several commenters stated that it is difficult or impossible to wash and repair baffles in cold and inclement weather because water lines freeze and

severe weather makes the process dangerous. One commenter said the company does not allow work on the quench tower during freezing weather due to safety concerns. One commenter recommended that baffles be cleaned daily or as often as weather conditions allow and that repair of damaged or missing baffles be initiated within 30 days and completed as soon as practicable. Materials needed for repair are not always available in a short time frame. Three commenters said that their experience indicates that monthly cleaning of baffles is adequate and added that additional cleaning should be performed if the upward flow of the steam plume is obstructed. These commenters also noted that it may not be possible to complete repairs to damaged baffles prior to the next scheduled monthly inspection and suggested that a requirement to initiate repairs prior to the next inspection is more appropriate.

Two commenters noted that some plants have backup quench stations that are used when the primary quench tower is unavailable because of maintenance or malfunction. These backup stations are used only a small amount of the time, and they are not designed to capture quenching emissions (*i.e.*, they have no stacks or baffles). Both commenters requested that EPA clarify that backup quench stations are not subject to the requirements for baffles.

Response: We agree with the comment that baffles reduce PM emissions. In addition, we believe that baffles also reduce the emission of HAP metal compounds contained in the particles of grit released, as well as semivolatile and VOC such as polycyclic aromatic hydrocarbons (PAH) and benzene, when green coke is quenched. Semivolatile organic compounds evolve from green coke and condense to form fine PM or condense on other particles during the quenching process. Consequently, baffles reduce emissions of both metal and organic HAP.

To clarify the provision for 95 percent coverage, we revised the coverage requirement to read that no more than 5 percent of the cross sectional area of the quench tower can be exposed to the sky when viewed from below. We understand there are several different designs and configurations used for baffles. However, there are many different factors that affect emissions from quench towers. For example, it is likely that the design of the quench tower affects the level of emission control and may also affect the choice of baffle type and configuration. Consequently, we do not believe it is appropriate to prescribe in the final rule the use of a particular baffle type or design and have provided the flexibility for the owner or operator to make this determination. However, all types of baffles must have adequate coverage to provide effective emission control for quench towers.

We believe requirements for daily cleaning, monthly inspection, and prompt repair of damaged baffles are reasonable and necessary to ensure that they are well maintained. These practices are common at many coke plants, and the frequencies are based on industry responses to a nationwide survey. However, we agree that repairing baffles during inclement weather conditions is a personnel safety issue. We also agree that there may be operational problems when baffles are washed during freezing weather. Consequently, we revised the requirement to wash baffles daily to allow daily washing to be suspended when the highest measured ambient temperature throughout the day is less than 30 degrees Fahrenheit. We understand that the time needed for repair can vary depending on the extent of repair needed and the availability of materials. Therefore, we have written the final rule to require that the repair of damaged or missing baffles be initiated within 30 days and that the repairs be completed as soon as practicable.

We gathered information on the use of backup quench stations by surveying coke plants. A total of nine coke plants among the 12 responding to the survey have 13 backup quench stations. Only one of these 13 backup quench stations is equipped with baffles, and the stations are typically used less than 5 percent of the time. Based on the information we received, we conclude that MACT for backup quench stations at existing coke oven batteries does not include the installation of baffles. We have specified in the final rule our subcategorization of backup quench stations, and we have defined this subcategory as those quench stations that are used for less than 5 percent of quenches for any coke oven battery in any 12-month period. However, the best-controlled similar source has baffles in the backup quench station. Consequently, the requirements for installing, inspecting, cleaning, and repairing baffles applies to backup quench stations at new batteries.

In addition, the TDS limit applies to backup quench stations because the existing State limits we used to determine the MACT floor apply to quench water, whether it is used in regular quench towers or backup quench stations. There is no reason to permit the use of higher TDS levels for quenching merely because a backup quench station is used.

E. What Were the Major Comments on the Proposed Standard for Battery Stacks?

Comment: One commenter stated that EPA has not adequately subcategorized batteries in developing the MACT for battery stacks, and that the EPA should have distinguished among short and tall batteries, pulse-fired batteries, batteries using preheated coal, batteries of older design, and foundry coke batteries that are consistently operated at longer coking times. The commenter also stated that each battery is unique with respect to the factors that affect battery stack emissions. Consequently, the O&M program required to control these emissions differs from battery to battery. The factors affecting emissions include the age and condition of the battery's refractory, the condition of the stack canal, the battery design, sealing carbon, coal properties and coke specifications, and the design and efficiency of the by-product recovery plant.

Response: We disagree with the commenter that we have not subcategorized batteries adequately in establishing performance standards for battery stacks. Our current database shows that the proposed opacity limits have been achieved on a continuing basis by numerous batteries with a variety of physical and operational differences. We do not believe that more subcategories are needed beyond those in the proposed rule.

At proposal, we had months of COMS data demonstrating that the limits for by-product batteries had been achieved by ten of the 46 by-product batteries. After proposal, we obtained data for six additional batteries that also achieve the proposed limits. In total, we have 13 months of data for each of five batteries, 18 months of data for each of eight batteries, and 12, 50, and 65 months of data for each of three batteries. Our database now covers 35 percent of all by-product batteries, spanning all types and ages and covering all seasons of the year. Among the 16 batteries demonstrated to have achieved the proposed MACT opacity limits are short and tall batteries, furnace and foundry coke batteries, and batteries with gun flue and under jet underfiring systems. Also included are batteries that use pulse firing, preheated coal, and underfiring gas with and without desulfurization. They range in age from 8 to 46 years.

We examined the data to determine if subcategories are needed for different battery designs as mentioned by the commenter. We could find no difference in performance levels achieved by short vs. tall batteries, under jet vs. gun flue, furnace vs. foundry coke, or the other factors mentioned by the commenter. We found a difference in performance when batteries are placed on extended coking, which reduces sealing carbon on the oven walls. Consequently, we developed a separate emission limit for batteries on extended coking. We also acknowledge that batteries operating routinely on coking cycles that are longer than that for which they are designed could qualify as extended coking. To accommodate this, we have revised the definition for "batterywide extended coking" to mean increasing the average coking time for all ovens in a battery by 25 percent or more over the manufacturer's design rate.

Comment: One commenter stated that EPA must develop a work practice standard for battery stacks because it is not feasible to set performance standards. The commenter noted that EPA uses three approaches to determine MACT floors (emissions data, existing emission limits from State regulations or operating permits, or technology). We used the technology approach for battery stacks. The commenter believes that the use of a technology approach for battery stacks is inappropriate because the technology is not an air pollution control device but is good O&M. The commenter further states that good O&M results in widely varying degrees of emission control. Good O&M is not a "technology" for the purposes of applying the technology approach because, unlike an add-on control device, good O&M cannot be associated with specific emission control levels at different batteries. The only way to establish a floor for battery stacks is to use actual emissions data. However, EPA does not have enough emissions data to subcategorize batteries adequately or to characterize performance over time and under the worst foreseeable operating conditions.

The commenter provided details for a suggested work practice program for battery stacks. The program would be implemented when a daily average opacity trigger is exceeded. The commenter suggests that the values EPA proposed for the emission limits (15 percent for normal coking time and 20 percent for extended coking time) be used as the triggers. The work practice program would include requirements for worker training as well as procedures for controlling oven to flue leakage, including diagnostic procedures for identifying problem ovens and a list of corrective actions.

Response: The EPA established the MACT floor for battery stacks by identifying the level of performance consistently achieved by the best-performing units. Because units in this category currently do not use add-on control devices to reduce stack emissions, we looked at other measures employed by existing facilities in order to identify the best-performing units. Specifically, we looked at equipment, work practices, and operational factors that reduce emissions at existing facilities. We identified good systematic operation and maintenance, along with operation of COMS to monitor stack opacity, as the most important factors affecting the level of emissions from coke oven battery stacks. In fact, we determined that all of the best-performing batteries employ measures that have the same basic features, including COMS monitoring to identify problems, ongoing systematic maintenance of oven walls, and procedures for prompt and efficient repair of damaged ovens. We also identified, based on the large amount of available COMS data, the level of performance that units employing such measures are consistently achieving. Therefore, this approach identifies what is being done at existing facilities to reduce coke oven emissions from battery stacks and correlates those control activities to a specific level of performance. Because a sufficient number of units in the category are employing these control strategies and achieving the identified emissions limitation, this limit is MACT for existing sources.[2] Contrary to the commenter's assertion, there is no basis to conclude that any existing battery, with appropriate repairs, monitoring and maintenance, would be unable to achieve a similar level of control. Therefore, it was reasonable here for EPA to use this approach to identify the best units and to establish emission limits based on the performance of those units.

Because the opacity data used to establish the emissions limits are, in fact, representative of what a well operated coke oven battery can achieve (with comprehensive O&M, continuous monitoring, and an efficient repair program), it is not only reasonable but required that EPA establish such a limit. Because these emissions are emitted through a stack, can be measured, and could be captured and controlled with the application of available emission control technologies, it would not be appropriate for EPA to establish a work practice standard in lieu of an emissions standard. Thus, the CAA requires us to develop an emission standard in this case because a work practice standard is allowed in lieu of an emission standard only if it is not feasible to prescribe or enforce an emission standard.

The primary factor affecting battery stack emissions is the condition of oven walls. Batteries that are well maintained can achieve the MACT limits. When the walls are allowed to deteriorate and cracks occur, coke oven emissions escape through the cracks into the underfiring system and lead to high stack opacity. Another important factor in meeting the proposed limit is using COMS for diagnostic purposes. When an opacity spike occurs, the last oven charged can be identified and corrective actions can be made to repair the oven. High stack opacity may on occasion be caused by combustion problems, which also result in HAP emissions. However, these are easily remedied by proper adjustment and operation of the underfiring system.

We identified batteries with good O&M practices, and we collected opacity data from their COMS to characterize the level of control they have achieved. As discussed earlier, these batteries are representative of the types currently operating, and aside from the effect of extended coking, we found no basis to develop additional subcategories. The opacity limits identified as MACT have been achieved by these different types of batteries by using good O&M procedures. The performance level associated with the floor has been demonstrated as achievable and is representative of the performance of the top performing sources.

We agree that a good work practice program is essential to maintain control of battery stack emissions and that we derived the emission limits based on the best-controlled batteries which have such programs. However, a work practice standard alone would not ensure that battery stacks are well maintained on a continuing basis. In contrast, a performance standard will ensure that battery stack emissions are well controlled and allows plant owners or operators the flexibility to implement a site-specific program appropriate for their operation. In addition, we are obligated under the CAA to set

[2] While, in the proposal, we described this as a "technology approach" and referred to good O&M as the "MACT technology," these were merely short hand references for EPA's detailed analysis of the measures employed by best facilities to achieve the greatest degree of emissions reductions. In fact, the emission limit for battery stacks is based on the level of performance that the best existing sources consistently achieve, as demonstrated by actual emission test data (in the form of COMS readings).

numerical emission limitations unless it is infeasible, and we must prescribe requirements for continuous monitoring whenever possible. Moreover, we have battery stack emissions data for 16 batteries that cover many months of operation.

Comment: Two commenters claimed that EPA arbitrarily and improperly excluded critical COMS data. Specifically, 3 years of data were excluded for Battery 1 at Bethlehem Steel, Burns Harbor, and all of the data for U.S. Steel Gary Works were excluded. The commenter said that EPA excluded the Burns Harbor data because end flue repairs were suspended in 1994, but noted that twice as many end flue repairs were made in 1993 and after 1994 than in previous years. The commenter said that EPA excluded the Gary Works data because they do not represent periods of good systematic O&M. The commenter further stated that the data for two tall batteries at Gary Works should be included because they represent the battery's performance prior to a $150 million program of end flue and through wall repair. There is no basis for excluding these data, and EPA must account for all operating periods (other than startups, shutdowns, and malfunctions) to accurately reflect a source's performance under the most adverse operating conditions over time. The commenter provided details on periods of startup, shut down, and malfunction events that occurred during 31 days of the 2 years of data for Gary Works. The commenter concluded that EPA must include all of the data for Battery 1 at Burns Harbor and the data for Gary Works (except for the 31 days they identified) in the MACT floor analysis. Another commenter asked that all of the data supplied for Battery 1 at Burns Harbor be included in the analysis because it represents consistent operating practices over the period.

Response: We strongly disagree that our exclusion of certain COMS data was inappropriate. The data that we did not use were not generated at a facility while it was implementing an effective O&M program. We explained that the data for Battery 1 at Burns Harbor collected in the early 1990's do not represent proper MACT level O&M because repairs were decreased to maintain production while adjacent Battery 2 was being rebuilt. The data clearly show that abandoning repairs increased opacity, which averaged 8.1 percent prior to 1996 and 4.8 percent afterwards. It is also apparent that the earlier data show high opacity spikes (daily averages of 35 to 40 percent) that are indicative of damaged oven walls and clearly show that good O&M practices were not in place. By definition, good O&M means that the opacity spikes identified by the COMS would have been investigated, problems diagnosed, and repairs made. When repairs were resumed and better O&M procedures were followed, the daily average opacity was consistently maintained below 15 percent for subsequent months. We have 50 consecutive months of data for Battery 1 showing that it achieves the MACT emission limit on a continuing basis. In addition, these are the most recent data which indicate that the battery has improved with age rather than deteriorated with age. It is obvious that the measures taken in the early 1990s to maintain oven walls were not the same as those taken in subsequent years, and this has been confirmed by company data that show no end flue repairs in 1994.

A similar situation exists at U.S. Steel Gary Works. We obtained documentation from the company that shows that batteries were not employing good O&M during high opacity events. Equipment malfunction or untimely repair was the cause of most exceedances during that time period. However, subsequent events confirm that oven repairs and good systematic O&M resulted in batteries achieving the emission limit. After a $150 million program of end flue and through wall repairs, the four batteries at Gary Works have improved performance significantly and can meet the battery stack limit. We have COMS data for 13 recent months that show the four batteries have achieved the MACT level of control. Moreover, these batteries also show improved performance rather than deterioration as they age.

Comment: One commenter stated that EPA's emission estimates for battery stacks are based on a flawed correlation between opacity and HAP. The commenter said that no correlation exists because high opacity can be caused by situations that do not indicate the presence of HAP, such as poor or incomplete combustion and the presence of sulfates. The commenter noted that the data from two EPA tests (ABC Coke and Bethlehem Steel, Burns Harbor) show no correlation between opacity and PAH, extractable organics, or metal HAP. The commenter concluded that EPA has not met its burden of demonstrating that opacity is a reasonable surrogate for HAP emissions.

Response: It is well established that opacity is directly correlated with the concentration of particles in emissions. Our tests have shown that the particles emitted during coke oven pushing contain HAP compounds, including POM and metals. Higher opacities mean a higher concentration of particles and therefore higher concentrations of HAP. The correlation of opacity and HAP is also supported by the common industry practice of using COMS to detect leaks in oven walls. Coke oven gas escapes from ovens with cracked or damaged walls and results in increased battery stack opacity. These coke oven emissions that are detected with the COMS are a listed HAP.

The two batteries that we tested had very low opacities (2 to 5 percent), and it is not possible to develop a clear correlation over such a narrow range. The emissions from these well-controlled batteries are not representative of batteries that have high opacity emissions from their battery stacks.

Infrequently, higher opacity occurs because of combustion problems which result in the formation of products of incomplete combustion that also contain HAP. For example, such emissions contain a variety of PAH such as benzo(a)pyrene. All the available data related to poor performing batteries, including the available emissions data and the historical use of COMS to detect coke oven emissions, indicate that coke oven emissions can be appropriately identified by looking at opacity. Therefore, limiting opacity is an appropriate mechanism for limiting such emissions from coke oven battery stacks.

Comment: Two commenters stated that COMS should be used for diagnostic purposes only and not as an enforcement tool. One commenter cited an industry survey that identified 26 COMS used on 27 batteries and stated that they are used as a diagnostic tool. Most of these COMS are no longer commercially available and cannot meet EPA's PS 1 requirements. Consequently, it is inappropriate to use data generated by these COMS to set standards or to demonstrate compliance with an opacity limit. Another commenter also stated that the COMS do not meet PS 1 requirements and added that EPA should not base emission limits on data that were collected by methods less stringent than those that will be used to determine compliance. One commenter noted that there are demonstrated inaccuracies that make COMS unreliable at opacity levels below 10 percent. This is important because battery stack opacity is below 5 percent most of the time at virtually all batteries, so a large number of unreliable data points would be averaged with fewer reliable data points to calculate the daily average opacity. Another

commenter stated that COMS readings are inaccurate and that only opacity data generated by Method 9 observations should be used to determine compliance.

Response: We proposed a performance standard for battery stacks in the form of an opacity limit. The COMS have been well established as the preferred method to show continuous compliance with an opacity limit. The data we collected from the U.S. Steel batteries at Clairton and the more recent data from the new COMS installed at U.S. Steel Gary Works were from devices that meet PS 1 requirements.

Moreover, while we agree that COMS are subject to greater imprecision at low opacity, this imprecision is inherent in the data we used to develop the opacity limits; therefore, these limits already account for this imprecision. Additionally, the limits have been shown to be achievable by numerous batteries over time. Consequently, we believe that COMS are an appropriate tool for enforcement of the standard that was based on data collected by COMS.

We do agree with the commenter that COMS should also be used for diagnostic purposes. A COMS is an important part of good systematic O&M that we identified as the MACT floor technology. The COMS will provide information on problem ovens in need of repair, and diagnostic procedures coupled with corrective action will provide good control of HAP emissions from battery stacks.

We do not believe observations by Method 9 should be used to determine compliance. A COMS provides data in a more timely manner, monitors emissions continuously, and is the only reasonable way to collect enough data to determine a daily average opacity.

F. What Changes Did We Make to the Requirements for Soaking?

Comment: Several commenters requested that we remove the soaking work practice and recordkeeping requirements from the final rule. They claim that soaking emissions cannot be considered as part of the rule because they were addressed in the 1993 negotiated coke ovens: Charging, topside, and door leaks NESHAP (40 CFR part 63, subpart L), which addressed charging emissions and emissions from leaking topside port lids, offtake systems, and doors. The commenters state that the 1993 coke ovens: charging, topside, and door leaks NESHAP allow up to three ovens to be dampered off the main and not counted when determining daily compliance with the offtake system(s) standard, and as a result, are specifically addressed in the previous negotiated coke ovens: charging, topside, and door leaks NESHAP. Two commenters expressed support for the proposed soaking standards.

Response: Soaking emissions were not specifically addressed in the regulatory negotiations for the coke ovens: charging, topside, and door leaks NESHAP. The emissions points that were negotiated include charging, topside port lid leaks, offtake system(s) leaks, door leaks, and bypass or bleeder stacks. For offtake systems, the coke ovens: charging, topside, and door leaks NESHAP limit the percent allowed to leak during the coking cycle. The only discussion regarding soaking is a clarification in the test method about whether open standpipes on ovens dampered off the main would be counted as offtake leaks. There was no discussion of the voluminous emissions that can occur when the standpipes are opened on an oven containing green coke and the emissions do not ignite. We believe soaking emissions are part of the pushing operation because they occur when the oven is taken off the collecting main in preparation for pushing. These emissions should be addressed by the MACT standards because they have not been addressed previously by EPA, they are a source of coke oven emissions (a listed HAP), and reasonable control measures are available to reduce emissions.

Comment: Two commenters requested an alternative work practice requirement for soaking emissions instead of the proposed requirement that the emissions be ignited. Because soaking emissions are often not readily ignitable, several commenters noted the potential danger involved in the proposed requirement to ignite open standpipes since the flame is often invisible and igniting the emissions could cause serious injury if the person igniting the flame doesn't see it or is standing downwind from the standpipe.

Several commenters stated that the proposed requirement carries an enormous administrative burden associated with the tracking, recording, and documenting the lighting off of standpipes. One commenter said that any benefits associated with the proposed soaking requirements are far outweighed by the administrative costs.

Response: After the close of the comment period, we visited several coke plants specifically to observe and discuss soaking emissions. We determined visible emissions from soaking stem from two causes: leaks from the collecting main (*i.e.*, the standpipe is not completely sealed from the main) and incomplete coking ("green" coke). The cause of emissions can be determined by introducing a small amount of aspirating steam/liquor into the standpipe. If this stops the emissions, the cause of emissions is a leak from the collecting main. Corrective actions from collecting main leaks include reseating the damper dish, cleaning the flushing liquor distribution piping, or leaving the aspirating steam or liquor cracked on. If introducing aspirating steam/liquor does not stop the emissions, the cause is incomplete coking. Further investigation (for example, by opening charging lids and observing the coke mass) will determine if the entire charge or only a small portion is undercoked. Emissions from incomplete coking (*e.g.*, from a cold spot) can be ignited by partially or fully removing the oven lid nearest the standpipe, cracking open and then closing an adjacent standpipe cap, partially opening the opposite aspirating steam valve for a short time on a dual main battery, or manually igniting emissions.

In light of our increased understanding of soaking emissions and their causes and remedies, we have replaced the proposed requirements for soaking with a more comprehensive work practice requirement. If there are visible emissions from a standpipe during soaking, plant personnel must immediately investigate the cause and take corrective action. Work practices are triggered by visible emissions from standpipes that do not ignite automatically. These work practices include eliminating soaking emissions that result from leaks from the collecting main and either igniting the emissions or continuing coking if they are caused by incomplete coking.

We understand that there are times when igniting standpipes can be dangerous. If flames are invisible (*i.e.*, there are no visible emissions from the standpipe), there is no need to attempt ignition. If there are visible emissions that do not automatically ignite, several things can be done to encourage self-ignition, such as partially or fully removing the oven lid nearest the standpipe, cracking open and then closing an adjacent standpipe cap, or partially opening the opposite aspirating steam valve for a short time on a dual main battery. We know of at least one plant with three batteries that require their workers to manually ignite emissions when they do not ignite automatically. Devices are available to ignite these emissions safely and at a reasonable distance from the open standpipe. The work practice standard requires owners or operators to train workers in the procedures to reduce

soaking emissions, and each plant should address all aspects of safety. We do not believe that the revised standard jeopardizes the safety of plant workers.

We agree with the commenters that the proposed standard would have imposed unnecessary administrative burdens related to soaking emissions. Accordingly, we have eliminated the requirement to document the ignition of soaking emissions every time an oven is dampered off the main. Instead, plant owners or operators must prepare and operate at all times according to a written work practice plan for soaking.

G. What Changes Did We Make to the O&M Requirements?

Comment: Several commenters suggested changes to the general batterywide O&M plan. One comment was to delete the requirement to measure or compute the air:fuel ratio. They noted that the air:fuel ratio is not normally measured, and it would be impractical to do so given that it would require flow measurements of every oven's air box and gas orifice to calculate the air:fuel ratio. Another commenter asked that the requirement for procedures to prevent pushing an oven out of sequence be deleted. The commenter argued that any oven placed on extended coking would of necessity be pushed out of sequence. Another comment was to delete the requirement for procedures to prevent undercharging an oven because it has no effect on emissions. In addition, procedures for measuring the volume of coal are not appropriate because many plants calculate coal volume rather than measure it.

Response: We agree that it may be impractical to measure air:fuel ratio since it is a calculated value at most plants. Different parameters may be monitored at different plants to ensure the underfiring system is operating properly. Consequently, we have written the final rule to require that the O&M plan include the frequency and method of recording underfiring gas parameters. We are also clarifying the pushing an oven out of sequence requirement. Our intent is to prevent an oven from being pushed ahead of schedule before it is fully coked. We have added language to the final rule that clarifies this intent. Relative to undercharging an oven, we disagree with the commenter that undercharging does not produce emissions. Our research and discussions with coke plant operators indicate that undercharging an oven can produce excess carbon on oven walls, which can result in pushing difficulties and excess pushing emissions. Consequently, we are retaining the requirements for procedures to prevent both undercharging and overcharging ovens in the work plan. We understand that not all plant owners or operators measure the volume of coal; some calculate the volume from weight and bulk density. We have written the language in the final rule to require procedures for determining coal volume rather than the measurement of coal volume.

H. Why Did We Change the Compliance Dates for Existing Sources?

Comment: Several commenters said 3 years should be allowed to achieve compliance. They note that we provided no rationale for providing for only 2 years to comply and should give the full 3 years allowed under the CAA. Two years may not provide enough time because of the substantial work that must be done at many plants, and it may be difficult to raise the necessary capital to make the batteries compliant.

Response: The CAA requires that compliance occur as expeditiously as practicable, but no later than 3 years after the effective date of the standard. (*See* CAA section 112(i)(3).) We agree with the commenters that many batteries will require extensive repairs in order to comply with the final rule. As a result, we have written the final rule to provide the 3 years allowed under the CAA. We estimate that 23 batteries will need major repairs (oven patching, endflues, and through walls) with capital costs of $2.4 million to $9.3 million per battery. In light of the cost and time required to complete necessary repairs at many facilities, we believe that a period of 3 years is necessary in order to allow sufficient time for all existing facilities to meet the requirements of today's final rule.

IV. Summary of Environmental, Energy, and Economic Impacts

A. What Are the Air Emission Reduction Impacts?

Accurate emission estimates are difficult to make, especially for fugitive pushing emissions. When green pushes occur, most of the organic HAP escape the capture system and are unmeasurable. Our estimate for pushing emissions is based on our best estimates of the capture efficiency and frequency of green pushes. For battery stacks, we have opacity and emissions data for the best-controlled batteries. We had to extrapolate the test data to account for higher emissions from batteries with higher battery stack opacities.

At the proposal stage, we estimated that coke oven emissions, measured as methylene chloride extractable organic compounds from pushing, quenching, and battery stacks, would be reduced to approximately 500 tpy from a baseline level of about 1,000 tpy. However, six coke plants have permanently closed since proposal. Our current best estimate is that baseline emissions of 680 tpy will be reduced to 390 tpy. The final rule will also significantly reduce emissions of other HAP, such as metals, benzene, toluene, and other volatile compounds that are not included with the extractable organics. However, we do not have a reliable means of estimating the overall reductions of these other HAP emissions. Today's final rule will also reduce emissions of PM.

B. What Are the Cost Impacts?

As with the emission estimates, there is some uncertainty in the cost estimates. However, we obtained data from the best-controlled plants for their emission controls, oven repairs, and work practices. After proposal, we collected additional information on the extent of repairs needed and their costs. We then applied these costs to those batteries that we project would be impacted by the rule and developed revised cost estimates. We estimate that 23 batteries may require major repairs and could incur aggregate capital costs of $2.4 to $9.3 million to rebuild ovens to meet the final standards for pushing and battery stacks. Relative to add-on air pollution controls, we believe that three batteries will have to install baffles in their quench towers to control quenching emissions. We do not believe that any plant will need to upgrade or install new control devices to meet the final PECD standard.

Monitoring is also an important component of MACT and the cost estimate. Approximately 20 batteries will need to install COMS on their battery stacks. In addition, 44 batteries are expected to incur the cost of visible emissions observers for daily observation of pushing emissions, and 18 bag leak detection systems must be installed. The cost of control and monitoring associated with the above measures is expected to result in nationwide capital costs of about $90 million and total annualized cost of $20 million per year.

C. What Are the Economic Impacts?

We conducted a detailed assessment of the economic impacts associated with the final rule. We expect the compliance costs associated with the final rule to increase the price of coke, steel mill products, and iron castings and to reduce their domestic production and

consumption. We project the market price of furnace coke to increase by almost 3 percent, while the market price for foundry coke should remain unchanged. We expect domestic production of furnace coke to decline by 348,000 tons, or 3.9 percent. For foundry coke, we expect domestic production to remain unchanged.

In terms of industry impacts, we project the integrated steel producers to experience a slight decrease in operating profits, which reflects increased costs of furnace coke inputs and associated reductions in revenues from producing their final products. Our analysis indicates that one of the captive batteries may stop supplying furnace coke to the open market but will continue to satisfy internal coke requirements for integrated steel production. Through the market impacts described above, the final rule will produce impacts within the merchant segment. We project merchant plants producing furnace coke as a whole to experience profit increases in response to the final rule. We also project other merchant plants producing foundry coke and some integrated steel plants to lose profits. Furthermore, the economic impact analysis indicates that two of the 13 merchant batteries producing furnace coke are at risk of closure, while none of the foundry coke producing batteries are at risk of closure. For more information, consult the economic impact analysis supporting the final rule.

D. What Are the Non-Air Environmental and Energy Impacts?

The technology associated with MACT relies primarily on pollution prevention techniques in the form of work practices and diagnostic procedures to prevent green pushes and leakage through oven walls. Consequently, there are no significant non-air environmental and energy impacts.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(C) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(M) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(R) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this final rule is a "significant regulatory action" because it may raise novel legal or policy issues. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Paperwork Reduction Act

The information collection requirements in the final rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An information collection request (ICR) document has been prepared by EPA (ICR No. 1995.02), and a copy may be obtained from Susan Auby by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822T), 1200 Pennsylvania Avenue, Washington, DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded off the Internet at *http://www.epa.gov/icr*. The information requirements are not enforceable until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to NESHAP. These recordkeeping and reporting requirements are specifically authorized by section 112 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to Agency policies in 40 CFR part 2, subpart B.

The final rule requires maintenance inspections of control devices, two types of written plans (in addition to the startup, shutdown, and malfunction plan required by the NESHAP General Provisions), and a special study of flue temperatures for by-product coke oven batteries with horizontal flues (with notification of the date the study is to be initiated). Quarterly reports of any deviations from the applicable limits for battery stacks are required, with semiannual reports for other affected sources. The recordkeeping requirements require only the specific information needed to determine compliance.

The annual public reporting and recordkeeping burden for this collection of information (averaged over the first 3 years after April 14, 2003, is estimated to total 2,200 labor hours per year at a total annual cost of $131,000. This estimate includes one-time performance tests and reports, preparation and submission of O&M plans, and a special study of flue temperatures; one-time purchase and installation of continuous monitoring systems; one-time preparation of a standard operating procedures manual for baghouses; one-time preparation of a startup, shutdown, and malfunction plan, notifications, and recordkeeping. Total capital/startup costs associated with the monitoring requirements over the 3-year period of the ICR is estimated at $32,000 per year, with operation and maintenance costs of $51,000 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 purpose of collecting, validating, and verifying information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing 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 number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final rule. The EPA has also determined that the final rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impact of today's final rule on small entities,

small entity is defined as: (1) A small business according to the U.S. Small Business Administration size standards for NAICS codes 331111 and 324199 ranging from 500 to 1,000 employees; (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, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. We have determined that three of the 14 companies within this source category are small businesses. Small businesses represent 21 percent of the companies within the source category and are expected to incur 19 percent of the total industry compliance costs of $20.2 million. The average total annual compliance cost is projected to be $1.3 million per small company, while the average for large companies is projected to be $1.5 million per company. Under the final rule, the mean annual compliance cost, as a share of sales, for small businesses is 2 percent, and the median is 1.8 percent, with a range of 0.3 to 5 percent. We estimate that two of the three small businesses may experience an impact greater than 1 percent of sales, and one small businesses will experience an impact greater than 3 percent of sales.

We performed an economic impact analysis to estimate the changes in product price and production quantities for the firms affected by the final rule. Although this industry is characterized by average profit margins of close to 4 percent, our analysis indicates that none of the coke manufacturing plants owned by small businesses are at risk of closure because of today's final rule. In fact, the one plant manufacturing furnace coke is projected to experience an increase in profits because of market feedbacks related to higher costs incurred by competitors, while the plants manufacturing foundry coke are projected to experience a decline in profits of slightly less than 5 percent.

In summary, the economic impact analysis supports our conclusion that a regulatory flexibility analysis is not necessary because, while a few small firms may experience initial impacts greater than 1 percent of sales, no significant impacts on their viability to continue operations and remain profitable are indicated. See Docket OAR–2002–0085 for more information on the economic analysis.

Although the 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 the final rule on small entities. We have made site visits to these plants and discussed potential impacts and opportunities for emissions reductions with company representatives. Company representatives have also attended meetings held with industry trade associations to discuss the rule development, and we have included provisions in the final rule that address their concerns.

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, the 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 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the 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 the 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.

Today's final rule contains no Federal mandate (under the regulatory provisions of the UMRA) for State, local, or tribal governments. The EPA has determined that the final rule does not contain a Federal mandate that may result in estimated costs of $100 million or more for State, local, and tribal governments, in the aggregate, or to the private sector in any 1 year. Thus, the final rule is not subject to the requirements of sections 202 and 205 of the UMRA. The EPA has also determined that the final rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's final rule is not subject to the requirements of section 203 of the UMRA.

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" 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 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. None of the affected facilities are owned or operated by State governments. Thus, Executive Order 13132 does not apply to the final rule.

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

Executive Order 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 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. No tribal governments own or operate coke oven batteries. Thus, Executive Order 13175 does not apply to the final rule.

G. Executive Order 13045: Protection of Children From Environmental Health & 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 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 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.

The 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. The final rule is not subject to Executive Order 13045 because it is based on control technology and not health or safety risks.

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

This final rule is not a "significant energy action" as defined in Executive Order 13211 (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 the final rule is not likely to have any adverse energy effects.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law 104–113; 15 U.S.C 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (such as material specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

The final rule involves technical standards. The final rule requires plants to use EPA Methods 1, 2, 2F, 2G, 3, 3A, 3B, 4, 5, 5D, and 9 in 40 CFR part 60, appendix A, and PS 1 in 40 CFR part 60, appendix B. Consistent with the NTTAA, we conducted searches to identify voluntary consensus standards in addition to these EPA methods.

One voluntary consensus standard was identified as applicable to PS 1. The standard, ASTM D6216 (1998), Standard Practice for Opacity Monitor Manufacturers to Certify Conformance with Design and Performance Specifications, has been incorporated by reference into PS 1 (65 FR 48920, August 10, 2000).

Our search for emissions monitoring procedures identified 16 other voluntary consensus standards. We determined that 13 of these standards identified for measuring emissions of HAP or surrogates would not be practical due to lack of equivalency, detail, or quality assurance/quality control requirements. The three remaining consensus standards identified in the search are under development or under EPA review. Therefore, the final rule does not require these voluntary consensus standards. *See* Docket OAR–2002–0085 for more detailed information on the search and review results.

Section 63.7322 of the final rule lists the EPA test methods that coke plants are required to use when conducting a performance test. Most of these methods have been used by States and the industry for more than 10 years. Nevertheless, 40 CFR 63.7(e) and (f) allow any State or source to apply to EPA for permission to use an alternative method in place of any of the EPA test methods or performance specifications required by a rule.

J. Congressional Review Act

The Congressional Review Act, 5.U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement 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. The EPA will submit a report containing the 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 final rule in the **Federal Register**. The final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: February 28, 2003.

Christine Todd Whitman,

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, *et seq.*

■ 2. Part 63 is amended by adding subpart CCCCC to read as follows:

Sec.

Subpart CCCCC—National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks

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63.7282 What parts of my plant does this subpart cover?
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63.7291 What work practice standards must I meet for fugitive pushing emissions if I have a by-product coke oven battery with vertical flues?
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Table 1 to Subpart CCCCC of Part 63—Applicability of General Provisions to Subpart CCCCC

What This Subpart Covers

§ 63.7280 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for pushing, soaking, quenching, and battery stacks at coke oven batteries. This subpart also establishes requirements to demonstrate initial and continuous compliance with all applicable emission limitations, work practice standards, and operation and maintenance requirements in this subpart.

§ 63.7281 Am I subject to this subpart?

You are subject to this subpart if you own or operate a coke oven battery at a coke plant that is (or is part of) a major source of hazardous air pollutant (HAP) emissions. A major source of HAP is a plant site 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.

§ 63.7282 What parts of my plant does this subpart cover?

(a) This subpart applies to each new or existing affected source at your coke plant. The affected source is each coke oven battery.

(b) This subpart covers emissions from pushing, soaking, quenching, and battery stacks from each affected source.

(c) An affected source at your coke plant is existing if you commenced construction or reconstruction of the affected source before July 3, 2001.

(d) An affected source at your coke plant is new if you commenced construction or reconstruction of the affected source on or after July 3, 2001. An affected source is reconstructed if it meets the definition of "reconstruction" in § 63.2.

§ 63.7283 When do I have to comply with this subpart?

(a) If you have an existing affected source, you must comply with each emission limitation, work practice standard, and operation and maintenance requirement in this subpart that applies to you no later than April 14, 2006.

(b) If you have a new affected source and its initial startup date is on or before April 14, 2003, you must comply with each emission limitation, work practice standard, and operation and maintenance requirement in this subpart that applies to you by April 14, 2006.

(c) If you have a new affected source and its initial startup date is after April 14, 2003, you must comply with each emission limitation, work practice standard, and operation and maintenance requirement in this subpart that applies to you upon initial startup.

(d) You must meet the notification and schedule requirements in § 63.7340. Several of these notifications must be submitted before the compliance date for your affected source.

Emission Limitations and Work Practice Standards

§ 63.7290 What emission limitations must I meet for capture systems and control devices applied to pushing emissions?

(a) You must not discharge to the atmosphere emissions of particulate matter from a control device applied to pushing emissions from a new or existing coke oven battery that exceed the applicable limit in paragraphs (a)(1) through (4) of this section:

(1) 0.01 grain per dry standard cubic foot (gr/dscf) if a cokeside shed is used to capture emissions;

(2) 0.02 pound per ton (lb/ton) of coke if a moveable hood vented to a stationary control device is used to capture emissions;

(3) If a mobile scrubber car that does not capture emissions during travel is used:

(i) 0.03 lb/ton of coke for a control device applied to pushing emissions from a short battery, or

(ii) 0.01 lb/ton of coke for a control device applied to pushing emissions from a tall battery; and

(4) 0.04 lb/ton of coke if a mobile scrubber car that captures emissions during travel is used.

(b) You must meet each operating limit in paragraphs (b)(1) through (3) of this section that applies to you for a new or existing coke oven battery.

(1) For each venturi scrubber applied to pushing emissions, you must maintain the daily average pressure drop and scrubber water flow rate at or above the minimum levels established during the initial performance test.

(2) For each hot water scrubber applied to pushing emissions, you must maintain the daily average water pressure and water temperature at or above the minimum levels established during the initial performance test.

(3) For each capture system applied to pushing emissions, you must:

(i) Maintain the daily average fan motor amperes at or above the minimum level established during the initial performance test; or

(ii) Maintain the daily average volumetric flow rate at the inlet of the control device at or above the minimum level established during the initial performance test.

§ 63.7291 What work practice standards must I meet for fugitive pushing emissions if I have a by-product coke oven battery with vertical flues?

(a) You must meet each requirement in paragraphs (a)(1) through (7) of this

section for each new or existing by-product coke oven battery with vertical flues.

(1) Observe and record the opacity of fugitive pushing emissions from each oven at least once every 90 days. If an oven cannot be observed during a 90-day period due to circumstances that were not reasonably avoidable, you must observe the opacity of the first push of that oven following the close of the 90-day period that is capable of being observed in accordance with the procedures in § 63.7334(a), and you must document why the oven was not observed within a 90-day period. All opacity observations of fugitive pushing emissions for batteries with vertical flues must be made using the procedures in § 63.7334(a).

(2) If two or more batteries are served by the same pushing equipment and total no more than 90 ovens, the batteries as a unit can be considered a single battery.

(3) Observe and record the opacity of fugitive pushing emissions for at least four consecutive pushes per battery each day. Exclude any push during which the observer's view is obstructed or obscured by interferences and observe the next available push to complete the set of four pushes. If necessary due to circumstances that were not reasonably avoidable, you may observe fewer than four consecutive pushes in a day; however, you must observe and record as many consecutive pushes as possible and document why four consecutive pushes could not be observed. You may observe and record one or more non-consecutive pushes in addition to any consecutive pushes observed in a day.

(4) Do not alter the pushing schedule to change the sequence of consecutive pushes to be observed on any day. Keep records indicating the legitimate operational reason for any change in your pushing schedule which results in a change in the sequence of consecutive pushes observed on any day.

(5) If the average opacity for any individual push exceeds 30 percent opacity for any short battery or 35 percent opacity for any tall battery, you must take corrective action and/or increase coking time for that oven. You must complete corrective action or increase coking time within either 10 calendar days or the number of days determined using Equation 1 of this section, whichever is greater:

$$X = 0.55 * Y \quad \text{(Eq. 1)}$$

Where:

X = Number of calendar days allowed to complete corrective action or increase coking time; and

Y = Current coking time for the oven, hours.

For the purpose of determining the number of calendar days allowed under Equation 1 of this section, day one is the first day following the day you observed an opacity in excess of 30 percent for any short battery or 35 percent for any tall battery. Any fraction produced by Equation 1 of this section must be counted as a whole day. Days during which the oven is removed from service are not included in the number of days allowed to complete corrective action.

(6)(i) You must demonstrate that the corrective action and/or increased coking time was successful. After a period of time no longer than the number of days allowed in paragraph (a)(5) of this section, observe and record the opacity of the first two pushes for the oven capable of being observed using the procedures in § 63.7334(a). The corrective action and/or increased coking time was successful if the average opacity for each of the two pushes is 30 percent or less for a short battery or 35 percent or less for a tall battery. If the corrective action and/or increased coking time was successful, you may return the oven to the 90-day reading rotation described in paragraph (a)(1) of this section. If the average opacity of either push exceeds 30 percent for a short battery or 35 percent for a tall battery, the corrective action and/or increased coking time was unsuccessful, and you must complete additional corrective action and/or increase coking time for that oven within the number of days allowed in paragraph (a)(5) of this section.

(ii) After implementing any additional corrective action and/or increased coking time required under paragraph (a)(6)(i) or (a)(7)(ii) of this section, you must demonstrate that corrective action and/or increased coking time was successful. After a period of time no longer than the number of days allowed in paragraph (a)(5) of this section, you must observe and record the opacity of the first two pushes for the oven capable of being observed using the procedures in § 63.7334(a). The corrective action and/or increased coking time was successful if the average opacity for each of the two pushes is 30 percent or less for a short battery or 35 percent or less for a tall battery. If the corrective action and/or increased coking time was successful, you may return the oven to the 90-day reading rotation described in paragraph (a)(1) of this section. If the average opacity of either push exceeds 30 percent for a short battery or 35 percent for a tall battery, the corrective action and/or increased coking time was unsuccessful, and you must follow the procedures in paragraph (a)(6)(iii) of this section.

(iii) If the corrective action and/or increased coking time was unsuccessful as described in paragraph (a)(6)(ii) of this section, you must repeat the procedures in paragraph (a)(6)(ii) of this section until the corrective action and/or increased coking time is successful. You must report to the permitting authority as a deviation each unsuccessful attempt at corrective action and/or increased coking time under paragraph (a)(6)(ii) of this section.

(7)(i) If at any time you place an oven on increased coking time as a result of fugitive pushing emissions that exceed 30 percent for a short battery or 35 percent for a tall battery, you must keep the oven on the increased coking time until the oven qualifies for decreased coking time using the procedures in paragraph (a)(7)(ii) or (a)(7)(iii) of this section.

(ii) To qualify for a decreased coking time for an oven placed on increased coking time in accordance with paragraph (a)(5) or (6) of this section, you must operate the oven on the decreased coking time. After no more than two coking cycles on the decreased coking time, you must observe and record the opacity of the first two pushes that are capable of being observed using the procedures in § 63.7334(a). If the average opacity for each of the two pushes is 30 percent or less for a short battery or 35 percent or less for a tall battery, you may keep the oven on the decreased coking time and return the oven to the 90-day reading rotation described in paragraph (a)(1) of this section. If the average opacity of either push exceeds 30 percent for a short battery or 35 percent for a tall battery, the attempt to qualify for a decreased coking time was unsuccessful. You must then return the oven to the previously established increased coking time, or implement other corrective action(s) and/or increased coking time. If you implement other corrective action and/or a coking time that is shorter than the previously established increased coking time, you must follow the procedures in paragraph (a)(6)(ii) of this section to confirm that the corrective action(s) and/or increased coking time was successful.

(iii) If the attempt to qualify for decreased coking time was unsuccessful as described in paragraph (a)(7)(ii) of this section, you may again attempt to qualify for decreased coking time for the oven. To do this, you must operate the oven on the decreased coking time. After no more than two coking cycles on

the decreased coking time, you must observe and record the opacity of the first two pushes that are capable of being observed using the procedures in § 63.7334(a). If the average opacity for each of the two pushes is 30 percent or less for a short battery or 35 percent or less for a tall battery, you may keep the oven on the decreased coking time and return the oven to the 90-day reading rotation described in paragraph (a)(1) of this section. If the average opacity of either push exceeds 30 percent for a short battery or 35 percent for a tall battery, the attempt to qualify for a decreased coking time was unsuccessful. You must then return the oven to the previously established increased coking time, or implement other corrective action(s) and/or increased coking time. If you implement other corrective action and/or a coking time that is shorter than the previously established increased coking time, you must follow the procedures in paragraph (a)(6)(ii) of this section to confirm that the corrective action(s) and/or increased coking time was successful.

(iv) You must report to the permitting authority as a deviation the second and any subsequent consecutive unsuccessful attempts on the same oven to qualify for decreased coking time as described in paragraph (a)(7)(iii) of this section.

(b) As provided in § 63.6(g), you may request to use an alternative to the work practice standards in paragraph (a) of this section.

§ 63.7292 What work practice standards must I meet for fugitive pushing emissions if I have a by-product coke oven battery with horizontal flues?

(a) You must comply with each of the requirements in paragraphs (a)(1) through (4) of this section.

(1) Prepare and operate by a written plan that will eliminate or minimize incomplete coking for each by-product coke oven battery with horizontal flues. You must submit the plan and supporting documentation to the Administrator (or delegated authority) for approval no later than 90 days after completing all observations and measurements required for the study in paragraph (a)(3) of this section or April 14, 2004, whichever is earlier. You must begin operating by the plan requirements by the compliance date that is specified in § 63.7283. The written plan must identify minimum flue temperatures for different coking times and a battery-wide minimum acceptable flue temperature for any oven at any coking time.

(2) Submit the written plan and supporting documentation to the Administrator (or delegated authority) for review and approval. Include all data collected during the study described in paragraph (a)(3) of this section. If the Administrator (or delegated authority) disapproves the plan, you must revise the plan as directed by the Administrator (or delegated authority) and submit the amended plan for approval. The Administrator (or delegated authority) may require you to collect and submit additional data. You must operate according to your submitted plan (or submitted amended plan, if any) until the Administrator (or delegated authority) approves your plan.

(3) You must base your written plan on a study that you conduct that meets each of the requirements listed in paragraphs (a)(3)(i) through (x) of this section.

(i) Initiate the study by July 14, 2003. Notify the Administrator (or delegated authority) at least 7 days prior to initiating the study according to the requirements in § 63.7340(f).

(ii) Conduct the study under representative operating conditions, including but not limited to the range of moisture content and volatile matter in the coal that is charged.

(iii) Include every oven in the study and observe at least two pushes from each oven.

(iv) For each push observed, measure and record the temperature of every flue within 2 hours before the scheduled pushing time. Document the oven number, date, and time the oven was charged and pushed, and calculate the net coking time.

(v) For each push observed, document the factors to be used to identify pushes that are incompletely coked. These factors must include (but are not limited to): average opacity during the push, average opacity during travel to the quench tower, average of six highest consecutive observations during both push and travel, highest single opacity reading, color of the emissions (especially noting any yellow or brown emissions), presence of excessive smoke during travel to the quench tower, percent volatile matter in the coke, percent volatile matter and percent moisture in the coal that is charged, and the date the oven was last rebuilt or completely relined. Additional documentation may be provided in the form of pictures or videotape of emissions during the push and travel. All opacity observations must be conducted in accordance with the procedures in § 63.7334(a)(3) through (7).

(vi) Inspect the inside walls of the oven after each observed push for cool spots as indicated by a flue that is darker than others (the oven walls should be red hot) and record the results.

(vii) For each push observed, note where incomplete coking occurs if possible (*e.g.*, coke side end, pusher side end, top, or center of the coke mass). For any push with incomplete coking, investigate and document the probable cause.

(viii) Use the documented factors in paragraph (a)(3)(v) of this section to identify pushes that were completely coked and those that were not completely coked. Provide a rationale for the determination based on the documentation of factors observed during the study.

(ix) Use only the flue temperature and coking time data for pushes that were completely coked to identify minimum flue temperatures for various coking times. Submit the criteria used to determine complete coking, as well as a table of coking times and corresponding temperatures for complete coking as part of your plan.

(x) Determine the battery-wide minimum acceptable flue temperature for any oven. This temperature will be equal to the lowest temperature that provided complete coking as determined in paragraph (a)(3)(ix) of this section.

(4) You must operate according to the coking times and temperatures in your approved plan and the requirements in paragraphs (a)(4)(i) through (viii) of this section.

(i) Measure and record the percent volatile matter in the coal that is charged.

(ii) Measure and record the temperature of all flues on two ovens per day within 2 hours before the scheduled pushing time for each oven. Measure and record the temperature of all flues on each oven at least once each month.

(iii) For each oven observed in accordance with paragraph (a)(4)(ii) of this section, record the time each oven is charged and pushed and calculate and record the net coking time. If any measured flue temperature for an oven is below the minimum flue temperature for an oven's scheduled coking time as established in the written plan, increase the coking time for the oven to the coking time in the written plan for the observed flue temperature before pushing the oven.

(iv) If you increased the coking time for any oven in accordance with paragraph (a)(4)(iii) of this section, you must investigate the cause of the low

flue temperature and take corrective action to fix the problem. You must continue to measure and record the temperature of all flues for the oven within 2 hours before each scheduled pushing time until the measurements meet the minimum temperature requirements for the increased coking time for two consecutive pushes. If any measured flue temperature for an oven on increased coking time falls below the minimum flue temperature for the increased coking time, as established in the written plan, you must increase the coking time for the oven to the coking time specified in the written plan for the observed flue temperature before pushing the oven. The oven must continue to operate at this coking time (or at a longer coking time if the temperature falls below the minimum allowed for the increased coking time) until the problem has been corrected, and you have confirmed that the corrective action was successful as required by paragraph (a)(4)(v) of this section.

(v) Once the heating problem has been corrected, the oven may be returned to the battery's normal coking schedule. You must then measure and record the flue temperatures for the oven within 2 hours before the scheduled pushing time for the next two consecutive pushes. If any flue temperature measurement is below the minimum flue temperature for that coking time established in the written plan, repeat the procedures in paragraphs (a)(4)(iii) and (iv) of this section.

(vi) If any flue temperature measurement is below the battery-wide minimum acceptable temperature for complete coking established in the written plan for any oven at any coking time, you must remove the oven from service for repairs.

(vii) For an oven that has been repaired and returned to service after being removed from service in accordance with paragraph (a)(4)(vi) of this section, you must measure and record the temperatures of all flues for the oven within 2 hours before the first scheduled pushing time. If any flue temperature measurement is below the minimum flue temperature for the scheduled coking time, as established in the written plan, you must repeat the procedures described in paragraphs (a)(4)(iii) and (iv) of this section.

(viii) For an oven that has been repaired and returned to service after removal from service in accordance with paragraph (a)(4)(vi) of this section, you must report as a deviation to the permitting authority any flue temperature measurement made during the initial coking cycle after return to service that is below the lowest acceptable minimum flue temperature.

(b) As provided in § 63.6(g), you may request to use an alternative to the work practice standards in paragraph (a) of this section.

§ 63.7293 What work practice standards must I meet for fugitive pushing emissions if I have a non-recovery coke oven battery?

(a) You must meet the requirements in paragraphs (a)(1) and (2) of this section for each new and existing non-recovery coke oven battery.

(1) You must visually inspect each oven prior to pushing by opening the door damper and observing the bed of coke.

(2) Do not push the oven unless the visual inspection indicates that there is no smoke in the open space above the coke bed and that there is an unobstructed view of the door on the opposite side of the oven.

(b) As provided in § 63.6(g), you may request to use an alternative to the work practice standard in paragraph (a) of this section.

§ 63.7294 What work practice standard must I meet for soaking?

(a) For each new and existing by-product coke oven battery, you must prepare and operate at all times according to a written work practice plan for soaking. Each plan must include measures and procedures to:

(1) Train topside workers to identify soaking emissions that require corrective actions.

(2) Damper the oven off the collecting main prior to opening the standpipe cap.

(3) Determine the cause of soaking emissions that do not ignite automatically, including emissions that result from raw coke oven gas leaking from the collecting main through the damper, and emissions that result from incomplete coking.

(4) If soaking emissions are caused by leaks from the collecting main, take corrective actions to eliminate the soaking emissions. Corrective actions may include, but are not limited to, reseating the damper, cleaning the flushing liquor piping, using aspiration, putting the oven back on the collecting main, or igniting the emissions.

(5) If soaking emissions are not caused by leaks from the collecting main, notify a designated responsible party. The responsible party must determine whether the soaking emissions are due to incomplete coking. If incomplete coking is the cause of the soaking emissions, you must put the oven back on the collecting main until it is completely coked or you must ignite the emissions.

(b) As provided in § 63.6(g), you may request to use an alternative to the work practice standard in paragraph (a) of this section.

§ 63.7295 What requirements must I meet for quenching?

(a) You must meet the requirements in paragraphs (a)(1) and (2) of this section for each quench tower and backup quench station at a new or existing coke oven battery.

(1) For the quenching of hot coke, you must meet the requirements in paragraph (a)(1)(i) or (ii) of this section.

(i) The concentration of total dissolved solids (TDS) in the water used for quenching must not exceed 1,100 milligrams per liter (mg/L); or

(ii) The sum of the concentrations of benzene, benzo(a)pyrene, and naphthalene in the water used for quenching must not exceed the applicable site-specific limit approved by the permitting authority.

(2) You must use acceptable makeup water, as defined in § 63.7352, as makeup water for quenching.

(b) For each quench tower at a new or existing coke oven battery and each backup quench station at a new coke oven battery, you must meet each of the requirements in paragraphs (b)(1) through (4) of this section.

(1) You must equip each quench tower with baffles such that no more than 5 percent of the cross sectional area of the tower may be uncovered or open to the sky.

(2) You must wash the baffles in each quench tower once each day that the tower is used to quench coke, except as specified in paragraphs (b)(2)(i) and (ii) of this section.

(i) You are not required to wash the baffles in a quench tower if the highest measured ambient temperature remains less than 30 degrees Fahrenheit throughout that day (24-hour period). If the measured ambient temperature rises to 30 degrees Fahrenheit or more during the day, you must resume daily washing according to the schedule in your operation and maintenance plan.

(ii) You must continuously record the ambient temperature on days that the baffles were not washed.

(3) You must inspect each quench tower monthly for damaged or missing baffles and blockage.

(4) You must initiate repair or replacement of damaged or missing baffles within 30 days and complete as soon as practicable.

(c) As provided in § 63.6(g), you may request to use an alternative to the work practice standards in paragraph (b) of this section.

§ 63.7296 What emission limitations must I meet for battery stacks?

You must not discharge to the atmosphere any emissions from any battery stack at a new or existing by-product coke oven battery that exhibit an opacity greater than the applicable limit in paragraphs (a) and (b) of this section.

(a) Daily average of 15 percent opacity for a battery on a normal coking cycle.

(b) Daily average of 20 percent opacity for a battery on batterywide extended coking.

Operation and Maintenance Requirements

§ 63.7300 What are my operation and maintenance requirements?

(a) As required by § 63.6(e)(1)(i), you must always operate and maintain your affected source, including air pollution control and monitoring equipment, in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by this subpart.

(b) You must prepare and operate at all times according to a written operation and maintenance plan for the general operation and maintenance of new or existing by-product coke oven batteries. Each plan must address, at a minimum, the elements listed in paragraphs (b)(1) through (6) of this section.

(1) Frequency and method of recording underfiring gas parameters.

(2) Frequency and method of recording battery operating temperature, including measurement of individual flue and cross-wall temperatures.

(3) Procedures to prevent pushing an oven before it is fully coked.

(4) Procedures to prevent overcharging and undercharging of ovens, including measurement of coal moisture, coal bulk density, and procedures for determining volume of coal charged.

(5) Frequency and procedures for inspecting flues, burners, and nozzles.

(6) Schedule and procedures for the daily washing of baffles.

(c) You must prepare and operate at all times according to a written operation and maintenance plan for each capture system and control device applied to pushing emissions from a new or existing coke oven battery. Each plan must address at a minimum the elements in paragraphs (c)(1) through (3) of this section.

(1) Monthly inspections of the equipment that are important to the performance of the total capture system (*e.g.*, pressure sensors, dampers, and damper switches). This inspection must include observations of the physical appearance of the equipment (*e.g.*, presence of holes in ductwork or hoods, flow constrictions caused by dents or accumulated dust in ductwork, and fan erosion). The operation and maintenance plan must also include requirements to repair any defect or deficiency in the capture system before the next scheduled inspection.

(2) Preventative maintenance for each control device, including a preventative maintenance schedule that is consistent with the manufacturer's instructions for routine and long-term maintenance.

(3) Corrective action for all baghouses applied to pushing emissions. In the event a bag leak detection system alarm is triggered, you must initiate corrective action to determine the cause of the alarm within 1 hour of the alarm, initiate corrective action to correct the cause of the problem within 24 hours of the alarm, and complete the corrective action as soon as practicable. Actions may include, but are not limited to:

(i) Inspecting the baghouse for air leaks, torn or broken bags or filter media, or any other condition that may cause an increase in emissions.

(ii) Sealing off defective bags or filter media.

(iii) Replacing defective bags or filter media or otherwise repairing the control device.

(iv) Sealing off a defective baghouse compartment.

(v) Cleaning the bag leak detection system probe, or otherwise repairing the bag leak detection system.

(vi) Shutting down the process producing the particulate emissions.

General Compliance Requirements

§ 63.7310 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations, work practice standards, and operation and maintenance requirements in this subpart at all times, except during periods of startup, shutdown, and malfunction as defined in § 63.2.

(b) During the period between the compliance date specified for your affected source in § 63.7283 and the date upon which continuous monitoring systems have been installed and certified and any applicable operating limits have been set, you must maintain a log detailing the operation and maintenance of the process and emissions control equipment.

(c) You must develop and implement a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

Initial Compliance Requirements

§ 63.7320 By what date must I conduct performance tests or other initial compliance demonstrations?

(a) As required in § 63.7(a)(2), you must conduct a performance test to demonstrate compliance with each limit in § 63.7290(a) for emissions of particulate matter from a control device applied to pushing emissions that applies to you within 180 calendar days after the compliance date that is specified in § 63.7283.

(b) You must conduct performance tests to demonstrate compliance with the TDS limit or constituent limit for quench water in § 63.7295(a)(1) and each opacity limit in § 63.7297(a) for a by-product coke oven battery stack by the compliance date that is specified in § 63.7283.

(c) For each work practice standard and operation and maintenance requirement that applies to you, you must demonstrate initial compliance within 30 calendar days after the compliance date that is specified in § 63.7283.

(d) If you commenced construction or reconstruction between July 3, 2001 and April 14, 2003, you must demonstrate initial compliance with either the proposed emission limit or the promulgated emission limit no later than October 14, 2003, or no later than 180 calendar days after startup of the source, whichever is later, according to § 63.7(a)(2)(ix).

(e) If you commenced construction or reconstruction between July 3, 2001 and April 14, 2003, and you chose to comply with the proposed emission limit when demonstrating initial compliance, you must conduct a second performance test to demonstrate compliance with the promulgated emission limit by October 11, 2006, or after startup of the source, whichever is later, according to § 63.7(a)(2)(ix).

§ 63.7321 When must I conduct subsequent performance tests?

For each control device subject to an emission limit for particulate matter in § 63.7290(a), you must conduct subsequent performance tests no less frequently than twice (at mid-term and renewal) during each term of your title V operating permit.

§ 63.7322 What test methods and other procedures must I use to demonstrate initial compliance with the emission limits for particulate matter?

(a) You must conduct each performance test that applies to your affected source according to the requirements in paragraph (b) of this section.

(b) To determine compliance with the emission limit for particulate matter from a control device applied to pushing emissions where a cokeside shed is the capture system, follow the test methods and procedures in paragraphs (b)(1) and (2) of this section. To determine compliance with a process-weighted mass rate of particulate matter (lb/ton of coke) from a control device applied to pushing emissions where a cokeside shed is not used, follow the test methods and procedures in paragraphs (b)(1) through (4) of this section.

(1) Determine the concentration of particulate matter according to the following test methods in appendix A to 40 CFR part 60.

(i) Method 1 to select sampling port locations and the number of traverse points. Sampling sites must be located at the outlet of the control device and prior to any releases to the atmosphere.

(ii) Method 2, 2F, or 2G to determine the volumetric flow rate of the stack gas.

(iii) Method 3, 3A, or 3B to determine the dry molecular weight of the stack gas.

(iv) Method 4 to determine the moisture content of the stack gas.

(v) Method 5 or 5D, as applicable, to determine the concentration of front half particulate matter in the stack gas.

(2) During each particulate matter test run, sample only during periods of actual pushing when the capture system fan and control device are engaged. Collect a minimum sample volume of 30 cubic feet of gas during each test run. Three valid test runs are needed to comprise a performance test. Each run must start at the beginning of a push and finish at the end of a push (*i.e.*, sample for an integral number of pushes).

(3) Determine the total combined weight in tons of coke pushed during the duration of each test run according to the procedures in your source test plan for calculating coke yield from the quantity of coal charged to an individual oven.

(4) Compute the process-weighted mass emissions (E_p) for each test run using Equation 1 of this section as follows:

$$E_p = \frac{C \times Q \times T}{P \times K} \qquad \text{(Eq. 1)}$$

Where:

E_p = Process weighted mass emissions of particulate matter, lb/ton;

C = Concentration of particulate matter, gr/dscf;

Q = Volumetric flow rate of stack gas, dscf/hr;

T = Total time during a run that a sample is withdrawn from the stack during pushing, hr;

P = Total amount of coke pushed during the test run, tons; and

K = Conversion factor, 7,000 gr/lb.

§ 63.7323 What procedures must I use to establish operating limits?

(a) For a venturi scrubber applied to pushing emissions from a coke oven battery, you must establish site-specific operating limits for pressure drop and scrubber water flow rate according to the procedures in paragraphs (a)(1) and (2) of this section.

(1) Using the continuous parameter monitoring systems (CPMS) required in § 63.7330(b), measure and record the pressure drop and scrubber water flow rate for each particulate matter test run during periods of pushing. A minimum of one pressure drop measurement and one scrubber water flow rate measurement must be obtained for each push.

(2) Compute and record the average pressure drop and scrubber water flow rate for each test run. Your operating limits are the lowest average pressure drop and scrubber water flow rate values recorded during any of the three runs that meet the applicable emission limit.

(b) For a hot water scrubber applied to pushing emissions from a coke oven battery, you must establish site-specific operating limits for water pressure and water temperature according to the procedures in paragraphs (b)(1) and (2) of this section.

(1) Using the CPMS required in § 63.7330(c), measure and record the hot water pressure and temperature for each particulate matter test run during periods of pushing. A minimum of one pressure measurement and one temperature measurement must be made just prior to each push by monitoring the hot water holding tank on the mobile scrubber car.

(2) Compute and record the average water pressure and temperature for each test run. Your operating limits are the lowest pressure and temperature values recorded during any of the three runs that meet the applicable emission limit.

(c) For a capture system applied to pushing emissions from a coke oven battery, you must establish a site-specific operating limit for the fan motor amperes or volumetric flow rate according to the procedures in paragraph (c)(1) or (2) of this section.

(1) If you elect the operating limit in § 63.7290(b)(3)(i) for fan motor amperes, measure and record the fan motor amperes during each push sampled for each particulate matter test run. Your operating limit is the lowest fan motor amperes recorded during any of the three runs that meet the emission limit.

(2) If you elect the operating limit in § 63.7290(b)(3)(ii) for volumetric flow rate, measure and record the total volumetric flow rate at the inlet of the control device during each push sampled for each particulate matter test run. Your operating limit is the lowest volumetric flow rate recorded during any of the three runs that meet the emission limit.

(d) You may change the operating limit for a scrubber or capture system if you meet the requirements in paragraphs (d)(1) through (3) of this section.

(1) Submit a written notification to the Administrator of your request to conduct a new performance test to revise the operating limit.

(2) Conduct a performance test to demonstrate that emissions of particulate matter from the control device do not exceed the applicable limit in § 63.7290(a).

(3) Establish revised operating limits according to the applicable procedures in paragraph (a) through (c) of this section.

§ 63.7324 What procedures must I use to demonstrate initial compliance with the opacity limits?

(a) You must conduct each performance test that applies to your affected source according to the requirements in paragraph (b) of this section.

(b) To determine compliance with the daily average opacity limit for stacks of 15 percent for a by-product coke oven battery on a normal coking cycle or 20 percent for a by-product coke oven battery on batterywide extended coking, follow the test methods and procedures in paragraphs (b)(1) through (3) of this section.

(1) Using the continuous opacity monitoring system (COMS) required in § 63.7330(e), measure and record the opacity of emissions from each battery stack for a 24-hour period.

(2) Reduce the monitoring data to hourly averages as specified in § 63.8(g)(2).

(3) Compute and record the 24-hour (daily) average of the COMS data.

§ 63.7325 What test methods and other procedures must I use to demonstrate initial compliance with the TDS or constituent limits for quench water?

(a) If you elect the TDS limit for quench water in § 63.7295(a)(1)(i), you must conduct each performance test that applies to your affected source according to the conditions in paragraphs (a)(1) and (2) of this section.

(1) Take the quench water sample from a location that provides a representative sample of the quench water as applied to the coke (*e.g.*, from the header that feeds water to the quench tower reservoirs). Conduct sampling under normal and representative operating conditions.

(2) Determine the TDS concentration of the sample using Method 160.1 in 40 CFR part 136.3 (see "residue—filterable"), except that you must dry the total filterable residue at 103 to 105 °C (degrees Centigrade) instead of 180 °C.

(b) If at any time you elect to meet the alternative requirements for quench water in § 63.7295(a)(1)(ii), you must establish a site-specific constituent limit according to the procedures in paragraphs (b)(1) through (4) of this section.

(1) Take a minimum of nine quench water samples from a location that provides a representative sample of the quench water as applied to the coke (*e.g.*, from the header that feeds water to the quench tower reservoirs). Conduct sampling under normal and representative operating conditions.

(2) For each sample, determine the TDS concentration according to the requirements in paragraph (a)(2) of this section and the concentration of benzene, benzo(a)pyrene, and naphthalene using the applicable methods in 40 CFR part 136 or an approved alternative method.

(3) Determine and record the highest sum of the concentrations of benzene, benzo(a)pyrene, and naphthalene in any sample that has a TDS concentration less than or equal to the TDS limit of 1,100 mg/L. This concentration is the site-specific constituent limit.

(4) Submit the site-specific limit, sampling results, and all supporting data and calculations to your permitting authority for review and approval.

(c) If you elect the constituent limit for quench water in § 63.7295(a)(1)(ii), you must conduct each performance test that applies to your affected source according to the conditions in paragraphs (c)(1) and (2) of this section.

(1) Take a quench water sample from a location that provides a representative sample of the quench water as applied to the coke (*e.g.*, from the header that feeds water to the quench tower reservoirs). Conduct sampling under normal and representative operating conditions.

(2) Determine the sum of the concentration of benzene, benzo(a)pyrene, and naphthalene in the sample using the applicable methods in 40 CFR part 136 or an approved alternative method.

§ 63.7326 How do I demonstrate initial compliance with the emission limitations that apply to me?

(a) For each coke oven battery subject to the emission limit for particulate matter from a control device applied to pushing emissions, you have demonstrated initial compliance if you meet the requirements in paragraphs (a)(1) through (4) of this section that apply to you.

(1) The concentration of particulate matter, measured in accordance with the performance test procedures in § 63.7322(b)(1) and (2), did not exceed 0.01 gr/dscf for a control device where a cokeside shed is used to capture pushing emissions or the process-weighted mass rate of particulate matter (lb/ton of coke), measured in accordance with the performance test procedures in § 63.7322(b)(1) through (4), did not exceed:

(i) 0.02 lb/ton of coke if a moveable hood vented to a stationary control device is used to capture emissions;

(ii) If a mobile scrubber car that does not capture emissions during travel is used, 0.03 lb/ton of coke from a control device applied to pushing emissions from a short coke oven battery or 0.01 lb/ton of coke from a control device applied to pushing emissions from a tall coke oven battery; and

(iii) 0.04 lb/ton of coke if a mobile scrubber car that captures emissions during travel is used.

(2) For each venturi scrubber applied to pushing emissions, you have established appropriate site-specific operating limits and have a record of the pressure drop and scrubber water flow rate measured during the performance test in accordance with § 63.7323(a).

(3) For each hot water scrubber applied to pushing emissions, you have established appropriate site-specific operating limits and have a record of the water pressure and temperature measured during the performance test in accordance with § 63.7323(b).

(4) For each capture system applied to pushing emissions, you have established an appropriate site-specific operating limit, and:

(i) If you elect the operating limit in § 63.7290(b)(3)(i) for fan motor amperes, you have a record of the fan motor amperes during the performance test in accordance with § 63.7323(c)(1); or

(ii) If you elect the operating limit in § 63.7290(b)(3)(ii) for volumetric flow rate, you have a record of the total volumetric flow rate at the inlet of the control device measured during the performance test in accordance with § 63.7323(c)(2).

(b) For each new or existing by-product coke oven battery subject to the opacity limit for stacks in § 63.7296(a), you have demonstrated initial compliance if the daily average opacity, as measured according to the performance test procedures in § 63.7324(b), is no more than 15 percent for a battery on a normal coking cycle or 20 percent for a battery on batterywide extended coking.

(c) For each new or existing by-product coke oven battery subject to the TDS limit or constituent limits for quench water in § 63.7295(a)(1),

(1) You have demonstrated initial compliance with the TDS limit in § 63.7295(a)(1)(i) if the TDS concentration, as measured according to the performance test procedures in § 63.7325(a), does not exceed 1,100 mg/L.

(2) You have demonstrated initial compliance with the constituent limit in § 63.7295(a)(1)(ii) if:

(i) You have established a site-specific constituent limit according to the procedures in § 63.7325(b); and

(ii) The sum of the constituent concentrations, as measured according to the performance test procedures in § 63.7325(c), is less than or equal to the site-specific limit.

(d) For each by-product coke oven battery stack subject to an opacity limit in § 63.7296(a) and each by-product coke oven battery subject to the requirements for quench water in § 63.7295(a)(1), you must submit a notification of compliance status containing the results of the COMS performance test for battery stacks and the quench water performance test (TDS or constituent limit) according to § 63.7340(e)(1). For each particulate matter emission limitation that applies to you, you must submit a notification of compliance status containing the results of the performance test according to § 63.7340(e)(2).

§ 63.7327 How do I demonstrate initial compliance with the work practice standards that apply to me?

(a) For each by-product coke oven battery with vertical flues subject to the work practice standards for fugitive pushing emissions in § 63.7291(a), you have demonstrated initial compliance if you certify in your notification of compliance status that you will meet each of the work practice requirements beginning no later than the compliance date that is specified in § 63.7283.

(b) For each by-product coke oven battery with horizontal flues subject to the work practice standards for fugitive pushing emissions in § 63.7292(a), you have demonstrated initial compliance if you have met the requirements of paragraphs (b)(1) and (2) of this section:

(1) You have prepared and submitted a written plan and supporting documentation establishing appropriate minimum flue temperatures for different coking times and the lowest acceptable temperature to the Administrator (or delegated authority) for review and approval; and

(2) You certify in your notification of compliance status that you will meet each of the work practice requirements beginning no later than the compliance date that is specified in § 63.7283.

(c) For each non-recovery coke oven battery subject to the work practice standards for fugitive pushing emissions in § 63.7293(a), you have demonstrated initial compliance if you certify in your notification of compliance status that you will meet each of the work practice requirements beginning no later than the compliance date that is specified in § 63.7283.

(d) For each by-product coke oven battery subject to the work practice standards for soaking in § 63.7294, you have demonstrated initial compliance if you have met the requirements of paragraphs (d)(1) and (2) of this section:

(1) You have prepared and submitted a written work practice plan in accordance with § 63.7294(a); and

(2) You certify in your notification of compliance status that you will meet each of the work practice requirements beginning no later than the compliance date that is specified in § 63.7283.

(e) For each coke oven battery, you have demonstrated initial compliance with the work practice standards for quenching in § 63.7295(b) if you certify in your notification of compliance status that you have met the requirements of paragraphs (e)(1) and (2) of this section:

(1) You have installed the required equipment in each quench tower; and

(2) You will meet each of the work practice requirements beginning no later than the compliance date that is specified in § 63.7283.

(f) For each work practice standard that applies to you, you must submit a notification of compliance status according to the requirements in § 63.7340(e)(1).

§ 63.7328 How do I demonstrate initial compliance with the operation and maintenance requirements that apply to me?

You have demonstrated initial compliance if you certify in your notification of compliance status that you have met the requirements of paragraphs (a) through (d) of this section:

(a) You have prepared the operation and maintenance plans according to the requirements in § 63.7300(b) and (c);

(b) You will operate each by-product coke oven battery and each capture system and control device applied to pushing emissions from a coke oven battery according to the procedures in the plans beginning no later than the compliance date that is specified in § 63.7283;

(c) You have prepared a site-specific monitoring plan according to the requirements in § 63.7331(b); and

(d) You submit a notification of compliance status according to the requirements in § 63.7340(e).

Continuous Compliance Requirements

§ 63.7330 What are my monitoring requirements?

(a) For each baghouse applied to pushing emissions from a coke oven battery, you must at all times monitor the relative change in particulate matter loadings using a bag leak detection system according to the requirements in § 63.7331(a) and conduct inspections at their specified frequency according to the requirements in paragraphs (a)(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 equivalent 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 inspection 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 laying 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; and

(8) Inspect fans for wear, material buildup, and corrosion through quarterly visual inspections, vibration detectors, or equivalent means.

(b) For each venturi scrubber applied to pushing emissions, you must at all times monitor the pressure drop and water flow rate using a CPMS according to the requirements in § 63.7331(e).

(c) For each hot water scrubber applied to pushing emissions, you must at all times monitor the water pressure and temperature using a CPMS according to the requirements in § 63.7331(f).

(d) For each capture system applied to pushing emissions, you must at all times monitor the fan motor amperes according to the requirements in § 63.7331(g) or the volumetric flow rate according to the requirements in § 63.7331(h).

(e) For each by-product coke oven battery, you must monitor at all times the opacity of emissions exiting each stack using a COMS according to the requirements in § 63.7331(i).

§ 63.7331 What are the installation, operation, and maintenance requirements for my monitors?

(a) For each baghouse applied to pushing emissions, you must install, operate, and maintain each bag leak detection system according to the requirements in paragraphs (a)(1) through (7) of this section.

(1) The system must be certified by the manufacturer to be capable of detecting emissions of particulate matter at concentrations of 10 milligrams per actual cubic meter (0.0044 grains per actual cubic foot) or less;

(2) The system must provide output of relative changes in particulate matter loadings;

(3) The system must be equipped with an alarm that will sound when an increase in relative particulate loadings is detected over a preset level. The alarm must be located such that it can be heard by the appropriate plant personnel;

(4) Each system that works based on the triboelectric effect must be installed, operated, and maintained in a manner consistent with the guidance document, "Fabric Filter Bag Leak Detection Guidance" (EPA–454/R–98–015, September 1997). You may install, operate, and maintain other types of bag leak detection systems in a manner consistent with the manufacturer's written specifications and recommendations;

(5) To make the initial adjustment of the system, establish the baseline output by adjusting the sensitivity (range) and the averaging period of the device. Then, establish the alarm set points and the alarm delay time;

(6) Following the initial adjustment, do not adjust the sensitivity or range, averaging period, alarm set points, or alarm delay time, except as detailed in your operation and maintenance plan. Do not increase the sensitivity by more than 100 percent or decrease the sensitivity by more than 50 percent over a 365-day period unless a responsible

official certifies, in writing, that the baghouse has been inspected and found to be in good operating condition; and

(7) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(b) For each CPMS required in § 63.7330, you must develop and make available for inspection upon request by the permitting authority a site-specific monitoring plan that addresses the requirements in paragraphs (b)(1) through (6) of this section.

(1) Installation of the CPMS sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (*e.g.*, on or downstream of the last control device);

(2) Performance and equipment specifications for the sample interface, the parametric signal analyzer, and the data collection and reduction system;

(3) Performance evaluation procedures and acceptance criteria (*e.g.*, calibrations);

(4) Ongoing operation and maintenance procedures in accordance with the general requirements of §§ 63.8(c)(1), (3), (4)(ii), (7), and (8);

(5) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d); and

(6) Ongoing recordkeeping and reporting procedures in accordance the general requirements of §§ 63.10(c), (e)(1), and (e)(2)(i).

(c) You must conduct a performance evaluation of each CPMS in accordance with your site-specific monitoring plan.

(d) You must operate and maintain the CPMS in continuous operation according to the site-specific monitoring plan.

(e) For each venturi scrubber applied to pushing emissions, you must install, operate, and maintain CPMS to measure and record the pressure drop across the scrubber and scrubber water flow rate during each push according to the requirements in paragraphs (b) through (d) of this section except as specified in paragraphs (e)(1) through (3) of this section.

(1) Each CPMS must complete a measurement at least once per push;

(2) Each CPMS must produce valid data for all pushes; and

(3) Each CPMS must determine and record the daily (24-hour) average of all recorded readings.

(f) For each hot water scrubber applied to pushing emissions, you must install, operate, and maintain CPMS to measure and record the water pressure and temperature during each push according to the requirements in paragraphs (b) through (d) of this section, except as specified in paragraphs (e)(1) through (3) of this section.

(g) If you elect the operating limit in § 63.7290(b)(3)(i) for a capture system applied to pushing emissions, you must install, operate, and maintain a device to measure the fan motor amperes.

(h) If you elect the operating limit in § 63.7290(b)(3)(ii) for a capture system applied to pushing emissions, you must install, operate, and maintain a device to measure the total volumetric flow rate at the inlet of the control device.

(i) For each by-product coke oven battery, you must install, operate, and maintain a COMS to measure and record the opacity of emissions exiting each stack according to the requirements in paragraphs (i)(1) through (5) of this section.

(1) You must install, operate, and maintain each COMS according to the requirements in § 63.8(e) and Performance Specification 1 in 40 CFR part 60, appendix B. Identify periods the COMS is out-of-control, including any periods that the COMS fails to pass a daily calibration drift assessment, quarterly performance audit, or annual zero alignment audit.

(2) You must conduct a performance evaluation of each COMS according to the requirements in § 63.8 and Performance Specification 1 in appendix B to 40 CFR part 60;

(3) You must develop and implement a quality control program for operating and maintaining each COMS according to the requirements in § 63.8(d). At minimum, the quality control program must include a daily calibration drift assessment, quarterly performance audit, and an annual zero alignment audit of each COMS;

(4) Each COMS must complete a minimum of one cycle of sampling and analyzing for each successive 10-second period and one cycle of data recording for each successive 6-minute period. You must reduce the COMS data as specified in § 63.8(g)(2).

(5) You must determine and record the hourly and daily (24-hour) average opacity according to the procedures in § 63.7324(b) using all the 6-minute averages collected for periods during which the COMS is not out-of-control.

§ 63.7332 How do I monitor and collect data to demonstrate continuous compliance?

(a) Except for monitor malfunctions, associated repairs, and required quality assurance or control activities (including as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times the affected source is operating.

(b) You may not use data recorded during monitoring malfunctions, associated repairs, and required quality assurance or control activities in data averages and calculations used to report emission or operating levels, or in fulfilling a minimum data availability requirement, if applicable. You must use all the data collected during all other periods in assessing compliance. A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the monitor to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions.

§ 63.7333 How do I demonstrate continuous compliance with the emission limitations that apply to me?

(a) For each control device applied to pushing emissions and subject to the emission limit in § 63.7290(a), you must demonstrate continuous compliance by meeting the requirements in paragraphs (a)(1) and (2) of this section:

(1) Maintaining emissions of particulate matter at or below the applicable limits in paragraphs § 63.7290(a)(1) through (4); and

(2) Conducting subsequent performance tests to demonstrate continuous compliance no less frequently than twice during each term of your title V operating permit (at mid-term and renewal).

(b) For each venturi scrubber applied to pushing emissions and subject to the operating limits in § 63.7290(b)(1), you must demonstrate continuous compliance by meeting the requirements in paragraphs (b)(1) through (3) of this section.

(1) Maintaining the daily average pressure drop and scrubber water flow rate at levels no lower than those established during the initial or subsequent performance test.

(2) Operating and maintaining each CPMS according to § 63.7331(b) and recording all information needed to document conformance with these requirements.

(3) Collecting and reducing monitoring data for pressure drop and scrubber water flow rate according to § 63.7331(e)(1) through (3).

(c) For each hot water scrubber applied to pushing emissions and subject to the operating limits in § 63.7290(b)(2), you must demonstrate continuous compliance by meeting the requirements in paragraphs (c)(1) through (3) of this section.

(1) Maintaining the daily average water pressure and temperature at levels no lower than those established during the initial or subsequent performance test.

(2) Operating and maintaining each CPMS according to § 63.7331(b) and recording all information needed to document conformance with these requirements.

(3) Collecting and reducing monitoring data for water pressure and temperature according to § 63.7331(f).

(d) For each capture system applied to pushing emissions and subject to the operating limit in § 63.7290(b)(3), you must demonstrate continuous compliance by meeting the requirements in paragraph (d)(1) or (2) of this section:

(1) If you elect the operating limit for fan motor amperes in § 63.7290(b)(3)(i):

(i) Maintaining the daily average fan motor amperes at or above the minimum level established during the initial or subsequent performance test; and

(ii) Checking the fan motor amperes at least every 8 hours to verify the daily average is at or above the minimum level established during the initial or subsequent performance test and recording the results of each check.

(2) If you elect the operating limit for volumetric flow rate in § 63.7290(b)(3)(ii):

(i) Maintaining the daily average volumetric flow rate at the inlet of the control device at or above the minimum level established during the initial or subsequent performance test; and

(ii) Checking the volumetric flow rate at least every 8 hours to verify the daily average is at or above the minimum level established during the initial or subsequent performance test and recording the results of each check.

(e) Beginning on the first day compliance is required under § 63.7283, you must demonstrate continuous compliance for each by-product coke oven battery subject to the opacity limit for stacks in § 63.7296(a) by meeting the requirements in paragraphs (e)(1) and (2) of this section:

(1) Maintaining the daily average opacity at or below 15 percent for a battery on a normal coking cycle or 20 percent for a battery on batterywide extended coking; and

(2) Operating and maintaining a COMS and collecting and reducing the COMS data according to § 63.7331(i).

(f) Beginning on the first day compliance is required under § 63.7283, you must demonstrate continuous compliance with the TDS limit for quenching in § 63.7295(a)(1)(i) by meeting the requirements in paragraphs (f)(1) and (2) of this section:

(1) Maintaining the TDS content of the water used to quench hot coke at 1,100 mg/L or less; and

(2) Determining the TDS content of the quench water at least weekly according to the requirements in § 63.7325(a) and recording the sample results.

(g) Beginning on the first day compliance is required under § 63.7283, you must demonstrate continuous compliance with the constituent limit for quenching in § 63.7295(a)(1)(ii) by meeting the requirements in paragraphs (g)(1) and (2) of this section:

(1) Maintaining the sum of the concentrations of benzene, benzo(a)pyrene, and naphthalene in the water used to quench hot coke at levels less than or equal to the site-specific limit approved by the permitting authority; and

(2) Determining the sum of the constituent concentrations at least monthly according to the requirements in § 63.7325(c) and recording the sample results.

§ 63.7334 How do I demonstrate continuous compliance with the work practice standards that apply to me?

(a) For each by-product coke oven battery with vertical flues subject to the work practice standards for fugitive pushing emissions in § 63.7291(a), you must demonstrate continuous compliance according to the requirements of paragraphs (a)(1) through (8) of this section:

(1) Observe and record the opacity of fugitive emissions for four consecutive pushes per operating day, except you may make fewer or non-consecutive observations as permitted by § 63.7291(a)(3). Maintain records of the pushing schedule for each oven and records indicating the legitimate operational reason for any change in the pushing schedule according to § 63.7291(a)(4).

(2) Observe and record the opacity of fugitive emissions from each oven in a battery at least once every 90 days. If an oven cannot be observed during a 90-day period, observe and record the opacity of the first push of that oven following the close of the 90-day period that can be read in accordance with the procedures in paragraphs (a)(1) through (8) of this section.

(3) Make all observations and calculations for opacity observations of fugitive pushing emissions in accordance with Method 9 in appendix A to 40 CFR part 60 using a Method 9 certified observer unless you have an approved alternative procedure under paragraph (a)(7) of this section.

(4) Record pushing opacity observations at 15-second intervals as required in section 2.4 of Method 9 (appendix A to 40 CFR part 60). The requirement in section 2.4 of Method 9 for a minimum of 24 observations does not apply, and the data reduction requirements in section 2.5 of Method 9 do not apply. The requirement in § 63.6(h)(5)(ii)(B) for obtaining at least 3 hours of observations (thirty 6-minute averages) to demonstrate initial compliance does not apply.

(5) If fewer than six but at least four 15-second observations can be made, use the average of the total number of observations to calculate average opacity for the push. Missing one or more observations during the push (*e.g.*, as the quench car passes behind a building) does not invalidate the observations before or after the interference for that push. However, a minimum of four 15-second readings must be made for a valid observation.

(6) Begin observations for a push at the first detectable movement of the coke mass. End observations of a push when the quench car enters the quench tower.

(i) For a battery without a cokeside shed, observe fugitive pushing emissions from a position at least 10 meters from the quench car that provides an unobstructed view and avoids interferences from the topside of the battery. This may require the observer to be positioned at an angle to the quench car rather than perpendicular to it. Typical interferences to avoid include emissions from open standpipes and charging. Observe the opacity of emissions above the battery top with the sky as the background where possible. Record the oven number of any push not observed because of obstructions or interferences.

(ii) For a battery with a cokeside shed, the observer must be in a position that provides an unobstructed view and avoids interferences from the topside of the battery. Typical interferences to avoid include emissions from open standpipes and charging. Observations must include any fugitive emissions that escape from the top of the shed, from the ends of the shed, or from the area where the shed is joined to the battery. If the observer does not have a clear view to identify when a push starts or ends, a second person can be positioned to signal the start or end of the push and notify the observer when to start or end the observations. Radio communications with other plant personnel (*e.g.*, pushing ram operator or quench car operator) may also serve to notify the observer of the start or end of a push. Record the oven number of any push

not observed because of obstructions or interferences.

(iii) You may reposition after the push to observe emissions during travel if necessary.

(7) If it is infeasible to implement the procedures in paragraphs (a)(1) through (6) of this section for an oven due to physical obstructions, nighttime pushes, or other reasons, you may apply to your permitting authority for permission to use an alternative procedure. The application must provide a detailed explanation of why it is infeasible to use the procedures in paragraphs (a)(1) through (6) of this section, identify the oven and battery numbers, and describe the alternative procedure. An alternative procedure must identify whether the coke in that oven is not completely coked, either before, during, or after an oven is pushed.

(8) For each oven observed that exceeds an opacity of 30 percent for any short battery or 35 percent for any tall battery, you must take corrective action and/or increase the coking time in accordance with § 63.7291(a). Maintain records documenting conformance with the requirements in § 63.7291(a).

(b) For each by-product coke oven battery with horizontal flues subject to the work practice standards for fugitive pushing emissions in § 63.7292(a), you must demonstrate continuous compliance by having met the requirements of paragraphs (b)(1) through (3) of this section:

(1) Measuring and recording the temperature of all flues on two ovens per day within 2 hours before the oven's scheduled pushing time and ensuring that the temperature of each oven is measured and recorded at least once every month;

(2) Recording the time each oven is charged and pushed and calculating and recording the net coking time for each oven; and

(3) Increasing the coking time for each oven that falls below the minimum flue temperature trigger established for that oven's coking time in the written plan required in § 63.7292(a)(1), assigning the oven to the oven-directed program, and recording all relevant information according to the requirements in § 63.7292(a)(4) including, but not limited to, daily pushing schedules, diagnostic procedures, corrective actions, and oven repairs.

(c) For each non-recovery coke oven battery subject to the work practice standards in § 63.7293(a), you must demonstrate continuous compliance by maintaining records that document each visual inspection of an oven prior to pushing and that the oven was not pushed unless there was no smoke in the open space above the coke bed and there was an unobstructed view of the door on the opposite side of the oven.

(d) For each by-product coke oven battery subject to the work practice standard for soaking in § 63.7294(a), you must demonstrate continuous compliance by maintaining records that document conformance with requirements in § 63.7294(a)(1) through (5).

(e) For each coke oven battery subject to the work practice standard for quenching in § 63.7295(b), you must demonstrate continuous compliance according to the requirements of paragraphs (e)(1) through (3) of this section:

(1) Maintaining baffles in each quench tower such that no more than 5 percent of the cross-sectional area of the tower is uncovered or open to the sky as required in § 63.7295(b)(1);

(2) Maintaining records that document conformance with the washing, inspection, and repair requirements in § 63.7295(b)(2), including records of the ambient temperature on any day that the baffles were not washed; and

(3) Maintaining records of the source of makeup water to document conformance with the requirement for acceptable makeup water in § 63.7295(a)(2).

§ 63.7335 How do I demonstrate continuous compliance with the operation and maintenance requirements that apply to me?

(a) For each by-product coke oven battery, you must demonstrate continuous compliance with the operation and maintenance requirements in § 63.7300(b) by adhering at all times to the plan requirements and recording all information needed to document conformance.

(b) For each coke oven battery with a capture system or control device applied to pushing emissions, you must demonstrate continuous compliance with the operation and maintenance requirements in § 63.7300(c) by meeting the requirements of paragraphs (b)(1) through (3) of this section:

(1) Making monthly inspections of capture systems according to § 63.7300(c)(1) and recording all information needed to document conformance with these requirements;

(2) Performing preventative maintenance for each control device according to § 63.7300(c)(2) and recording all information needed to document conformance with these requirements; and

(3) Initiating and completing corrective action for a bag leak detection system alarm according to § 63.7300(c)(3) and recording all information needed to document conformance with these requirements. This includes records of the times the bag leak detection system alarm sounds, and for each valid alarm, the time you initiated corrective action, the corrective action(s) taken, and the date on which corrective action is completed.

(c) To demonstrate continuous compliance with the operation and maintenance requirements for a baghouse applied to pushing emissions from a coke oven battery in § 63.7331(a), you must inspect and maintain each baghouse according to the requirements in § 63.7331(a)(1) through (8) and record all information needed to document conformance with these requirements. If you increase or decrease the sensitivity of the bag leak detection system beyond the limits specified in § 63.7331(a)(6), you must include a copy of the required written certification by a responsible official in the next semiannual compliance report.

(d) You must maintain a current copy of the operation and maintenance plans required in § 63.7300(b) and (c) onsite and available for inspection upon request. You must keep the plans for the life of the affected source or until the affected source is no longer subject to the requirements of this subpart.

§ 63.7336 What other requirements must I meet to demonstrate continuous compliance?

(a) *Deviations.* You must report each instance in which you did not meet each emission limitation in this subpart that applies to you. This includes periods of startup, shutdown, and malfunction. You must also report each instance in which you did not meet each work practice standard or operation and maintenance requirement in this subpart that applies to you. These instances are deviations from the emission limitations (including operating limits), work practice standards, and operation and maintenance requirements in this subpart. These deviations must be reported according to the requirements in § 63.7341.

(b) *Startup, shutdowns, and malfunctions.* During periods of startup, shutdown, and malfunction, you must operate in accordance with your startup, shutdown, and malfunction plan.

(1) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in

accordance with the startup, shutdown, and malfunction plan.

(2) The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

Notification, Reports, and Records

§ 63.7340 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.6(h)(4) and (5), 63.7(b) and (c), 63.8(e) and (f)(4), and 63.9(b) through (h) that apply to you by the specified dates.

(b) As specified in § 63.9(b)(2), if you startup your affected source before April 14, 2003, you must submit your initial notification no later than August 12, 2003.

(c) As specified in § 63.9(b)(3), if you startup your new affected source on or after April 14, 2003, you must submit your initial notification no later than 120 calendar days after you become subject to this subpart.

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

(e) If you are required to conduct a performance test, opacity observation, or other initial compliance demonstration, you must submit a notification of compliance status according to § 63.9(h)(2)(ii).

(1) For each initial compliance demonstration that does not include a performance test, you must submit the notification of compliance status before the close of business on the 30th calendar day following the completion of the initial compliance demonstration.

(2) For each initial compliance demonstration that does include a performance test, you must submit the notification of compliance status, including the performance test results, before the close of business on the 60th calendar day following completion of the performance test according to § 63.10(d)(2).

(f) For each by-product coke oven battery with horizontal flues, you must notify the Administrator (or delegated authority) of the date on which the study of flue temperatures required by § 63.7292(a)(3) will be initiated. You must submit this notification no later than 7 days prior to the date you initiate the study.

§ 63.7341 What reports must I submit and when?

(a) *Compliance report due dates.* Unless the Administrator has approved a different schedule, you must submit quarterly compliance reports for battery stacks and semiannual compliance reports for all other affected sources to your permitting authority according to the requirements in paragraphs (a)(1) through (4) of this section.

(1) The first quarterly compliance report for battery stacks must cover the period beginning on the compliance date that is specified for your affected source in § 63.7283 and ending on the last date of the third calendar month. Each subsequent compliance report must cover the next calendar quarter.

(2) The first semiannual compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.7283 and ending on June 30 or December 31, whichever date comes first after the compliance date that is specified for your affected source. Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(3) All quarterly compliance reports for battery stacks must be postmarked or delivered no later than one calendar month following the end of the quarterly reporting period. All semiannual compliance reports must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(4) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (a)(1) through (3) of this section.

(b) *Quarterly compliance report contents.* Each quarterly report must provide information on compliance with the emission limitations for battery stacks in § 63.7296. The reports must include the information in paragraphs (c)(1) through (3), and as applicable, paragraphs (c)(4) through (8) of this section.

(c) *Semiannual compliance report contents.* Each compliance report must provide information on compliance with the emission limitations, work practice standards, and operation and maintenance requirements for all affected sources except battery stacks. The reports must include the information in paragraphs (c)(1) through (3) of this section, and as applicable, paragraphs (c)(4) through (8) of this section.

(1) Company name and address.

(2) Statement by a responsible official, with the official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).

(5) If there were no deviations from the continuous compliance requirements in § 63.7333(e) for battery stacks, a statement that there were no deviations from the emission limitations during the reporting period. If there were no deviations from the continuous compliance requirements in §§ 63.7333 through 63.7335 that apply to you (for all affected sources other than battery stacks), a statement that there were no deviations from the emission limitations, work practice standards, or operation and maintenance requirements during the reporting period.

(6) If there were no periods during which a continuous monitoring system (including COMS, continuous emission monitoring system (CEMS), or CPMS) was out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which a continuous monitoring system was out-of-control during the reporting period.

(7) For each deviation from an emission limitation in this subpart (including quench water limits) and for each deviation from the requirements for work practice standards in this subpart that occurs at an affected source where you are not using a continuous monitoring system (including a COMS, CEMS, or CPMS) to comply with the emission limitations in this subpart, the compliance report must contain the information in paragraphs (c)(4) and (7)(i) and (ii) of this section. This includes periods of startup, shutdown, and malfunction.

(i) The total operating time of each affected source during the reporting period.

(ii) Information on the number, duration, and cause of deviations (including unknown cause, if

applicable) as applicable and the corrective action taken.

(8) For each deviation from an emission limitation occurring at an affected source where you are using a continuous monitoring system (including COMS, CEMS, or CPMS) to comply with the emission limitation in this subpart, you must include the information in paragraphs (c)(4) and (8)(i) through (xii) of this section. This includes periods of startup, shutdown, and malfunction.

(i) The date and time that each malfunction started and stopped.

(ii) The date and time that each continuous monitoring system (including COMS, CEMS, or CPMS) was inoperative, except for zero (low-level) and high-level checks.

(iii) The date, time, and duration that each continuous monitoring system (including COMS, CEMS, or CPMS) was out-of-control, including the information in § 63.8(c)(8).

(iv) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(v) A summary of the total duration of the deviation during the reporting period and the total duration as a percent of the total source operating time during that reporting period.

(vi) A breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(vii) A summary of the total duration of continuous monitoring system downtime during the reporting period and the total duration of continuous monitoring system downtime as a percent of the total source operating time during the reporting period.

(viii) An identification of each HAP that was monitored at the affected source.

(ix) A brief description of the process units.

(x) A brief description of the continuous monitoring system.

(xi) The date of the latest continuous monitoring system certification or audit.

(xii) A description of any changes in continuous monitoring systems, processes, or controls since the last reporting period.

(d) *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, you must submit an immediate startup, shutdown, and malfunction report according to the requirements in § 63.10(d)(5)(ii).

(e) *Part 70 monitoring report.* If you have obtained a title V operating permit for an affected source pursuant to 40 CFR part 70 or 40 CFR part 71, you must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If you submit a compliance report for an affected source along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the compliance report includes all the required information concerning deviations from any emission limitation or work practice standard in this subpart, submission of the compliance report satisfies any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report does not otherwise affect any obligation you may have to report deviations from permit requirements to your permitting authority.

§ 63.7342 What records must I keep?

(a) You must keep the records specified in paragraphs (a)(1) through (3) of this section.

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any initial notification or notification of compliance status that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(3) Records of performance tests, performance evaluations, and opacity observations as required in § 63.10(b)(2)(viii).

(b) For each COMS or CEMS, you must keep the records specified in paragraphs (b)(1) through (4) of this section.

(1) Records described in § 63.10(b)(2)(vi) through (xi).

(2) Monitoring data for COMS during a performance evaluation as required in § 63.6(h)(7)(i) and (ii).

(3) Previous (that is, superceded) versions of the performance evaluation plan as required in § 63.8(d)(3).

(4) Records of the date and time that each deviation started and stopped, and whether the deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(c) You must keep the records in § 63.6(h)(6) for visual observations.

(d) You must keep the records required in §§ 63.7333 through 63.7335 to show continuous compliance with each emission limitation, work practice standard, and operation and maintenance requirement that applies to you.

§ 63.7343 In what form and how long must I keep my records?

(a) You must keep your records in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.7350 What parts of the General Provisions apply to me?

Table 1 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

§ 63.7351 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the United States Environmental Protection Agency (U.S. EPA), or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities in paragraphs (c)(1) through (6) of this section will not be delegated to State, local, or tribal agencies.

(1) Approval of alternatives to work practice standards for fugitive pushing emissions in § 63.7291(a) for a by-product coke oven battery with vertical flues, fugitive pushing emissions in § 63.7292(a) for a by-product coke oven battery with horizontal flues, fugitive pushing emissions in § 63.7293 for a non-recovery coke oven battery, soaking

for a by-product coke oven battery in § 63.7294(a), and quenching for a coke oven battery in § 63.7295(b) under § 63.6(g).

(2) Approval of alternative opacity emission limitations for a by-product coke oven battery under § 63.6(h)(9).

(3) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90, except for alternative procedures in § 63.7334(a)(7).

(4) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(5) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

(6) Approval of the work practice plan for by-product coke oven batteries with horizontal flues submitted under § 63.7292(a)(1).

§ 63.7352 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act (CAA), in § 63.2, and in this section as follows:

Acceptable makeup water means surface water from a river, lake, or stream; water meeting drinking water standards; storm water runoff and production area clean up water except for water from the by-product recovery plant area; process wastewater treated to meet effluent limitations guidelines in 40 CFR part 420; water from any of these sources that has been used only for non-contact cooling or in water seals; or water from scrubbers used to control pushing emissions.

Backup quench station means a quenching device that is used for less than 5 percent of the quenches from any single coke oven battery in the 12-month period from July 1 to June 30.

Baffles means an apparatus comprised of obstructions for checking or deflecting the flow of gases. Baffles are installed in a quench tower to remove droplets of water and particles from the rising vapors by providing a point of impact. Baffles may be installed either inside or on top of quench towers and are typically constructed of treated wood, steel, or plastic.

Battery stack means the stack that is the point of discharge to the atmosphere of the combustion gases from a battery's underfiring system.

Batterywide extended coking means increasing the average coking time for all ovens in the coke oven battery by 25 percent or more over the manufacturer's specified design rate.

By-product coke oven battery means a group of ovens connected by common walls, where coal undergoes destructive distillation under positive pressure to produce coke and coke oven gas from which by-products are recovered.

By-product recovery plant area means that area of the coke plant where process units subject to subpart L in part 61 are located.

Coke oven battery means a group of ovens connected by common walls, where coal undergoes destructive distillation to produce coke. A coke oven battery includes by-product and non-recovery processes.

Coke plant means a facility that produces coke from coal in either a by-product coke oven battery or a non-recovery coke oven battery.

Cokeside shed means a structure used to capture pushing emissions that encloses the cokeside of the battery and ventilates the emissions to a control device.

Coking time means the time interval that starts when an oven is charged with coal and ends when the oven is pushed.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart including, but not limited to, any emission limitation (including operating limits) or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Emission limitation means any emission limit, opacity limit, or operating limit.

Four consecutive pushes means four pushes observed successively.

Fugitive pushing emissions means emissions from pushing that are not collected by a capture system.

Horizontal flue means a type of coke oven heating system used on Semet-Solvay batteries where the heating flues run horizontally from one end of the oven to the other end, and the flues are not shared with adjacent ovens.

Hot water scrubber means a mobile scrubber used to control pushing emissions through the creation of an induced draft formed by the expansion of pressurized hot water through a nozzle.

Increased coking time means increasing the charge-to-push time for an individual oven.

Non-recovery coke oven battery means a group of ovens connected by common walls and operated as a unit, where coal undergoes destructive distillation under negative pressure to produce coke, and which is designed for the combustion of the coke oven gas from which by-products are not recovered.

Oven means a chamber in the coke oven battery in which coal undergoes destructive distillation to produce coke.

Pushing means the process of removing the coke from the oven. Pushing begins with the first detectable movement of the coke mass and ends when the quench car enters the quench tower.

Quenching means the wet process of cooling (wet quenching) the hot incandescent coke by direct contact with water that begins when the quench car enters the quench tower and ends when the quench car exits the quench tower.

Quench tower means the structure in which hot incandescent coke in the quench car is deluged or quenched with water.

Remove from service means that an oven is not charged with coal and is not used for coking. When removed from service, the oven may remain at the operating temperature or it may be cooled down for repairs.

Responsible official means responsible official as defined in § 63.2.

Short battery means a by-product coke oven battery with ovens less than five meters in height.

Soaking means that period in the coking cycle that starts when an oven is dampered off the collecting main and vented to the atmosphere through an open standpipe prior to pushing and ends when the coke begins to be pushed from the oven.

Soaking emissions means the discharge from an open standpipe during soaking of visible emissions due to either incomplete coking or leakage into the standpipe from the collecting main.

Standpipe means an apparatus on the oven that provides a passage for gases from an oven to the atmosphere when the oven is dampered off the collecting main and the standpipe cap is opened. This includes mini-standpipes that are not connected to the collecting main.

Tall battery means a by-product coke oven battery with ovens five meters or more in height.

Vertical flue means a type of coke oven heating system in which the heating flues run vertically from the bottom to the top of the oven, and flues are shared between adjacent ovens.

Work practice standard means any design, equipment, work practice, or operational standard, or combination

thereof, that is promulgated pursuant to section 112(h) of the CAA.

As required in § 63.7350, you must comply with each applicable requirement of the NESHAP General Provisions (40 CFR part 63, subpart A) as shown in the following table:

TABLES TO SUBPART CCCCC OF PART 63

[Table 1 to Subpart CCCCC of Part 63. Applicability of General Provisions to Subpart CCCCC]

Citation	Subject	Applies to Subpart CCCCC?	Explanation
§ 63.1	Applicability	Yes.	
§ 63.2	Definitions	Yes.	
§ 63.3	Units and Abbreviations	Yes.	
§ 63.4	Prohibited Activities	Yes.	
§ 63.5	Construction/Reconstruction	Yes.	
§ 63.6(a), (b), (c), (d), (e), (f), (g), (h)(2)–(8).	Compliance with Standards and Maintenance Requirements.	Yes.	
§ 63.6(h)(9)	Adjustment to an Opacity Emission Standard	Yes.	
§ 63.7(a)(3), (b), (c)–(h).	Performance Testing Requirements	Yes.	
§ 63.7(a)(1)–(2)	Applicability and Performance Test Dates	No	Subpart CCCCC specifies applicability and dates.
§ 63.8(a)(1)–(3), (b), (c)(1)–(3), (c)(4)(i)–(ii), (c)(5)–(8), (d), (e), (f)(1)–(5), (g)(1)–(4).	Monitoring Requirements	Yes	CMS requirements in § 63.8(c)(4) (i)–(ii), (c)(5), and (c)(6) apply only to COMS for battery stacks.
§ 63.8(a)(4)	Additional Monitoring Requirements for Control Devices in § 63.11.	No	Flares are not a control device for Subpart CCCCC affected sources.
§ 63.8(c)(4)	Continuous Monitoring System (CMS) Requirements.	No	Subpart CCCCC specifies requirements for operation of CMS.
§ 63.8(e)(4)–(5)	Performance Evaluations	Yes	Except COMS performance evaluation must be conducted before the compliance date.
§ 63.8(f)(6)	RATA Alternative	No	Subpart CCCCC does not require CEMS.
§ 63.8(g)(5)	Data Reduction	No	Subpart CCCCC specifies data that can't be used in computing averages for COMS.
§ 63.9	Notification Requirements	Yes	Additional notifications for CMS in § 63.9(g) apply only to COMS for battery stacks.
§ 63.10(a), (b)(1)–(b)(2)(xii), (b)(2)(xiv), (b)(3), (c)(1)–(6), (c)(9)–(15), (d), (e)(1)–(2), (e)(4), (f).	Recordkeeping and Reporting Requirements	Yes.	Additional records for CMS in § 63.10(c)(1)–(6), (9)–(15), and reports in § 63.10(d)(1)–(2) apply only to COMS for battery stacks.
§ 63.10(b)(2) (xi)–(xii).	CMS Records for RATA Alternative	No	Subpart CCCCC doesn't require CEMS.
§ 63.10(c)(7)–(8)	Records of Excess Emissions and Parameter Monitoring Exceedances for CMS.	No	Subpart CCCCC specifies record requirements.
§ 63.10(e)(3)	Excess Emission Reports	No	Subpart CCCCC specifies reporting requirements.
§ 63.11	Control Device Requirements	No	Subpart CCCCC does not require flares.
§ 63.12	State Authority and Delegations.	Yes.	
§§ 63.13–63.15	Addresses, Incorporation by Reference, Availability of Information.	Yes.	

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Part II

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0088, FRL–7462–6]

RIN 2060–AG68

National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for new and existing refractory products manufacturing facilities and implements section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of maximum achievable control technology (MACT). The final rule will protect air quality and promote the public health by reducing emissions of several of the HAP listed in section 112(b)(1) of the CAA, including ethylene glycol, formaldehyde, hydrogen fluoride (HF), hydrochloric acid (HCl), methanol, phenol, and polycyclic organic matter (POM). Exposure to these substances has been demonstrated to cause adverse health effects such as irritation of the lung, skin, and mucous membranes, effects on the central nervous system, and damage to the liver, kidneys, and skeleton. The EPA has classified the HAP formaldehyde and POM as probable human carcinogens. The final rule will reduce nationwide emissions of HAP from these facilities by an estimated 124 megagrams per year (Mg/yr) (137 tons per year (tpy)).

EFFECTIVE DATE: April 16, 2003.

ADDRESSES: Docket No. OAR–2002–0088 contains supporting information used in developing the final rule. The docket is located at the Air and Radiation Docket and Information Center in the EPA Docket Center, (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW, Washington, DC 20460, telephone (202) 566–1744.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Fairchild, U.S. EPA, Office of Air Quality Planning and Standards, Emission Standards Division, Minerals and Inorganic Chemicals Group, (C504–05), Research Triangle Park, NC 27711, telephone number (919) 541–5167, electronic mail address *fairchild.susan@epa.gov.*

SUPPLEMENTARY INFORMATION:

Regulated Entities. Categories and entities potentially regulated by this action include those listed in the following table:

Category	NAICS	Examples of regulated entities
Industrial	327124	Clay refractories manufacturing plants.
Industrial	327125	Nonclay refractories manufacturing plants.

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 § 63.9782 of today's 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.

Electronic Docket (E-Docket). The EPA has established an official public docket for this action under Docket ID No. OAR–2002–0088. The official public docket is the collection of materials that is available for public viewing in the Refractory Products Manufacturing NESHAP Docket at the Air and Radiation Docket and Information Center in the EPA Docket Center, (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC 20460. The Docket Center is open from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

Electronic Access. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, select "search" and key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as confidential business information and other information whose disclosure is restricted by statute, which are not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. The EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in this document.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's document also will be available on the WWW. Following the Administrator's signature, a copy of this action will be posted at *http://www.epa.gov/ttn/oarpg* on EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of the final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by June 16, 2003. 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 public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by the final rule may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

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

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H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Congressional Review Act

I. Background and Public Participation

A. What is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. Major sources of HAP are those that have the potential to emit greater than 10 tpy of any one HAP or 25 tpy of any combination of HAP. The category of major sources covered by the final rule was listed as Chromium Refractories Production on July 16, 1992 (57 FR 31576).

Section 112(c) of the CAA allows EPA to revise the source category list at any time. After obtaining information from chromium refractories manufacturing plants that indicated that some facilities were major sources due to HAP emissions from the manufacturing of nonchromium refractories, we decided to expand the scope of the source category to include most manufacturers of refractory products. On November 18, 1999, we revised the source category name from Chromium Refractories Production to Refractories Manufacturing (64 FR 63025) to reflect the broadened scope of the source category. At proposal (67 FR 42108, June 20, 2002), we changed the source category name from Refractories Manufacturing to Refractory Products Manufacturing to further clarify the source category.

B. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standards are set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

C. How Was the Rule Developed?

We proposed the standards for refractory products manufacturing on June 20, 2002 (67 FR 42108). The public comment period lasted from June 20, 2002 to August 19, 2002. Industry representatives, regulatory agencies, environmental groups, and the general public were given the opportunity to comment on the proposed rule and to provide additional information during the public comment period. We offered at proposal the opportunity for oral presentation of data, views, or arguments concerning the proposed rule at a public hearing. One organization requested a public hearing, but it later withdrew the request, and a hearing was not held.

We received a total of eight public comments on the proposed rule. Comments were submitted by three industry trade associations, two refractory products manufacturing companies, and two other companies. One trade association submitted two sets of comments. The final rule reflects our full consideration of all of the comments received. Major public comments on the proposed rule, along with our responses to those comments, are summarized in this preamble.

II. Summary of the Final Rule

A. What Source Category Is Affected by the Final Rule?

Today's final rule applies to the Refractory Products Manufacturing source category. This source category includes, but is not limited to, any facility that manufactures refractory bricks and shapes that are produced using an organic HAP compound, pitch-impregnated refractory products, fired chromium refractory products, and fired clay refractory products. Fired refractory products are those that have undergone thermal processing in a kiln.

B. What Are the Affected Sources?

Today's final rule establishes emission limitations (emission limits and operating limits) and work practice standards for several types of refractory products manufacturing sources. Table 1 of this preamble lists the affected sources that will be subject to today's final rule.

TABLE 1.—AFFECTED SOURCES FOR THE REFRACTORY PRODUCTS MANUFACTURING RULE

Refractory product type	Affected sources
Sources subject to emission limits:	
Resin-bonded	Existing and new curing ovens and kilns.
Pitch-bonded ..	Existing and new curing ovens and kilns.

TABLE 1.—AFFECTED SOURCES FOR THE REFRACTORY PRODUCTS MANUFACTURING RULE—Continued

Refractory product type	Affected sources
Pitch-impregnated.	Existing and new defumers and coking ovens, and new shape preheaters.
Other formed products that use organic additives.	Existing and new shape dryers and kilns used to process refractory shapes that are made using an organic HAP compound.
Clay	New kilns.
Sources subject to work practice standards:	
Pitch-impregnated.	Existing shape preheaters and existing and new pitch working tanks.
Chromium	Existing and new kilns.
Clay	Existing kilns.

C. What Are the Emission Limits?

Today's final rule specifies separate emission limits for existing and new thermal process sources that emit organic HAP and new clay refractory products kilns. Facilities that operate thermal process sources that emit organic HAP have the option of meeting a total hydrocarbon (THC) concentration limit of 20 parts per million by volume, dry basis (ppmvd), corrected to 18 percent oxygen, or reducing THC mass emissions by at least 95 percent. The sources that will be subject to these organic HAP emission limits include new and existing shape dryers, curing ovens, kilns, coking ovens, and defumers. In addition, new shape preheaters will be subject to these same emission limits. For continuous process sources of organic HAP, the format of the emission limits is a 3-hour block average. For batch process sources, the format of the standard is the average of the 3-hour peak THC emissions periods for two test runs.

For affected new clay refractory products kilns, the final rule includes separate emission limits for HF and HCl. For affected continuous kilns, you will have to meet an HF emission limit of 0.019 kilograms per megagram (kg/Mg) (0.038 pounds per ton (lb/ton)) of uncalcined clay processed or reduce HF mass emissions by at least 90 percent. You will also be required to meet an HCl emission limit of 0.091 kg/Mg (0.18 lb/ton) of product or reduce uncontrolled HCl emissions by at least 30 percent. If you own or operate a new affected periodic (batch process) clay refractory products kiln, you will be required to reduce HF emissions by at least 90 percent and HCl emissions by at least 30 percent.

D. What Are the Operating Limits?

Operating limits are limits on operating parameters of process equipment or control devices. Today's final rule specifies process and control device operating limits for thermal process sources that emit organic HAP and for clay refractory kilns. For each of these operating limits, you will be required to measure the appropriate operating parameters during the performance test and establish limits on the operating parameters based on those measurements. Following the performance test, you will be required to monitor those parameters and ensure that the established limits are not exceeded.

For affected thermal process sources that emit organic HAP, we are requiring operating limits on the organic HAP processing rate and the operating temperatures of your control devices. The operating limit on the organic HAP processing rate requires you to maintain the rate at which organic HAP are processed in an affected process unit at or below the rate measured during the most recent performance test. For sources that are controlled with a thermal oxidizer, you will be required to establish the operating limit for the combustion chamber temperature. For affected sources that are controlled with a catalytic oxidizer, you will be required to establish the operating limit for the temperature at the inlet of the catalyst bed. Also, you must check the activity level of the catalyst at least every 12 months.

If you have a new clay refractory products kiln that is controlled with a dry limestone adsorber (DLA), you will be required to monitor continuously the pressure drop across the DLA and check the limestone feed hopper and feeder setting at least daily to ensure that the limestone is free flowing. You will also be required to document the source of the limestone used during the most recent performance test and maintain records that demonstrate that the source of limestone has not changed.

If you own or operate a new clay refractory products kiln that is controlled with dry lime injection fabric filters (DIFF) or dry lime scrubber/fabric filters (DLS/FF), you will be required to install a bag leak detection system, initiate corrective action within 1 hour of a bag leak detection system alarm, and complete corrective actions according to your operation, maintenance, and monitoring (OM&M) plan. You will also be required to verify at least once every 8 hours that lime is free flowing and record the lime feeder setting daily to confirm that the feeder setting is at or above the level established during the most recent performance test. If you use a wet scrubber, you will be required to establish operating limits for the pressure drop across the scrubber, liquid pH, liquid flow rate, and chemical feed rate (if applicable).

If you use a control device or technique listed in today's final rule, you may establish operating limits for alternative operating parameters subject to prior written approval by the Administrator on a case-by-case basis. You will be required to submit the application for approval of alternative operating parameters no later than the notification of the performance test. You will have to install, operate, and maintain the alternative parameter monitoring systems in accordance with the application approved by the Administrator.

E. What Are the Work Practice Standards?

Today's final rule establishes work practice standards for existing shape preheaters that are used to produce pitch-impregnated refractory products, existing and new pitch working tanks that are used to produce pitch-impregnated refractory products, existing and new chromium refractory products kilns, and existing clay refractory products kilns.

If you operate an affected existing shape preheater, you will be required to control emissions of POM from the shape preheater by cleaning the residual pitch from the surfaces of the baskets or containers that are used for holding refractory shapes in a shape preheater and autoclave at least every ten impregnation cycles, or by ducting the exhaust from the shape preheater to a control device that meets the applicable emission limits for thermal process sources of organic HAP. If you choose to clean the basket surfaces, you may remove residual pitch by abrasive blasting or subject the baskets to a thermal process cycle that matches or exceeds the temperature and cycle time of the affected shape preheater and is ducted to a thermal or catalytic oxidizer that is comparable to the control device for your defumer or coking oven. If you choose to duct shape preheater emissions to a control device, you may duct the emissions to the coking oven control device, defumer control device, or to another thermal or catalytic oxidizer that is comparable to the coking oven or defumer controls and meets the applicable emission limits for thermal process sources of organic HAP.

If you have an affected existing or new pitch working tank, you must duct the exhaust from the tank to either the coking oven control device, the defumer control device, or an equivalent thermal or catalytic oxidizer.

If you have an affected existing or new chromium refractory products kiln or an affected existing clay refractory products kiln, you must use natural gas, or an equivalent fuel, as the kiln fuel at all times except during periods of natural gas curtailment or other periods when natural gas is not available.

F. What Are the Testing and Initial Compliance Requirements for Sources Subject to Emission Limits?

Under today's final rule, you must conduct an initial performance test on each affected source to demonstrate initial compliance with the emission limits. In accordance with 40 CFR 63.7(a)(2), you are required to conduct the test within 180 days after the compliance date using specified test methods.

If you have an affected existing or new shape dryer, curing oven, kiln, coking oven, or defumer, or a new shape preheater, and you choose to comply with the THC concentration limit of 20 ppmvd corrected to 18 percent oxygen, you must measure emissions of THC in stack gases exhausted to the atmosphere using EPA Method 25A of 40 CFR part 60, appendix A, Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer. You must also measure the oxygen concentration of the stack gas using EPA Method 3A of 40 CFR part 60, appendix A, Determination of Oxygen and Carbon Dioxide Concentrations in Emissions From Stationary Sources (Instrumental Analyzer Procedure). If you decide to comply with the 95 percent THC reduction limit, you must measure THC mass emissions at the inlet and outlet of the control device using EPA Method 25A.

For continuous process sources, you must conduct a minimum of three 1-hour test runs. For batch process sources, you must conduct at least two test runs. Each batch process test run must be conducted over a separate batch cycle, unless you manufacture the product associated with the maximum organic HAP processing rate infrequently and it will disrupt production to perform the compliance test over multiple process cycles. In such cases, you may conduct both runs of the performance test simultaneously over a single batch process cycle using paired sampling trains.

Today's final rule requires affected batch process sources to be tested throughout two complete batch cycles unless you develop an emissions profile or meet certain conditions for terminating a performance test run before the completion of the batch cycle. If you choose to develop an emissions profile, you must sample THC emissions throughout a complete batch cycle, determine the average THC mass emissions rate for each hour of the batch cycle, and identify the 3-hour period of peak THC emissions. During any subsequent test runs, you are not required to sample emissions outside that 3-hour period of peak THC emissions. During subsequent performance tests, you will have to complete at least two test runs, but you will only have to test during the 3-hour peak emissions period for each run.

If you choose not to develop an emissions profile, you may terminate testing before the completion of a batch cycle if you meet certain conditions. For each of two test runs, you will have to begin testing at the start of the batch cycle and continue testing for at least 3 hours beyond the precise time when the process reaches peak operating temperature. You may stop the test run at that time if you can show that the following conditions are met: (1) THC concentrations are not increasing over the 3-hour period since the process peak temperature was reached; (2) at least 1 hour has passed since any reduction in the operating temperature of the control device (thermal or catalytic oxidizer); and (3) either the average THC concentration at the inlet to the control device for the previous hour has not exceeded 20 ppmvd, corrected to 18 percent oxygen, or your source met the applicable emission limit at the control device outlet during each of the previous 3 hours after the process reached peak temperature.

For both continuous process and batch process performance tests, you must conduct performance tests on affected thermal process sources under the conditions that will result in the highest levels of organic HAP emissions expected to occur for that affected source. You determine these "worst-case" conditions by taking into account the organic HAP processing rate, the process operating temperatures, and the processing times. The organic HAP processing rate is the rate at which the mass of organic HAP materials contained in refractory shapes are processed in an affected thermal process source.

If you decide to start production of a refractory product that is likely to have an organic HAP processing rate that is more than 10 percent greater than the rate established during the most recent performance test, you will be required to conduct a new performance test for that product and establish a new operating limit for the organic HAP processing rate. You will also have to conduct a new performance test on an affected uncontrolled kiln following any process changes that are likely to increase kiln emissions of organic HAP.

If the source is a batch process source and is controlled with a thermal or catalytic oxidizer, you may reduce the operating temperature of the control device or shut the control device off if you satisfy all of the following conditions: (1) You do not use an emissions profile and limit testing to the 3-hour peak emissions period; (2) at least 3 hours have passed since the process unit reached its maximum temperature; (3) the applicable emission limit (THC concentration or THC percentage reduction) has been met during each of the three 1-hour periods since the process reached peak temperature; (4) mass emissions of THC have not increased during the 3-hour period since maximum process temperature was reached; and (5) either the average THC concentration at the inlet to the oxidizer has not exceeded 20 ppmvd, corrected to 18 percent oxygen, for at least 1 hour, or the applicable emission limit has been met during each of the four 15-minute periods immediately following the oxidizer temperature reduction. If you elect to shut off or reduce the temperature of a thermal or catalytic oxidizer by satisfying these conditions, you may use the results from the performance test to establish the time at which the oxidizer for that specific source can be shut off (or temperature reduced) during the production of other refractory products that use organic HAP. For any such product, you must operate the oxidizer at a temperature at least as high as that established during the performance test, minus 16°C (25°F), from the start of the batch cycle until 3 hours have passed since the process reached its peak temperature. You will have to maintain that oxidizer temperature for the same length of time beyond the process peak temperature as during the performance test.

For each new kiln that manufactures clay refractory products, you must measure emissions of HF and HCl using one of three methods: (1) EPA Method 26A of 40 CFR part 60, appendix A, Determination of Hydrogen Halide and Halogen Emissions from Stationary Sources—Isokinetic Method; (2) EPA Method 26 of 40 CFR part 60, appendix A, Determination of Hydrogen Halide and Halogen Emissions from Stationary Sources—Non-isokinetic Method; or (3)

EPA Method 320 of 40 CFR part 63, appendix A, Measurement of Vapor Phase Organic and Inorganic Emissions by Extractive Fourier Transfer Infrared (FTIR) Spectroscopy. You can use Method 26 only if the gas stream does not contain HF or HCl in the solid phase (*e.g.*, HF as PM or HCl as PM). You must conduct the tests for HF and HCl while the affected kiln is operating at the maximum production level likely to occur. Each test run must last at least 1 hour in duration.

If you have an affected continuous clay refractory products kiln, you must determine initial compliance with the production-based mass emission limits for HF and HCl by calculating the mass emissions per unit of production for each test run using the mass emission rates of HF and HCl and the rate at which uncalcined clay is processed (on a fired-product basis), as measured during your performance test. To determine initial compliance with any of the percentage reduction emission limits, you must measure mass emissions of the specific HAP (HF or HCl) at the inlet and outlet of the control device for each test run.

If you have an affected batch process clay refractory kiln, you must comply with the percentage reduction limit. You will be required to test throughout two complete batch cycles unless you develop an emissions profile. If you choose to develop an emissions profile, you must sample HF and HCl emissions throughout one complete batch cycle. For both continuous and batch process kilns, you must measure and record the average uncalcined clay processing rate for each test run.

If you own or operate an affected new clay refractory products kiln that is controlled with a DLA, and you decide to change the source of limestone, you must repeat the performance test on the kiln within 60 days of the date when you begin using limestone from the new limestone source.

In addition to the procedures previously described, you will be required to follow the procedures specified in EPA Methods 1 to 4 of appendix A of 40 CFR part 60, where applicable. You must perform EPA Method 1, Sample and Velocity Traverses for Stationary Sources, (or Method 1A) to select the locations of sampling points and the number of traverse points. You must perform EPA Method 2, Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube), (or Method 2A, 2C, 2D, 2F, or 2G) to determine gas velocity and volumetric flow rate. You must perform EPA Method 3, Gas Analysis for the Determination of Dry Molecular Weight, (or Method 3A or 3B) to determine the exhaust gas molecular weight. You must perform EPA Method 4, Determination of Moisture Content in Stack Gases, to measure the moisture content of the exhaust gas.

Prior to the initial performance test, you must install any continuous parameter monitoring systems (CPMS) that are required for demonstrating continuous compliance. During the performance test, you must use those CPMS to establish the applicable operating limits (*e.g.*, minimum thermal oxidizer combustion chamber temperature).

G. What Are the Initial Compliance Requirements for Sources Subject to a Work Practice Standard?

If you own or operate an affected existing shape preheater, an existing pitch working tank, or a new pitch working tank, you must select a method for complying with the applicable work practice standard and provide a description of that method as part of your initial notification, as required by 40 CFR 63.9(b)(2). For affected shape preheaters, if you choose to comply with the work practice standard by cleaning pitch from basket or container surfaces, you must describe in your initial notification the cleaning method. If you choose to comply by capturing and ducting emissions from the shape preheater to a control device, you must describe the design (*e.g.*, thermal oxidizer combustion chamber temperature and residence time) and operation of that control device.

For affected existing or new pitch working tanks, you must describe, in your initial notification, the design and operation of the control device to which the emissions from the working tank are exhausted. You also must verify that the performance of the control device is the same as, or is equivalent to, the control device that is used to control organic HAP emissions from an affected defumer or coking oven.

For affected new or existing chromium refractory products kilns and for existing clay refractory products kilns, you must indicate, in your initial notification, the type of fuel used in those kilns.

H. What Are the Continuous Compliance Requirements for Sources Subject to Emission Limits?

Today's final rule requires owners and operators of affected sources to demonstrate continuous compliance with each emission limitation. You must follow the requirements in your OM&M plan and in your startup, shutdown, and malfunction plan (SSMP) and document conformance with both plans. For each affected source equipped with an add-on air pollution control device (APCD), you must inspect each system at least once each calendar year and record the results of each inspection. You must install, operate, and maintain each required CPMS to monitor the operating parameters established during your initial performance test. You must collect all data while the process is operational. You will have to operate the CPMS at all times when the process is operating. You must also conduct proper maintenance of the CPMS, including inspections, calibrations, and validation checks. You must repeat any required performance tests at least every 5 years.

For each affected source, you must monitor and maintain the organic HAP processing rate below the level established during the most recent performance test. You must also record the process operating temperature hourly. For batch process sources, you must record the cycle time for each batch cycle. If you decide to start production of a refractory product that is likely to have an organic HAP processing rate that is more than 10 percent greater than the maximum organic HAP processing rate established during the most recent performance test, you will have to conduct a new performance test for that product and establish a new operating limit for the maximum organic HAP processing rate.

For affected continuous sources that are controlled with a thermal oxidizer, you must maintain the 3-hour block average combustion chamber temperature at or above the combustion chamber temperature operating limit established during the most recent performance test. For affected continuous sources that are controlled with a catalytic oxidizer, you must maintain the 3-hour block average temperature at the inlet of the catalyst bed at or above the corresponding temperature operating limit established during the most recent performance test. For affected batch process sources that are controlled with a thermal oxidizer, you must maintain the average hourly combustion chamber temperature at or above the combustion chamber temperature operating limit established during the most recent performance test.

To document compliance with these operating limits for thermal or catalytic oxidizers, you must measure and record the specified average hourly temperatures. You must also report any average hourly control device operating temperature below the operating limit

established during the most recent performance test.

If you control emissions from an affected source using process modifications or an add-on control device other than a thermal or catalytic oxidizer, you must demonstrate continuous compliance by operating a THC continuous emission monitoring system (CEMS) in accordance with Procedure 1 of 40 CFR part 60, appendix F.

For new clay refractory kilns that are controlled with a DLA, you must monitor continuously the pressure drop across the DLA. You also must check the limestone feed hopper and limestone feeder setting daily to ensure that there is limestone in the hopper, the limestone is free flowing, and the feed rate has not changed. In addition, you must continue using the same source of limestone as was used during the most recent performance test and maintain records that demonstrate that the source of limestone has not changed.

For new clay refractory kilns that are controlled with a DIFF or DLS/FF, you must maintain free-flowing lime in the feed hopper or silo at all times. You also must maintain the lime feeder setting at or above the level established during the most recent performance test and record the feeder setting once each day. You must initiate corrective action within 1 hour of a bag leak detection system alarm and complete corrective actions according to your OM&M plan.

For kilns that are controlled with a wet scrubber, you must continuously maintain the 3-hour block average scrubber pressure drop, scrubber liquid pH, scrubber liquid flow rate, and chemical addition rate (if applicable) at or above the corresponding operating limits established during the most recent performance test. Finally, you must record the uncalcined clay processing rate for all affected kilns.

If you operate an affected continuous kiln, you may bypass the control device and continue operating the kiln during periods of scheduled maintenance on the kiln control device, upon approval of the permitting authority. However, you must request prior approval from the permitting authority before taking the control device offline. You must minimize HAP emissions during the period when the control device is offline. You must also minimize the time period when the control device is offline. Unlike scheduled maintenance, a malfunction of a control device must be addressed in your SSMP. As specified in 40 CFR 63.6(f)(1) and (h)(1), emission standards do not apply during periods of startup, shutdown, or malfunction.

I. What Are the Continuous Compliance Requirements for Sources Subject to a Work Practice Standard?

If you have an affected existing shape preheater, an existing pitch working tank, or a new pitch working tank, you must perform the appropriate work practice, and you must document in your Notification of Compliance Status that you have complied with the work practice standard, as required by 40 CFR 63.9.

For affected new or existing chromium refractory products kilns and for existing clay refractory products kilns, you must use natural gas, or its equivalent, as the kiln fuel, and document the type of fuel used. During periods of natural gas curtailment or other periods when natural gas is unavailable, you are allowed to use an alternative fuel. However, you must meet the notification requirements specified in 40 CFR 63.9812(f) and the reporting requirements specified in 40 CFR 63.9814(g). You must also incorporate procedures for using alternative fuels in your OM&M Plan.

J. What Are the Notification, Recordkeeping, and Reporting Requirements?

If you have an affected refractory products manufacturing source, you must submit initial notifications, notifications of performance tests, and notifications of compliance status by the specified dates in the final rule, which may vary depending on whether the affected source is new or existing. In addition to the information specified in 40 CFR 63.9(h)(2)(i), you must also include the following in your Notification of Compliance Status: (1) The operating limit parameter values established for each affected source and a description of the procedures used to establish the values; (2) design information and analysis demonstrating conformance with requirements for capture and collection systems; (3) your OM&M plan, as specified in 40 CFR 63.9794; (4) your SSMP; and (5) descriptions of the methods you use to comply with any applicable work practice standards. You must submit semiannual compliance reports containing statements and information concerning emission limitation deviations, out of control CPMS, and periods of startup, shutdown, or malfunction when actions consistent with the approved SSMP were taken in accordance with 40 CFR 63.6(e)(3).

If you operate an affected clay or chromium refractory products kiln and you must use an alternative fuel due to a natural gas curtailment or other interruption of natural gas supply, you must submit a notification of alternative fuel use that includes the information specified in 40 CFR 63.9812(f). You must submit a report of alternative fuel use within 10 working days after terminating the use of the alternative fuel. The report must include the information specified in 40 CFR 63.9814(g).

If you operate a continuous kiln that is an affected thermal process source of organic HAP or is a new clay refractory products kiln, and you must take the control device offline for scheduled maintenance, you must request prior approval from the permitting authority, as specified in 40 CFR 63.9792(e). In addition, you must maintain records of all maintenance activities and the time intervals when the control device is offline. Finally, you must incorporate into your OM&M plan the procedures for minimizing HAP emissions when the control device is out of service.

For all affected sources, you must maintain records for at least 5 years from the date on which the data are recorded. You must keep the records onsite for at least the first 2 years, but you can store the records offsite for the remaining 3 years.

K. What Are the Compliance Deadlines?

Existing sources must comply within 3 years of the date of publication of today's final rule. New or reconstructed sources must comply at startup or upon the date of publication of today's final rule, depending on their startup date.

III. Summary of Major Changes Since Proposal

A. Emission Limits and Work Practice Standards

For thermal process sources of organic HAP, we replaced the proposed combustion efficiency limit with a 95 percent THC reduction limit. We believe that the 95 percent THC reduction limit will result in organic HAP emissions reductions that are comparable to the reductions that would have been achieved through the proposed 99.8 percent combustion efficiency limit. Furthermore, percentage reduction provides a better measure of the performance of a control device in reducing organic emissions than does combustion efficiency, because percentage reduction is a direct measure of reductions in THC emissions across the control device. In addition, the combination of the proposed THC concentration and the percentage reduction limits allows considerable flexibility in how owners and operators

choose to comply with today's final rule.

The available emission data for the refractory products manufacturing industry indicate that sources that are controlled to levels above the MACT floor (i.e., more stringent than the MACT floor control level) achieve THC emissions reductions of at least 95 percent, and sources that are controlled to levels below the MACT floor achieve THC emissions reductions that are less than 95 percent. Based on our analysis of the data, we concluded that a 95 percent THC reduction represents the level of emissions control that is achieved by a thermal process source of organic HAP that is controlled to the MACT floor level. Additional information on our analysis of the available THC emission reduction data is provided in Docket No. OAR–2002–0088.

We did not propose a percentage THC reduction because we believed that testing the inlets of the control devices used on thermal process sources of organic HAP was not feasible for most sources. However, based on the public comments received on the proposed rule, we believe that refractory products manufacturers can measure THC at the inlets and outlets of most affected sources. Furthermore, those facilities that cannot obtain inlet and outlet measurements still have the option of complying with the 20 ppmvd THC emission limit.

For the proposed rule, we developed HF and HCl emission limits based on the emission levels that could be achieved by the best-controlled kiln in the brick and structural clay products industry. Since proposal, we have obtained additional information on the types of emission controls used in the brick and structural clay products industry to reduce emissions of HF and HCl from kilns. Based on that information, we have concluded that the best-controlled similar source for clay refractory products kilns is a small brick kiln that is controlled with a DLA. A small brick kiln is a kiln with a production capacity of less than 9.1 Mg per hour (Mg/hr) (10 tons per hour (tons/hr)). The data indicate that a DLA can achieve HF emissions reductions of 90 percent and HCl emissions reductions of 30 percent. We used those emissions reductions to develop the HF and HCl emission limits specified in the final rule. The revised emission limits for HF are a 90 percent reduction or 0.019 kg/Mg (0.038 lb/ton) of uncalcined clay processed. For HCl, the revised emission limits are a 30 percent reduction or 0.091 kg/Mg (0.18 lb/ton) of uncalcined clay processed.

For proposal, we based the HF and HCl emission limits for new clay refractory products kilns on emission data for a brick kiln that was controlled with a DLS/FF. When we developed those proposed emission limits, we made no distinction between kiln size and control options. However, a review of the emission data for controlled brick kilns indicates that kiln size must be considered when determining feasible control options for reducing emissions of HF and HCl. For brick kilns with production capacities of 9.1 Mg/hr (10 tons/hr) or greater (i.e., large kilns), several control devices have been demonstrated to be highly effective in reducing HF and HCl emissions. Those controls include DLS/FF, DIFF, and wet scrubbers. However, for brick kilns that are designed with production capacities below 9.1 Mg/hr (10 tons/hr), only the DLA has been demonstrated to be a feasible control option for HF and HCl. With DLS/FF, DIFF, and wet scrubbers, it is necessary to maintain minimum exhaust gas flow rates for effective HF and HCl removal, and those minimum exhaust flow rates are significantly greater than the flow rates characteristic of small brick kilns. On the other hand, the performance of the DLA is unaffected by exhaust gas flow rates through the system, and DLA have been used on small brick kilns. Consequently, we have concluded that the best-controlled small brick kiln is equipped with a DLA. We have also concluded that clay refractory products kilns are similar to small brick kilns because 90 percent of the clay refractory products tunnel kilns currently in use were designed to operate at 4.5 Mg/hr (5 tons/hr) or less, and there are no clay refractory products kilns that operate with production rates greater than 8.2 Mg/hr (9 tons/hr).

For existing clay and chromium refractory products kilns, we are still requiring limits on the types of fuels that can be used in affected kilns. However, we have also included a provision for the affected facilities to use alternative fuels during specified times of natural gas curtailment and during other times when natural gas is unavailable. To comply with this provision, owners or operators of affected kilns must notify the permitting authority within 48 hours following the declaration of such an emergency or the interruption of the natural gas supply. In addition, within 10 working days after the facility terminates the use of the alternative fuel, the final rule requires submittal of a report that details the dates of alternative fuel usage and the amount of alternative fuel used.

B. Compliance Testing

For batch process sources, we have reduced the minimum number of compliance test runs from three to two. We believe that two test runs are adequate for characterizing emissions from batch process sources. Although we are still requiring a minimum of three 1-hour test runs for continuous sources, we believe that it is unnecessary to test batch process sources for three runs. Under the final rule, each test run on a batch process source will last at least 3 hours, and in most cases a test run will last considerably longer (*i.e.*, in excess of 10 hours). Thus, even with the reduced number of test runs, an emission test on a batch process source will still require a much longer test period than a test on a continuous process source. Because of the extensive duration of each test run, we believe that a second test run is adequate for corroborating the results of the initial test run, and a third test run is unnecessary. Many batch process refractory products are specialty items that are produced infrequently. Because we are requiring each test run to be conducted over a separate batch process cycle, it may not be practical, and it may disrupt production of other products, to require testing over separate cycles. In some cases, conducting the compliance test over multiple process cycles could require a testing period of weeks or months, thereby preventing the use of the batch process source for manufacturing other refractory products. For this same reason, we have included in today's final rule a provision for allowing owners and operators to conduct both test runs simultaneously over a single batch process cycle using paired sampling trains, under certain conditions. Rather than basing compliance on a rolling 3-hour average, today's final rule requires compliance for batch process sources to be based on emissions over the 3-hour peak emissions period.

For situations in which a facility begins production of a new product that constitutes a slight increase in the maximum organic HAP processing rate, we are no longer requiring a repeat performance test. Specifically, if the organic HAP processing rate for the new product is no more than 10 percent greater than the organic HAP processing rate established during the most recent compliance test, a repeat performance test is not required. We believe this change is appropriate for several reasons. The HAP content of some raw materials used in refractory products manufacturing can vary slightly from shipment to shipment, and those

variations may be beyond the control of the user. The net increase in controlled emissions from a source that uses a material with a slightly higher HAP content would most likely be within the measurement error of the test method. On the other hand, if the organic HAP processing rate for the new product is more than 10 percent greater than the operating limit for the maximum organic HAP processing rate, a new compliance test must be performed.

C. Control Device Monitoring and Operation

In the final rule, we have added the requirement that owners or operators of affected sources that are controlled with a catalytic oxidizer must have the catalyst activity level checked at least every 12 months and take any necessary corrective action, such as replacing the catalyst, to ensure that the catalyst is performing as designed. We continue to require catalyst bed inlet temperature monitoring. However, we believe this additional requirement is needed because, unlike thermal oxidizers, catalytic oxidizer performance cannot be ensured simply by monitoring the operating temperature. Catalyst beds can become poisoned and rendered ineffective without any apparent change in operation. Requiring an annual check of catalyst activity will help to identify catalyst poisoning and other potential performance problems before they become serious. An activity level check can consist of passing an organic compound of known concentration through a sample of the catalyst, measuring the percentage reduction of the compound across the catalyst sample, and comparing that percentage reduction to the percentage reduction for a fresh sample of the same type of catalyst.

We have made several changes to the monitoring requirements for new clay refractory products kilns. We have added monitoring requirements for kilns controlled with a DLA. Specifically, owners or operators of affected kilns are required to monitor continuously the pressure drop across the DLA, check the limestone feed hopper daily to ensure that limestone is free flowing, check the limestone feeder setting daily, use the same source of limestone as was used during the most recent performance test, and maintain records that demonstrate that the source of limestone has not changed. We have eliminated the requirement to monitor the fabric filter inlet temperature for affected clay refractory kilns that are controlled with a DIFF or a DLS/FF. Finally, we have eliminated the requirement to monitor the water injection rate for kilns that are controlled with a DLS/FF.

We have also included in the final rule a provision to allow owners and operators of affected continuous process kilns to bypass the control device and continue operating the kilns during periods when the control device is offline for scheduled maintenance. However, the owner or operator must request approval from the permitting authority before taking the control device out of service. The owner or operator must minimize the time periods during which the control device is offline and must also minimize HAP emissions from the affected sources during these periods. The owner or operator must also maintain records of all maintenance activities and the time when the control device was offline. In addition, procedures for minimizing HAP emissions during periods when the control device is offline must be incorporated into the OM&M plan for the kiln.

D. Definitions

We have modified the definitions of *refractory product* and *research and development process unit*, and have added definitions for *dry limestone adsorber, period of natural gas curtailment or supply interruption, resin-bonded refractory products, pitch-bonded refractory products*, and *redundant sensor*. We also deleted the incorporation by reference of the publication "Industrial Ventilation: A Manual of Recommended Practice."

IV. Summary of Responses to Major Comments

A. MACT Floors

Comment: One commenter pointed out that more than 30 refractory products manufacturing plants have closed permanently over the past 3 years. The commenter stated that the MACT floors used to develop the proposed rule are based on data that no longer reflect the current status of the industry. The commenter believes that it is improper for us to use the old data while the industry is in the process of realignment. In response to a request by us, the same commenter provided a list of 35 plants that have closed recently.

Response: We have reviewed the list of 35 recently closed plants provided by the commenter and among those plants, we considered only one, the North American Refractories plant in Womelsdorf, PA, to be a major or synthetic area source of organic HAP. However, we were aware of the impending closure of that particular facility before we determined the MACT floors for the proposed rule, and we did not include affected sources at that plant in our MACT floor analyses. Because we based our determination of the MACT floors for sources of organic HAP emissions only on major and synthetic area sources and none of those plants has closed, the closing of the 35 plants has no impact on the MACT floor analyses used to develop the proposed or final NESHAP.

B. Emission Limits

Comment: One commenter stated that the proposed combustion efficiency limit has no relationship to the MACT floors for thermal process sources of organic HAP. He believes that the proposed combustion efficiency limit is an arbitrary limit based on theoretical calculations and is not supported by the data. The commenter also stated that we cannot identify any plants that have met a 99.8 percent combustion efficiency. He believes that the proposed combustion efficiency limit cannot be met by existing sources; consequently, the stringency of the 99.8 percent combustion efficiency limit will force all affected facilities to meet the alternative proposed limit on THC. The same commenter stated that he has been informed by control device vendors that sources would have to operate well above the MACT floor level of control to meet a 99.8 percent combustion efficiency limit. Another commenter agreed that the combustion efficiency limit will force the industry to meet the alternative THC limit. Both commenters also stated that most of the thermal oxidizers currently used in the refractory products manufacturing industry would not be able to meet the outlet exhaust gas limitation of 3 percent carbon dioxide that is a prerequisite for choosing the combustion efficiency limit compliance option. One commenter added that sources controlled with catalytic oxidizers would be unable to meet the 99.8 percent combustion efficiency limit.

The same two commenters also commented on the appropriateness of a combustion efficiency limit. One of the commenters stated that he contacted thermal oxidizer vendors and a trade association that represents control device manufacturers and vendors, all of whom stated that they were unfamiliar with combustion efficiency. They indicated that thermal oxidizer performance guarantees invariably are written in terms of destruction and removal efficiency (DRE). The other commenter concurred that vendors offer performance guarantees in terms of DRE and not in terms of combustion

efficiency. The commenter stated that he believes that there is no known correlation between combustion efficiency and DRE, and he noted that we also have made that point on several occasions. Finally, the same commenter stated that the Pennsylvania Department of Environmental Resources informed him that they do not incorporate emission limits for combustion efficiency in their operating permits.

Response: After reviewing these comments, we have decided not to include the combustion efficiency limit in the final rule. Although we still maintain that the proposed combustion efficiency limit could be achieved by refractory products manufacturing sources that are controlled to the MACT floor level, we acknowledge that refractory products manufacturing industry personnel, vendors, emission testing contractors, and permitting agency personnel may not be familiar with the concept of using combustion efficiency as a measure of the control of organic pollutants. In addition, combustion efficiency is essentially an indicator of control device performance rather than a direct measure of emissions reductions or control. There are alternatives to a combustion efficiency limit that provide reliable measures of control device performance and emissions reductions, and we have included one such alternative, a percentage THC reduction, in the final rule. We believe that a THC percentage reduction is a more appropriate format for an emission limit than is combustion efficiency because percentage reduction is a measure of emissions reductions and can be related directly to the MACT floor for thermal process sources of organic HAP.

Comment: Two commenters recommended that we consider a limit on DRE instead of a combustion efficiency limit. One of the commenters stated that control device vendors typically offer performance guarantees in terms of a DRE limit, coupled with an outlet concentration limit for low-emitting sources. The other commenter stated that an alternative limit of 95 percent DRE for THC would be appropriate for the refractory products manufacturing industry. One of the commenters evaluated two catalytic oxidizers used at his facility. He concluded that the oxidizers would be unable to meet a 99.8 percent combustion efficiency limit or the proposed THC limit of 20 ppmvd, corrected to 18 percent oxygen. However, he believes that both of the catalytic oxidizers he evaluated could achieve a DRE of approximately 95 percent. The same commenter also disagreed with our statement that a DRE limit would be problematic due to the lack of access to control device inlets for emission testing on most affected sources. He stated that facilities can retrofit existing sources to allow for control device inlet testing.

Response: We agree with the commenters that a DRE limit, which generally is referred to as a percentage reduction limit in NESHAP, would be appropriate for the refractory products manufacturing industry. Consequently, we have decided to incorporate an emission limit of 95 percent THC reduction in today's final rule as an alternative to the THC emission concentration limit. We believe that percentage reduction provides the best measure of the performance of a control device in reducing organic emissions. Because percentage reduction is a direct measure of emissions reductions, we also believe it is more consistent with the MACT floor concept than is the proposed combustion efficiency limit. Unlike combustion efficiency, we have THC percentage reduction data for several refractory products manufacturing sources. By comparing those data to the MACT floor levels established by today's rule (see Docket No. OAR–2002–0088), we were able to conclude that the 95 percent THC reduction limit that we have incorporated into the final rule is representative of the emissions reductions that sources controlled to the MACT floor level should be able to achieve on a consistent basis.

Comment: One commenter commented on the fact that the same combustion efficiency limit was proposed for several different types of thermal process sources, such as periodic kilns, tunnel kilns, dryers, and coking ovens. He believes that differences in the operation of these various types of sources warrant different emission limits.

Response: We considered establishing separate emission limits for each type of thermal process source of organic HAP. However, the MACT floors for both existing and new sources are based on thermal oxidizer control, and the MACT floor level thermal oxidizer operating temperatures and residence times are similar for the various types of thermal process sources. These thermal oxidizers represent relatively high levels of control, and based on their design and operating parameters, we would not expect there to be significant differences in performance levels among them. Furthermore, when the theoretical performance levels of these thermal oxidizers are compared, the Arrhenius equation predicts that all of them would achieve essentially complete control of organic emissions. The available valid emission test data on organic emissions from controlled thermal process sources of organic HAP also do not support making such distinctions in emission limits. Consequently, we decided to establish the same emission limits for all types of thermal process sources of organic HAP subject to today's final rule.

Comment: Two commenters stated that the available emission data do not support the proposed THC limit of 20 ppmvd. The commenters believe that the data support an emission limit of 30 ppmvd THC, based on the average THC emission concentration for the available test data on controlled kilns.

Response: To determine the MACT floors and the corresponding emission limits for existing sources, we first must consider the number of sources in operation at major and synthetic area source facilities. In the case of kilns that are used to fire refractory products that contain organic HAP, there are fewer than 30 kilns that can be considered in establishing the MACT floor. Under section 112(d)(3) of the CAA, we must select the average or median of the best-performing five sources. In this case, the MACT floor for kilns corresponds to the third-best performing kiln.

To rank kilns in terms of their performance in controlling organic HAP emissions, we needed emissions data for each of the best-performing kilns. However, we did not have data on emissions of organic HAP (or THC as a surrogate for organic HAP) for any of the best-controlled kilns. The specific kilns referenced by the commenters are not among the best-performing kilns in operation at major or synthetic area source facilities, so it would be contrary to the requirements of the CAA to average emission data for those kilns, as the commenters suggest, because such an average would include data from sources that are clearly not among the top five best-performing kilns located at major or synthetic area source facilities.

An alternative approach to determining MACT floors by ranking sources according to demonstrated emissions reductions is to rank the sources based on the likely performance level of the control devices in place. We used this alternative approach to determine the MACT floors for organic HAP emissions from thermal process sources. Using the Arrhenius equation, we ranked all of the controlled kilns located at major or synthetic area source facilities and selected the third-best kiln as the MACT floor. However, to develop the 20 ppmvd THC emission limit, we did consider all of the available data,

including the kiln emission data referenced by the commenters. After considering the design of the control devices for those kilns and the likely variations in emission data, we concluded that the available data support a 20 ppmvd THC emission limit.

Comment: One commenter stated that Congress intended MACT standards to be industry-specific, and he objected to the use of data for the brick and structural clay products industry to establish emission limits for HF and HCl from clay refractory products kilns. The commenter stated that it is inappropriate to use data from another industry to develop emission limits for the refractory products manufacturing industry.

Response: Section 112(d) of the CAA requires us to establish emission limits for new sources based on the performance of the best-controlled similar source. The CAA does not specify that the similar source must be within the same source category. To the contrary, our interpretation of section 112(d) is that we are obligated to consider similar sources from other source categories in determining the best-controlled similar source for establishing MACT for new sources.

For clay refractory products kilns, we concluded that the best-controlled similar sources are found in the brick and structural clay products industry. We believe that brick kilns are similar to clay refractory products kilns for several reasons: (1) Most clay refractory products are fired in tunnel kilns, as is the case for brick manufacturing; (2) in both industries, tunnel kilns are designed to have three temperature zones, a preheating or drying zone, a firing zone, and a cooling zone; (3) in both industries, unfired shapes (bricks or refractories) are loaded onto rail cars and transported through each successive temperature zone through a series of timed pushes; (4) both clay refractory kilns and brick kilns typically operate at peak temperatures of approximately 2000°F; (5) firing times in clay refractory and brick kilns are similar; (6) the raw materials used in producing bricks (primarily common clay and shale, but also fire clay) and clay refractories (primarily fire clay) are similar; and (7) at least one refractory products manufacturer fires both clay refractory products and brick and structural clay products in the same kilns.

The HF and HCl controls currently used in the brick and structural clay products industry are a function of kiln size (*i.e.*, production rate). Kilns with production capacities of less than 9.1 Mg/hr (10 tons/hr) are classified as small kilns, and those with production capacities of at least 9.1 Mg/hr (10 tons/hr) are classified as large kilns. For small brick kilns, the best-performing source is a kiln controlled with a DLA. For large kilns, the best-performing sources are those controlled with either a DIFF, DLS/FF, or wet scrubber. Although DIFF, DLS/FF, and wet scrubbers generally are more effective than DLA in reducing emissions of HF and HCl, large kiln controls require minimum exhaust gas flow rates that are significantly higher than the flow rates characteristic of small kilns. Consequently, the DLA is the only device that has been demonstrated to be feasible for controlling HF and HCl emissions from small brick kilns. Using the same size classification system, the clay refractory products kilns currently in operation would all be classified as small kilns. All operate at less than 9.1 Mg/hr (10 tons/hr), and 90 percent operate at no more than 4.5 Mg/hr (5 tons/hr). Because of the similarities in design and operation discussed in the previous paragraph, and taking into account kiln size, we have concluded that small brick kilns and clay refractory products kilns are similar sources. In the final rule, we are incorporating HF and HCl emission limits based on the performance of DLA-controlled brick kilns.

Comment: One commenter expressed concern with how we used data for the brick and structural clay products industry to develop emission limits for new clay refractory products kilns. He stated that we used the same data to propose more stringent HF and HCl limits for new clay refractory products kilns than were proposed for new brick and structural clay products kilns under the proposed Brick and Structural Clay Products NESHAP (67 FR 47894, July 22, 2002). The proposed HF emission limit for new brick and structural clay products kilns is 0.014 kg/Mg (0.027 lb/ton), whereas the proposed HF limit for new clay refractory products kilns is 0.001 kg/Mg (0.002 lb/ton). In addition, the proposed HCl emission limit for new brick and structural clay products kilns is 0.019 kg/Mg (0.037 lb/ton), whereas the proposed HCl limit for new clay refractory products kilns is 0.0025 kg/Mg (0.005 lb/ton).

Response: In selecting the proposed HF and HCl emission limits for new clay refractory products kilns, we reviewed the available emission data from the brick and structural clay products industry and selected the single best-performing similar source, which was an individual brick kiln controlled with a DLS/FF. To select the HF and HCl emission limits for brick kilns in the proposed Brick and Structural Clay Products NESHAP, we used a different approach based on the overall performance of the available control technologies. We reviewed the available data and concluded that the three best-performing control technologies (DLS/FF, DIFF, and wet scrubbers) are essentially comparable in terms of reducing HF and HCl emissions. We also considered the variability in the data and selected the percentage reductions that we believe all three technologies can achieve on a continuous basis according to the available test data. We used those percentage reductions, which were 95 percent for HF and 90 percent for HCl, to derive the proposed production-based emission limits from the emission factors for uncontrolled HF and HCl from brick kilns. Those production-based emission limits were 0.014 kg/Mg (0.027 lb/ton) for HF and 0.019 kg/Mg (0.037 lb/ton) for HCl. After reconsidering both approaches for selecting emission limits, we have concluded that the technology-based approach that we used to develop the emission limits for the proposed Brick and Structural Clay Products NESHAP is the appropriate method for establishing HF and HCl emission limits for new clay refractory products kilns.

In the proposed Brick and Structural Clay Products NESHAP, we also subcategorized according to kiln size by differentiating between large kilns (*i.e.*, those with production capacities of 9.1 Mg/hr (10 tons/hr) or greater) and small kilns (*i.e.*, those with production capacities that are less than 9.1 Mg/hr (10 tons/hr)). For today's final rule, we have incorporated this same size classification system into our determination of the emission limits for new clay refractory products kilns. We have concluded that small brick kilns are similar to clay refractory products kilns and that the best-controlled similar source for clay refractory products kilns is a small brick kiln controlled with a DLA. Although there are other technologies that perform well in controlling HF and HCl emissions from brick kilns (*i.e.*, DLS/FF, DIFF, and wet scrubbers), those control devices have been used only on large brick kilns. On the other hand, DLA are currently in use on both large and small brick kilns. The available data indicates that a DLA can achieve emissions reductions of 90 percent HF and 30 percent HCl on a consistent basis. We have applied these emissions reductions to HF and HCl data from uncontrolled clay refractory products kilns and are incorporating into today's final rule the

revised emission limits for new clay refractory products kilns. The resulting emission limits for HF are a 90 percent reduction or 0.019 kg/Mg (0.038 lb/ton) of uncalcined clay processed. For HCl, the limits are a 30 percent reduction or 0.091 kg/Mg (0.18 lb/ton) of uncalcined clay processed.

Comment: One commenter questioned the need to establish emission limits for chromium refractory products kilns. He stated that chromium compounds should be treated no differently than any of the other listed HAP. He noted that the use of chromium for refractory products manufacturing has decreased significantly in recent years, and that our own estimates indicate that total chromium compound emissions in 1996 were less than 10 tpy for the entire industry. He also pointed out that the large chromium refractory products facility referenced in the proposal has been shut down.

Response: As noted by the commenter, chromium compounds are one of the listed HAP in section 112(b) of the CAA. Chromium, in the form of chromite or chromium oxide, is a principal ingredient in the formulation of many refractory products and is emitted from kilns that fire chromium refractory products. Some of the chromium is emitted in the hexavalent form, which is a known human carcinogen. Under section 112(d) of the CAA, we are required to establish emission standards that are at least as stringent as the MACT floor for all listed HAP that are emitted from major sources. Consequently, regardless of the trend in chromium refractory production, we are required to establish emission limits based on the MACT floor level of control, which for chromium refractory products kilns is the work practice of firing kilns with natural gas or the equivalent.

Comment: One commenter opposed the provision in the proposed rule that limits the types of fuels used to fire clay and chromium refractory products kilns. He stated that many refractory products manufacturing industry kilns are designed to use fuels other than natural gas, such as fuel oil, propane, and pulverized coal. The need to use these alternative fuels is of particular importance during natural gas shortages or price increases. He pointed out that during natural gas shortages, residential users receive priority over industrial users of natural gas. He believes that prohibiting the use of these alternative fuels could adversely impact the viability of some refractory products manufacturing operations.

Response: We agree with the commenter that the Refractory Products Manufacturing NESHAP should include appropriate provisions for the use of alternative fuels during specified times of natural gas curtailment and other situations when natural gas is unavailable. We consider such situations analogous to malfunctions, which are addressed in 40 CFR 63.6. Just as an exceedance of emission limits during a malfunction is not considered a violation, as indicated in 40 CFR 63.6(f)(1) and (h)(1), we believe that using other fuels during periods when natural gas is unavailable should also not be considered a violation of the work practice standard for clay and chromium refractory products kilns. We also note that operating permits for existing refractory products manufacturing facilities generally allow the use of fuel oil and other substitutes for natural gas in some situations. Thus, the MACT floor for existing clay and chromium refractory products kilns is the use of natural gas or equivalent fuel except during periods when natural gas is unavailable.

In the final rule, we are allowing owners and operators of affected chromium and clay refractory products kilns to use alternative fuels during periods when natural gas in unavailable due to a supply curtailment or other factors. However, we do not believe that natural gas price increases constitute such a situation, and the final rule makes it clear that natural gas prices cannot be considered the basis for a MACT floor that requires using an alternative fuel. The final rule also requires owners or operators to notify the regulatory authority within 48 hours after the declaration of natural gas curtailment or the interruption of natural gas supply. In addition, the owner or operator must submit a report that details the dates of alternative fuel usage and the amount of alternative fuel used within 10 working days after the facility terminates the use of the alternative fuel.

C. Compliance Testing and Monitoring

Comment: One commenter stated that the requirement to test batch process sources during three separate process cycles is redundant, unnecessary, and burdensome. He believes that it would be adequate to test one process cycle. He pointed out that there are significant variations in product mixes and raw materials from cycle to cycle, and that while it could be argued that testing one cycle is adequate, it could also be argued that testing ten cycles is inadequate for characterizing emissions. He noted that testing during cool-down periods, in particular, is unnecessary.

Response: We agree with the commenter that testing batch process sources for three cycles of a "worst-case" batch may be unnecessary to characterize emissions and control device performance. Under the final rule, we are requiring owners and operators of affected batch process sources to perform at least two test runs on each of two separate process cycles. We believe that a second test run is necessary to corroborate the results of the initial test run. However, we also note that each test run on a batch process source must be a minimum of 3 hours in duration, and for many batch process sources, the minimum test run duration is likely to be in excess of 10 hours. Thus, even requiring only two test runs will necessitate at least 20 hours of testing for such sources, and we consider a test of that duration to be adequate for demonstrating compliance with emission limits. We also note that other NESHAP, such as subparts U, JJJ, OOO, and UUUU to 40 CFR part 63, do not require batch process sources to be tested for three test runs.

We are also including in the final rule a separate batch process testing provision for refractory products that are produced infrequently. In such cases, we are allowing owners and operators of affected batch process sources to test a single batch process cycle using two separate sampling trains simultaneously, rather than requiring them to conduct test runs over two separate batch cycles. Many refractory products that are produced in batch process sources are specialty items that may only be manufactured a few times per year. When such products represent the "worst-case" in terms of organic HAP emissions, requiring multiple test runs over separate process cycles could extend the test period over several weeks or months. Production of other refractory products could inadvertently be disrupted while the facility attempts to complete its compliance demonstration. We also point out that requiring performance tests on batch process sources to be conducted over no more than a single process cycle is not without precedent; at least four other NESHAP (subparts U, JJJ, OOO, and UUUU to 40 CFR part 63) require batch process sources to be tested over only a single process cycle. To satisfy this provision of today's final rule, owners or operators will be required to include in the Notification of Performance Test an explanation for why testing two separate batch cycles is impractical.

Comment: Two commenters expressed concern with the requirement that the compliance test on an affected source would have to be repeated before

the facility began manufacturing a new product that represents the "worst-case" in terms of organic HAP emissions (*i.e.*, the organic HAP processing rate for the new product would exceed the maximum organic HAP processing rate established during the most recent performance test). One commenter stated that this requirement would be costly, time-consuming, and could result in disruptions in production. Another commenter further elaborated that production delays could result while the facility tries to schedule a performance test. Both commenters requested that we specify a level for the allowable changes in the HAP content of raw materials and not require a new compliance test when the changes in HAP content are below that level. One of the commenters stated that a level of 10 percent would be appropriate.

Response: We agree with the commenters that a new compliance test should not be required when a facility begins producing a new product that constitutes a slight increase in the maximum organic HAP processing rate established during the most recent performance test. We have written this provision in the final rule to allow increases in the maximum organic HAP processing rate up to 10 percent without triggering a new performance test. We believe this is appropriate for two reasons. The HAP content of some raw materials (*e.g.*, resins or binders) used in refractory products manufacturing can vary slightly from shipment to shipment, and those variations may be beyond the control of the user. Even if the HAP content of the resin or binder is 10 percent more than the HAP content of the same material that was processed during the compliance test, the net increase in controlled emissions would most likely be within the measurement error of the test method. Therefore, we believe it is reasonable to allow increases of up to 10 percent in the organic HAP processing rate without requiring a new compliance test.

Comment: Two commenters questioned the requirement for monitoring catalytic oxidizer temperatures at the inlet to the catalyst bed. Both commenters stated that monitoring the catalyst bed outlet temperatures would be a much better indicator of performance.

Response: We disagree with the commenters that monitoring catalyst bed outlet temperatures would provide a better indication of catalyst oxidizer performance than monitoring catalyst bed inlet temperatures. Monitoring catalyst bed inlet temperatures ensures that the inlet gas stream is heated to the minimum temperature at which catalytic oxidation will occur. Above this minimum temperature, as temperature increases through catalytic oxidization, control (destruction) efficiency increases. We also note that the monitoring of inlet temperature must be performed at the inlet to the catalyst bed and not at the inlet to the oxidizer itself. After passing through the inlet to the oxidizer, the waste gases pass through a preheat zone, which raises the temperature to the minimum required for catalytic oxidization. Monitoring must take place between this preheat zone and the inlet to the catalyst bed. We do not believe that monitoring catalyst bed outlet temperatures would be appropriate for two reasons: (1) Catalyst bed outlet temperature is more of an indicator of the concentration of organics in the inlet gas stream; the higher the organic concentration at the inlet, the higher the bed outlet temperature; and (2) some catalytic oxidizers are equipped with heat recovery units that are located at the outlet of the catalyst bed and can interfere with bed outlet temperature monitoring. Consequently, we have concluded that monitoring the bed inlet temperature is a better indicator of the performance of catalytic oxidizers than bed outlet temperature monitoring. We continue to require catalyst bed inlet temperature monitoring in the final rule. In addition, we are requiring owners or operators of affected sources that are controlled with catalytic oxidizers to measure the activity of the catalyst bed at least every 12 months and take whatever corrective action is needed, such as replacing the catalyst, to ensure that the catalyst is performing as designed.

D. Economic and Environmental Impacts

Comment: Two commenters disagreed with our estimates of the annual increase in energy costs that would be associated with the proposed NESHAP. One of the commenters stated that, based on our estimated annual energy costs of $569,800 and estimated annual natural gas consumption of 644 million cubic feet (644×10^6 ft^3), the unit price for natural gas would be $0.89 per thousand standard cubic feet (scf) ($/1,000 scf) without accounting for electricity costs. If the cost of electricity is considered, the resulting unit price for natural gas would be even lower. He pointed out that current unit prices for natural gas are considerably higher. The average natural gas unit prices in four States (Kentucky, Missouri, Indiana, and Pennsylvania) for the years 2000 to 2002 ranged from $6.34 to $6.97/1,000 scf and averaged $6.37/1,000 scf for the four States. Based on data from the Department of Energy's Energy Information Administration (DOE-EIA), one of the commenters stated that the average unit price for natural gas in 2001 was $4.56/1,000 scf. The commenter believes that, regardless of which of these current unit prices are used, the estimated annual energy costs should have been several times greater.

Response: After reviewing our estimated annual energy costs, we discovered an error in our estimate that an additional 644×10^6 ft^3 of natural gas would be consumed annually under the proposed NESHAP. That estimate was based on the inclusion of several sources that would not have been subject to the final rule. However, we did not use that figure (644×10^6 ft^3) to estimate annual energy costs. Our estimated annual energy costs were based on the assumption that annual natural gas consumption would increase by 158×10^6 ft^3. That figure was derived from the models used to estimate annual control costs, and we believe that figure is accurate. Using a consumption of 158×10^6 ft^3 of natural gas per year and a natural gas unit price of $3.30/1,000 scf, we estimated the cost of natural gas to be $520,200/yr. The difference between this cost and the total energy costs presented in the preamble to the proposed rule ($569,800) is the cost of electricity, which we estimated to be approximately $49,600/yr.

We agree with the commenters that current natural gas unit prices are considerably higher than the unit price ($3.30/1,000 scf) that we used to estimate energy costs for the proposed rule. However, according to DOE–EIA, natural gas prices are projected to drop back to their pre-1999 levels within a year and remain below $4.00/1,000 scf until the year 2020. Natural gas unit prices are projected to average $3.45/1,000 scf for the years 2006 to 2009, which represent the first 3 years in which facilities will be required to comply with the Refractory Products Manufacturing NESHAP. This average unit price is only slightly higher than the unit price of $3.30/1,000 scf that we used to estimate energy costs for the proposed rule. Furthermore, electricity prices are projected by DOE-EIA to average $0.043 per kilowatt-hour (kw-hr) for the same 3-year period, whereas our estimated energy costs were based on electricity unit prices of $0.059/kw-hr. Using those projected unit prices for natural gas and electricity, our energy costs for the proposed rule would have been $580,000, as compared to the figure of $569,800 reported in the preamble to the proposed rule. (*See*

Docket No. OAR–2002–0088 for additional information).

Comment: Two commenters stated that the proposed Refractory Products Manufacturing NESHAP does not account for the current economic status of the refractory products manufacturing industry. One of the commenters noted that approximately 40 percent of the domestic steel industry is in bankruptcy, and the steel industry accounts for about 60 percent of the domestic refractory products market. He also pointed out that three major refractory products manufacturing companies are in bankruptcy, more than 30 plants have permanently closed in recent years, and pressure from foreign competition in the refractory products market is increasing. The other commenter reiterated the statements of the first commenter regarding bankruptcies among major domestic refractory producers and the increase in foreign competition.

Response: During the early stages of regulatory development, we issued an information collection request (ICR) to the refractory products manufacturing industry. Our economic impact analysis (EIA) makes use of detailed facility-level data on production for the year 1997 obtained from the industry's responses to the ICR. This information, along with publically available data (*i.e.*, U.S. Census Bureau), was used at proposal to construct a model of the markets for refractory products that is consistent with market, facility, and company conditions in 1997. Because the ICR provided data only for 1997, we are limited in our ability to update the model completely to reflect conditions in later years. However, for the final rule we have, to the extent practicable, updated the economic model to reflect current market conditions, including: (1) The exclusion of refractory manufacturing facilities known to have closed since the base year of 1997; (2) the assumption that producers will absorb the full cost of the rule; with only six out of 147 producers affected by the rule and the financial stress on the industry, we assume producers will be unable to increase market prices to recover some of their increase in production costs; and (3) the incorporation of parameters from a recent update of an iron and steel model to inform the estimated demand for refractories (*i.e.*, the demand elasticity, or the sensitivity of demand from the steel market based on market conditions in the iron and steel industry). The iron and steel model was specifically revised to address current conditions in the steel industry.

We also acknowledged in the EIA at proposal that both steel and refractory manufacturing companies are currently under financial stress. In the EIA, we discussed several trends that have placed considerable pressure on refractory manufacturers, including reduced production by integrated domestic steelmakers, improved quality of refractories (thus requiring less frequent replacement), and increased imports of refractory products.

We note that the vast majority of facilities in the industry (both foreign and domestic producers) are unaffected by the rule. The regulatory costs of the rule are approximately $2 million per year, which represents a small share of total industry production costs of approximately $2,300 million per year. In the model for the final rule, prices are not predicted to change, and the quantities of refractories produced are projected to decrease by 3,792 tons. It is assumed that the loss in domestic production will be absorbed by foreign imports. Our analysis concludes these six facilities incurring regulatory costs will absorb the majority of the costs and burden of the rule, with one facility projected to close as a result of the rule. At the parent company level, the costs uniformly are less than 1 percent of baseline corporate sales. Overall, we have adjusted the economic model to address the issues raised by the commenters, and we believe that the final rule will have a limited impact on the refractory products manufacturing industry.

E. Definitions

Comment: Two commenters commented on how the term *refractory product* is defined in the proposed rule. Both commenters stated that, based on this definition, some graphite manufacturing sources could be confused with certain refractory products manufacturing sources that would be affected by the final rule. It is their understanding that we intend to develop a separate NESHAP for the graphite manufacturing industry, and graphite manufacturing sources, although similar to some refractory products manufacturing sources, would not be subject to the Refractory Products Manufacturing NESHAP. The commenters suggested adding the phrase, ". . . containing less than 50 percent carbon" to the definition of *refractory product.*

Response: We agree with the commenters that the definition of *refractory product* in the proposed rule could inadvertently affect certain graphite manufacturing sources. Consequently, we have written the definition as requested by the commenters. In addition, we are including a definition for pitch-bonded refractory products in the final rule. We believe that definition will help to preclude graphite baking ovens, which are not subject to today's final rule, from being classified as pitch-bonded curing ovens, which are regulated under today's final rule.

Comment: One commenter commented on how the term *research and development process unit* is defined in the proposed rule. The commenter stated that the proposed definition is inconsistent with the definition of research and development facilities specified in section 112(c)(7) of the CAA, 40 CFR 63.41, and several other NESHAP published in 40 CFR part 63. The difference between those definitions and the proposed definition specified in the Refractory Products Manufacturing NESHAP is the exclusion of the phrase "in a de minimis manner" from the proposed rule.

Response: We agree with the commenter that the definition of *research and development process unit* in the Refractory Products Manufacturing NESHAP should be consistent with the definition of research facilities in the CAA and in other rules. We have written the definition of *research and development process unit* as suggested by the commenter.

V. Summary of Impacts

A. What Are the Health Impacts?

The HAP that will be controlled by today's final rule are associated with a variety of adverse health effects. These adverse health effects include chronic health disorders (*e.g.*, irritation of the lung, skin, and mucous membranes, gastrointestinal effects, and damage to the kidneys and liver) and acute health disorders (*e.g.*, respiratory irritation and central nervous system effects such as drowsiness, headache, and nausea). The EPA has classified two of the HAP (formaldehyde and POM) as probable human carcinogens.

The EPA does not have the type of current detailed data on each of the facilities and the people living around the facilities covered by today's final rule for this source category that would be necessary to conduct an analysis to determine the actual population exposures to the HAP emitted from these facilities and the potential for resultant health effects. Therefore, EPA does not know the extent to which the adverse health effects described above occur in the populations surrounding

these facilities. However, to the extent the adverse effects do occur, and today's final rule reduces emissions, subsequent exposures will be reduced.

Following is a discussion of the health effects of seven HAP: ethylene glycol, formaldehyde, HF, HCl, methanol, phenol, and POM. Although today's rule will reduce emissions of HF and HCl from any new clay refractory product kilns that emit these HAP, it will not reduce emissions of these HAP from existing kilns. We estimate that emissions of methanol from affected existing thermal process sources of organic HAP (*i.e.*, shape dryers, curing ovens, and kilns) also will not be reduced by today's final rule. However, methanol is a constituent of some resins used in resin-bonded refractory production, and today's final rule will regulate methanol emissions from any affected source that produces refractory products made with resins that contain methanol.

Ethylene Glycol

Acute (short-term) exposure of humans to ethylene glycol by ingesting large quantities causes central nervous system depression (including drowsiness and respiratory failure), gastrointestinal upset, cardiopulmonary effects, and renal damage. The only effects noted in the one available study of humans acutely exposed to low levels of ethylene glycol by inhalation were throat and upper respiratory tract irritation. Rats and mice exposed chronically (long-term) to ethylene glycol in their diet exhibited signs of kidney toxicity and liver effects. No information is available on the reproductive or developmental effects of ethylene glycol in humans, but several studies of rodents have shown ethylene glycol to be fetotoxic. The EPA has not classified ethylene glycol for carcinogenicity.

Formaldehyde

Both acute and chronic exposure to formaldehyde irritates the eyes, nose, and throat, and may cause coughing, chest pains, and bronchitis. Reproductive effects, such as menstrual disorders and pregnancy problems, have been reported in female workers exposed to formaldehyde. Limited human studies have reported an association between formaldehyde exposure and lung and nasopharyngeal cancer. Animal inhalation studies have reported an increased incidence of nasal squamous cell cancer. The EPA considers formaldehyde a probable human carcinogen (Group B2).

Hydrogen Fluoride

Acute inhalation exposure to gaseous HF can cause severe respiratory damage in humans, including severe irritation and pulmonary edema. Chronic exposure to fluoride at low levels has a beneficial effect of dental cavity prevention and may also be useful for the treatment of osteoporosis. Exposure to higher levels of fluoride may cause dental fluorosis or mottling, while very high exposures through drinking water or air can result in crippling skeletal fluorosis. One study reported menstrual irregularities in women occupationally exposed to fluoride. The EPA has not classified HF for carcinogenicity.

Hydrogen Chloride

Hydrogen chloride, also called hydrochloric acid, is corrosive to the eyes, skin, and mucous membranes. Acute inhalation exposure may cause eye, nose, and respiratory tract irritation and inflammation and pulmonary edema in humans. Chronic occupational exposure to HCl has been reported to cause gastritis, bronchitis, and dermatitis in workers. Prolonged exposure to low concentrations may also cause dental discoloration and erosion. No information is available on the reproductive or developmental effects of HCl in humans. In rats exposed to HCl by inhalation, altered estrus cycles have been reported in females, and increased fetal mortality and decreased fetal weight have been reported in offspring. The EPA has not classified HCl for carcinogenicity.

Methanol

Acute or chronic exposure of humans to methanol by inhalation or ingestion may result in blurred vision, headache, dizziness, and nausea. No information is available on the reproductive, developmental, or carcinogenic effects of methanol in humans. Birth defects have been observed in the offspring of rats and mice exposed to methanol by inhalation. A methanol inhalation study using rhesus monkeys reported a decrease in the length of pregnancy and limited evidence of impaired learning ability in offspring. The EPA has not classified methanol with respect to carcinogenicity.

Phenol

Acute inhalation and dermal exposure to phenol is highly irritating to the skin, eyes, and mucous membranes in humans. Oral exposure to small amounts of phenol may cause irregular breathing, muscular weakness and tremors, coma, and respiratory arrest at lethal concentrations. Anorexia, progressive weight loss, diarrhea, vertigo, salivation, and a dark coloration of the urine have been reported in chronically exposed humans. Gastrointestinal irritation and blood and liver effects have also been reported. No studies of developmental or reproductive effects of phenol in humans are available, but animal studies have reported reduced fetal body weights, growth retardation, and abnormal development in the offspring of animals exposed to phenol by the oral route. The EPA has classified phenol in Group D, not classifiable as to human carcinogenicity.

Polycyclic Organic Matter

The term polycyclic organic matter defines a broad class of compounds that includes the polycyclic aromatic hydrocarbon (PAH) compounds, of which benzo[a]pyrene is a member. Dermal exposures to mixtures of PAH cause skin disorders in humans and animals. No information is available on the reproductive or developmental effects of POM in humans, but animal studies have reported that oral exposure to benzo[a]pyrene causes reproductive and developmental effects. Human studies have reported an increase in lung cancer in humans exposed to POM-bearing mixtures including coke oven emissions, roofing tar emissions, and cigarette smoke. Animal studies have reported respiratory tract tumors from inhalation exposure to benzo[a]pyrene and forestomach tumors, leukemia, and lung tumors from oral exposure to benzo[a]pyrene. The EPA has classified seven PAH compounds (benzo[a]pyrene, benz[a]anthracene, chrysene, benzo[b]fluoranthene, benzo[k]fluoranthene, dibenz[a,h]anthracene, and indeno[1,2,3-cd]pyrene) as Group B2, probable human carcinogens.

B. What Are the Air Emission Reduction Impacts?

At the current level of control and 1996 production levels, we estimate nationwide emissions of HAP from the refractory products manufacturing industry to be about 246 Mg/yr (271 tpy). For the eight refractory products facilities that we estimate to be major sources, baseline annual HAP emissions are about 153 Mg/yr (169 tpy). We estimate that today's final rule will reduce nationwide HAP emissions by about 124 Mg/yr (137 tpy).

Among the major sources, POM emissions account for approximately 60 percent of the total annual HAP emissions. Phenol, HF, HCl, and ethylene glycol account for 13 percent, 10 percent, 7 percent, and 7 percent of total annual HAP emissions,

respectively. Formaldehyde and chromium compounds each account for less than 1 percent of total baseline annual HAP emissions. Today's final rule will reduce annual POM emissions by as much as 90 Mg/yr (99 tpy). Emissions of phenol and ethylene glycol will be reduced by approximately 19 Mg/yr (21 tons/year) and 11 Mg/yr (12 tpy), respectively. Implementing today's rule will also reduce volatile organic compound (VOC) and carbon monoxide (CO) emissions by 166 Mg/yr (182 tpy) and 71 Mg/yr (78 tpy), respectively. The final rule will result in an increase in annual nitrogen oxides (NO_X) emissions of about 79 Mg/yr (87 tpy) due to the operation of additional thermal oxidizers to control organic HAP emissions.

Indirect or secondary air impacts of today's final rule result from increased electricity usage associated with operation of control devices required by the rule. Assuming that affected plants will purchase electricity from a power plant, we estimate that the final rule will result in increases of secondary emissions of criteria pollutants, including particulate matter less than 10 micrometers in aerodynamic diameter (PM–10), sulfur dioxide (SO_2), NO_X, and CO from power plants. Under today's final rule, secondary PM–10 emissions will increase by 0.22 Mg/yr (0.24 tpy); secondary SO_2 emissions will increase by about 8.9 Mg/yr (9.8 tpy); secondary NO_X emissions will increase about 4.5 Mg/yr (4.9 tpy); and secondary CO emissions will increase by about 0.15 Mg/yr (0.16 tpy).

We estimate that there will be no new sources within the refractory products manufacturing industry within the next 3 years. Therefore, we are not projecting air impacts for new sources under today's final rule.

C. What Are the Cost Impacts?

The estimated total capital costs of today's final rule are $4.6 million. These capital costs apply to existing sources and include the costs to purchase and install thermal oxidizers on affected sources that are not currently controlled. The estimated annualized cost of today's final rule is $2.3 million. The annualized costs account for the annualized capital costs of the control and monitoring equipment, operation and maintenance expenses, performance testing, and recordkeeping and reporting costs.

D. What Are the Economic Impacts?

Given the estimated costs to comply with the regulation, we prepared an economic analysis to evaluate how these costs would impact producers and consumers of refractories, and society as a whole. The refractory products manufacturing industry currently consists of 147 establishments. There are eight major sources in the industry affected by the rule, six of which will incur costs to reduce emissions and report compliance, and two of which only incur minor recordkeeping and reporting costs. In recent years, the industry has experienced substantial financial stress that coincides with the decline in the steel industry, which is a major consumer of refractory products. Since our analysis at proposal, the number of facilities in operation has decreased by 14 due to bankruptcies or closures.

The industry consists of three market sectors, including: bricks and shapes, monolithics, and RCF. In 1997, the industry produced about two million tons of bricks and shapes, 870,000 tons of monolithics, and about 34,000 tons of RCF for a total market value of approximately two billion dollars.

The total annualized regulatory compliance cost of the rule is $2.3 million (in 1998 dollars), which represents 0.001 percent of total market value. Because foreign competition currently has a strong influence on this industry, and only six out of 147 producers are affected by the rule, our analysis of the final rule assumes that producers of bricks and shapes will not be able to increase prices to recover a portion of the compliance costs. Thus, these producers are assumed to absorb the full cost of the regulation, which represents the maximum potential impact on producers. If prices happen to rise as a result of the regulation, impacts on producers will be lower than reported here.

Our analysis predicts that domestic production of bricks and shapes will decrease by approximately 4,000 tons (or 2/10ths of one percent). Foreign imports are assumed to absorb this loss in domestic production, which represents approximately two percent of total foreign imports. The monolithics and RCF sectors of the market are not subject to the rule and thus no price or production level changes are predicted. After accounting for the changes in the market for refractories and the increase in foreign imports, the total cost of the regulation on society as a whole is approximately $2 million.

Of the eight plants affected by the rule, one facility may close due to regulatory costs. The estimated regulatory cost to this facility assumes the use of add-on controls, which would exceed the total revenues of this facility, hence our model estimates that it would close. However, we recognize that this facility, as well as the other affected facilities, have several options to change input materials, or attributes of their production process such that they could substantially reduce the cost associated with add-on control technology. Without explicit knowledge of decisions to be made by this and other facilities in response to the regulation, our analysis assumes that only add-on control technology will be installed.

E. What Are the Non-Air Quality Environmental and Energy Impacts?

To comply with today's final rule, we expect that affected facilities will control organic HAP emissions by installing and operating thermal oxidizers. Therefore, we project that today's rule will have no water or solid waste impacts.

Energy impacts consist of the electricity and fuel needed to operate control devices and other equipment that are required under the final rule. Assuming that affected facilities comply with the final rule by installing and operating thermal oxidizers, we project that today's final rule will increase overall energy demand (*i.e.*, electricity and natural gas) by about 280 thousand gigajoules per year (265 billion British thermal units per year). Electricity requirements are expected to increase by about 1,570 megawatt-hours per year under today's rule. Natural gas requirements are expected to increase by about 7 million cubic meters per year (250 million cubic feet per year) under today's final rule.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees,

or loan programs, or the rights and obligation of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a "significant regulatory action" because none of the listed criteria applies to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Paperwork Reduction Act

The information collection requirements in the final rule will be submitted for approval to OMB under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The EPA has prepared an Information Collection Request (ICR) document (ICR No. 2040.01), and a copy may be obtained from Susan Auby by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division (MD–2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by e-mail at *auby.susan@epa.gov*; or by calling (202) 566–1672. You may also download a copy off the Internet at *http://www.epa.gov/icr*. The information requirements are not enforceable until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. 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's policies set forth in 40 CFR part 2, subpart B.

With two exceptions, the final rule will not require any notifications, reports, or recordkeeping beyond those required by the NESHAP General Provisions. The first exception applies to facilities that operate sources that are subject to limits on the type of fuel used. In such cases, the owner or operator may use an alternative fuel under certain conditions but must submit a notification before using the alternative fuel, must report on alternative fuel use after terminating use of the alternative fuel, and must maintain records of alternative fuel use. The second exception pertains to continuous kilns; the final rule requires reporting and recordkeeping whenever the control device used on a continuous kiln is taken offline for scheduled maintenance.

The annual monitoring, reporting, and recordkeeping burden for this collection of information (averaged over the first 3 years after the effective date of the rule) is estimated to be 726 labor hours per year at a total annual cost of $31,460. This burden estimate includes time for acquisition, installation, and use of monitoring technology and systems; preparation and a one-time submission of an SSMP, with immediate reports for any event when the procedures in the plan were not followed; preparation of an OM&M plan; one-time notifications; semiannual compliance reports; and recordkeeping. Total annualized capital/startup costs associated with the monitoring requirements (*e.g.*, costs for hiring performance test contractors and purchase of monitoring and file storage equipment) over the 3-year period of the ICR are estimated at $45,390, with operation and maintenance costs of $910/yr.

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 current valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act (RFA)

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final rule. The EPA has also determined that the rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impact of today's rule on small entities, small entities are defined as: (1) A small business whose parent company has fewer than 500 employees, according to Small Business Administration size standards established under the NAICS for the industries affected by today's rule; (2) a small governmental jurisdiction that is a government or 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 that 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, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. We have determined that of the six facilities affected by the rule, there is one facility owned by a small company that will experience an impact of less than one-half of one percent (<0.50 percent) of company sales.

Although the 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 the rule on small entities. However, we were unable to identify any specific requirements of the final rule that we could relax to reduce the burden of today's rule on small entities. If the final rule had established emission limits more stringent than the MACT floor, we could have reduced the stringency of the emission limits for small entities. However, the emission limits established by today's rule are based on the MACT floor, which is the minimum level of stringency allowed under section 112 of the CAA. Today's rule does provide two options for owners and operators of affected thermal process sources of organic HAP. Thus, the one small entity that is affected by today's rule can choose to comply with either of two organic HAP emission limits. Having the choice between compliance options will provide small business with some measure of flexibility in how it chooses to comply with the final rule.

Today's rule requires continuous parameter monitoring rather than continuous emission monitoring. We believe that the parameter monitoring requirements we have incorporated in the final rule satisfy the requirements of section 114(a)(3) of the CAA for enhanced monitoring without the additional expense that would have been associated with continuous emission monitoring. Finally, the reporting and recordkeeping requirements of today's rule are consistent with the requirements of the General Provisions to 40 CFR part 63. For these reasons, we believe that today's rule satisfies the requirements of

the CAA without imposing any unnecessary burden on small businesses or any other affected entity.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law No. 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 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's regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that today's 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 1 year. The maximum total annual cost of today's final rule for any year has been estimated to be approximately $2.3 million. Thus, this 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 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. Therefore, today's final rule 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 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. None of the affected facilities is owned or operated by State governments, and the rule requirements will not supercede State regulations that are more stringent. Thus, Executive Order 13132 does not apply to the 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." The 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, as specified in Executive Order 13175. No tribal governments own or operate refractory products manufacturing facilities. Thus, Executive Order 13175 does not apply to the final 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 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 rule is preferable to other potentially effective and reasonably feasible alternatives that EPA considered.

The 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. Today's final rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, the final rule has been determined not to be "economically significant" as defined under Executive Order 12866.

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

Today's final rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is 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 (NTTAA) of 1995 (Pub. L. 104–113; 15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in their regulatory and procurement 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, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to the OMB, with explanations when an agency does not

use available and applicable voluntary consensus standards.

Today's final rule involves technical standards. The EPA cites the following standards: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 25A, 26, 26A, 311, and 320. Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards in addition to these EPA method/performance specifications. No applicable voluntary consensus standards were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, and 311. The search and review results have been documented and can be found in Docket No. OAR–2002–0088.

The voluntary consensus standard ASME PTC 19–10–1981–Part 10, "Flue and Exhaust Gas Analyses," is cited in the rule for its manual methods for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas. This part of ASME PTC 19–10–1981–Part 10 is an acceptable alternative to Method 3B.

Also, five voluntary consensus standards: ASTM D1979–91, ASTM D3432–89, ASTM D4747–87, ASTM D4827–93, and ASTM PS9–94 are incorporated by reference in EPA Method 311.

In addition to the voluntary consensus standards EPA cites in the rule, the search for emissions measurement procedures identified 13 other voluntary consensus standards. The EPA determined that ten of the 13 standards identified for measuring emissions of the HAP or surrogates subject to emission standards in the rule were impractical alternatives to EPA test methods for the purposes of the rule. Therefore, EPA does not intend to adopt these standards for this purpose. The reasons for this determination for the ten methods are discussed in the docket.

Two of the 12 voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of the rule because they are under development by a voluntary consensus body: ASME/BSR MFC 13M, "Flow Measurement by Velocity Traverse," for EPA Method 2 (and possibly 1); and ASME/BSR MFC 12M, "Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters," for EPA Method 2.

The voluntary consensus standard ASTM D6348–98, "Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform (FTIR) Spectroscopy," has been reviewed by the EPA as a potential alternative to EPA Method 320. Suggested revisions to ASTM D6348–98 were sent to ASTM by the EPA that would allow the EPA to accept ASTM D6348–98 as an acceptable alternative. The ASTM Subcommittee D22–03 is currently undertaking a revision of ASTM D6348–98. Because of this, we are not citing this standard as a acceptable alternative for EPA Method 320 in the rule today. However, upon successful ASTM balloting and demonstration of technical equivalency with the EPA FTIR methods, the revised ASTM standard could be incorporated by reference for EPA regulatory applicability. In the interim, facilities have the option to request ASTM D6348–98 as an alternative test method under 40 CFR 63.7(f) and 63.8(f) on a case-by-case basis.

J. 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. The EPA will submit a report containing the 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 June 16, 2003. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

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

Dated: February 28, 2003.

Christine Todd Whitman,

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, *et seq.*

■ 2. Part 63 is amended by adding subpart SSSSS to read as follows:

Subpart SSSSS—National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing

What This Subpart Covers

Sec.

63.9780 What is the purpose of this subpart?
63.9782 Am I subject to this subpart?
63.9784 What parts of my plant does this subpart cover?
63.9786 When do I have to comply with this subpart?

Emission Limitations and Work Practice Standards

63.9788 What emission limits, operating limits, and work practice standards must I meet?
63.9790 What are my options for meeting the emission limits?

General Compliance Requirements

63.9792 What are my general requirements for complying with this subpart?
63.9794 What do I need to know about operation, maintenance, and monitoring plans?

Testing and Initial Compliance Requirements

63.9796 By what date must I conduct performance tests?
63.9798 When must I conduct subsequent performance tests?
63.9800 How do I conduct performance tests and establish operating limits?
63.9802 How do I develop an emissions profile?
63.9804 What are my monitoring system installation, operation, and maintenance requirements?
63.9806 How do I demonstrate initial compliance with the emission limits, operating limits, and work practice standards?

Continuous Compliance Requirements

63.9808 How do I monitor and collect data to demonstrate continuous compliance?
63.9810 How do I demonstrate continuous compliance with the emission limits, operating limits, and work practice standards?

Notifications, Reports, and Records

63.9812 What notifications must I submit and when?
63.9814 What reports must I submit and when?
63.9816 What records must I keep?
63.9818 In what form and how long must I keep my records?

Other Requirements and Information

63.9820 What parts of the General Provisions apply to me?
63.9822 Who implements and enforces this subpart?
63.9824 What definitions apply to this subpart?

Tables to Subpart SSSSS of Part 63

Table 1 to Subpart SSSSS of Part 63—Emission Limits
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What This Subpart Covers

§ 63.9780 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for refractory products manufacturing facilities. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations.

§ 63.9782 Am I subject to this subpart?

You are subject to this subpart if you own or operate a refractory products manufacturing facility that is, is located at, or is part of, a major source of hazardous air pollutant (HAP) emissions according to the criteria in paragraphs (a) and (b) of this section.

(a) A refractory products manufacturing facility is a plant site that manufactures refractory products (refractory bricks, refractory shapes, monolithics, kiln furniture, crucibles, and other materials used for lining furnaces and other high temperature process units), as defined in § 63.9824. Refractory products manufacturing facilities typically process raw material by crushing, grinding, and screening; mixing the processed raw materials with binders and other additives; forming the refractory mix into shapes; and drying and firing the shapes.

(b) A major source of HAP is a plant site that emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (10 tons) or more per year or any combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year.

§ 63.9784 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, or existing affected source at a refractory products manufacturing facility.

(b) The existing affected sources are shape dryers, curing ovens, and kilns that are used to manufacture refractory products that use organic HAP; shape preheaters, pitch working tanks, defumers, and coking ovens that are used to produce pitch-impregnated refractory products; kilns that are used to manufacture chromium refractory products; and kilns that are used to manufacture clay refractory products.

(c) The new or reconstructed affected sources are shape dryers, curing ovens, and kilns that are used to manufacture refractory products that use organic HAP; shape preheaters, pitch working tanks, defumers, and coking ovens used to produce pitch-impregnated refractory products; kilns that are used to manufacture chromium refractory products; and kilns that are used to manufacture clay refractory products.

(d) Shape dryers, curing ovens, kilns, coking ovens, defumers, shape preheaters, and pitch working tanks that are research and development (R&D) process units are not subject to the requirements of this subpart. (See definition of *research and development process unit* in § 63.9824).

(e) A source is a new affected source if you began construction of the affected source after June 20, 2002, and you met the applicability criteria at the time you began construction.

(f) An affected source is reconstructed if you meet the criteria as defined in § 63.2.

(g) An affected source is existing if it is not new or reconstructed.

§ 63.9786 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, you must comply with this subpart according to paragraphs (a)(1) and (2) of this section.

(1) If the initial startup of your affected source is before April 16, 2003, then you must comply with the emission limitations for new and reconstructed sources in this subpart no later than April 16, 2003.

(2) If the initial startup of your affected source is after April 16, 2003, then you must comply with the emission limitations for new and reconstructed sources in this subpart upon initial startup of your affected source.

(b) If you have an existing affected source, you must comply with the emission limitations for existing sources no later than April 17, 2006.

(c) You must be in compliance with this subpart when you conduct a performance test on an affected source.

(d) If you have an existing 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 according to paragraphs (d)(1) and (2) of this section.

(1) Any portion of the existing facility that is a new affected source or a new reconstructed source must be in compliance with this subpart upon startup.

(2) All other parts of the existing facility must be in compliance with this subpart by 3 years after the date the area source becomes a major source.

(e) If you have a new area source (*i.e.*, an area source for which construction or reconstruction was commenced after June 20, 2002) 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 upon initial startup of your affected source as a major source.

(f) You must meet the notification requirements in § 63.9812 according to the schedule in § 63.9812 and in 40 CFR part 63, subpart A. Some of the notifications must be submitted before you are required to comply with the emission limitations in this subpart.

Emission Limitations and Work Practice Standards

§ 63.9788 What emission limits, operating limits, and work practice standards must I meet?

(a) You must meet each emission limit in Table 1 to this subpart that applies to you.

(b) You must meet each operating limit in Table 2 to this subpart that applies to you.

(c) You must meet each work practice standard in Table 3 to this subpart that applies to you.

§ 63.9790 What are my options for meeting the emission limits?

To meet the emission limits in Table 1 to this subpart, you must use one or both of the options listed in paragraphs (a) and (b) of this section.

(a) *Emissions control system.* Use an emissions capture and collection system and an add-on air pollution control device (APCD) and demonstrate that the resulting emissions or emissions reductions meet the applicable emission limits in Table 1 to this subpart, and demonstrate that the capture and collection system and APCD meet the applicable operating limits in Table 2 to this subpart.

(b) *Process changes.* Use raw materials that have little or no potential to emit HAP during the refractory products manufacturing process or implement manufacturing process changes and demonstrate that the resulting emissions or emissions reductions meet the applicable emission

limits in Table 1 to this subpart without an add-on APCD.

General Compliance Requirements

§ 63.9792 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations (including operating limits and work practice standards) in this subpart at all times, except during periods specified in paragraphs (a)(1) and (2) of this section.

(1) Periods of startup, shutdown, and malfunction.

(2) Periods of scheduled maintenance on a control device that is used on an affected continuous kiln, as specified in paragraph (e) of this section.

(b) Except as specified in paragraph (e) of this section, you must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i). During the period between the compliance date specified for your affected source in § 63.9786 and the date upon which continuous monitoring systems have been installed and validated and any applicable operating limits have been established, you must maintain a log detailing the operation and maintenance of the process and emissions control equipment.

(c) You must develop and implement a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

(d) You must prepare and implement a written operation, maintenance, and monitoring (OM&M) plan according to the requirements in § 63.9794.

(e) If you own or operate an affected continuous kiln and must perform scheduled maintenance on the control device for that kiln, you may bypass the kiln control device and continue operating the kiln upon approval by the Administrator, provided you satisfy the conditions listed in paragraphs (e)(1) through (3) of this section.

(1) You must request approval from the Administrator to bypass the control device while the scheduled maintenance is performed. You must submit a separate request each time you plan to bypass the control device, and your request must include the information specified in paragraphs (e)(1)(i) through (vi) of this section.

(i) Reason for the scheduled maintenance.

(ii) Explanation for why the maintenance cannot be performed when the kiln is shut down.

(iii) Detailed description of the maintenance activities.

(iv) Time required to complete the maintenance.

(v) How you will minimize HAP emissions from the kiln during the period when the control device is out of service.

(vi) How you will minimize the time when the kiln is operating and the control device is out of service for scheduled maintenance.

(2) You must minimize HAP emissions during the period when the kiln is operating and the control device is out of service.

(3) You must minimize the time period during which the kiln is operating and the control device is out of service.

(f) You must be in compliance with the provisions of subpart A of this part, except as noted in Table 11 to this subpart.

§ 63.9794 What do I need to know about operation, maintenance, and monitoring plans?

(a) For each continuous parameter monitoring system (CPMS) required by this subpart, you must develop, implement, make available for inspection, and revise, as necessary, an OM&M plan that includes the information in paragraphs (a)(1) through (13) of this section.

(1) A list and identification of each process and add-on APCD that is required by this subpart to be monitored, the type of monitoring device that will be used, and the operating parameters that will be monitored.

(2) Specifications for the sensor, signal analyzer, and data collection system.

(3) A monitoring schedule that specifies the frequency that the parameter values will be determined and recorded.

(4) The operating limits for each parameter that represent continuous compliance with the emission limitations in § 63.9788, based on values of the monitored parameters recorded during performance tests.

(5) Procedures for installing the CPMS at a measurement location relative to each process unit or APCD such that measurement is representative of control of emissions.

(6) Procedures for the proper operation and routine and long-term maintenance of each process unit and APCD, including a maintenance and inspection schedule that is consistent with the manufacturer's recommendations.

(7) Procedures for the proper operation and maintenance of monitoring equipment consistent with the requirements in §§ 63.8(c)(1), (3), (4)(ii), (7), and (8), and 63.9804.

(8) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d).

(9) Procedures for evaluating the performance of each CPMS.

(10) Procedures for responding to operating parameter deviations, including the procedures in paragraphs (a)(10)(i) through (iii) of this section:

(i) Procedures for determining the cause of the operating parameter deviation.

(ii) Actions for correcting the deviation and returning the operating parameters to the allowable limits.

(iii) Procedures for recording the times that the deviation began and ended, and when corrective actions were initiated and completed.

(11) Procedures for keeping records to document compliance and reporting in accordance with the requirements of § 63.10(c), (e)(1), and (e)(2)(i).

(12) If you operate a kiln that is subject to the limits on the type of fuel used, as specified in items 3 and 4 of Table 3 to subpart SSSSS, procedures for using alternative fuels.

(13) If you operate an affected continuous kiln and you plan to take the kiln control device out of service for scheduled maintenance, as specified in § 63.9792(e), the procedures specified in paragraphs (a)(13)(i) and (ii) of this section.

(i) Procedures for minimizing HAP emissions from the kiln during periods of scheduled maintenance of the kiln control device when the kiln is operating and the control device is out of service.

(ii) Procedures for minimizing any period of scheduled maintenance on the kiln control device when the kiln is operating and the control device is out of service.

(b) Changes to the operating limits in your OM&M plan require a new performance test. If you are revising an operating limit parameter value, you must meet the requirements in paragraphs (b)(1) and (2) of this section.

(1) Submit a Notification of Performance Test to the Administrator as specified in § 63.7(b).

(2) After completing the performance tests to demonstrate that compliance with the emission limits can be achieved at the revised operating limit parameter value, you must submit the performance test results and the revised operating limits as part of the Notification of Compliance Status required under § 63.9(h).

(c) If you are revising the inspection and maintenance procedures in your

OM&M plan, you do not need to conduct a new performance test.

Testing and Initial Compliance Requirements

§ 63.9796 By what date must I conduct performance tests?

You must conduct performance tests within 180 calendar days after the compliance date that is specified for your source in § 63.9786 and according to the provisions in § 63.7(a)(2).

§ 63.9798 When must I conduct subsequent performance tests?

(a) You must conduct a performance test every 5 years following the initial performance test, as part of renewing your 40 CFR part 70 or 40 CFR part 71 operating permit.

(b) You must conduct a performance test when you want to change the parameter value for any operating limit specified in your OM&M plan.

(c) If you own or operate a source that is subject to the emission limits specified in items 2 through 9 of Table 1 to this subpart, you must conduct a performance test on the source(s) listed in paragraphs (c)(1) and (2) of this section before you start production of any refractory product for which the organic HAP processing rate is likely to exceed by more than 10 percent the maximum organic HAP processing rate established during the most recent performance test on that same source.

(1) Each affected shape dryer or curing oven that is used to process the refractory product with the higher organic HAP processing rate.

(2) Each affected kiln that follows an affected shape dryer or curing oven and is used to process the refractory product with the higher organic HAP processing rate.

(d) If you own or operate a kiln that is subject to the emission limits specified in item 5 or 9 of Table 1 to this subpart, you must conduct a performance test on the affected kiln following any process changes that are likely to increase organic HAP emissions from the kiln (*e.g.*, a decrease in the curing cycle time for a curing oven that precedes the affected kiln in the process line).

(e) If you own or operate a clay refractory products kiln that is subject to the emission limits specified in item 10 or 11 of Table 1 to this subpart and is controlled with a dry limestone adsorber (DLA), you must conduct a performance test on the affected kiln following any change in the source of limestone used in the DLA.

§ 63.9800 How do I conduct performance tests and establish operating limits?

(a) You must conduct each performance test in Table 4 to this subpart that applies to you.

(b) Before conducting the performance test, you must install and validate all monitoring equipment.

(c) Each performance test must be conducted according to the requirements in § 63.7 and under the specific conditions in Table 4 to this subpart.

(d) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(e) You must conduct separate test runs for at least the duration specified for each performance test required in this section, as specified in § 63.7(e)(3) and Table 4 to this subpart.

(f) For batch process sources, you must satisfy the requirements specified in paragraphs (f)(1) through (5) of this section.

(1) You must conduct at least two test runs.

(2) Each test run must last an entire batch cycle unless you develop an emissions profile, as specified in items 8(a)(i)(4) and 17(b)(i)(4) of Table 4 to this subpart, or you satisfy the conditions for terminating a test run prior to the completion of a batch cycle as specified in item 8(a)(i)(5) of Table 4 to this subpart.

(3) Each test run must be performed over a separate batch cycle unless you satisfy the conditions for conducting both test runs over a single batch cycle, as described in paragraphs (f)(3)(i) and (ii) of this section.

(i) You do not produce the product that corresponds to the maximum organic HAP processing rate for that batch process source in consecutive batch cycles.

(ii) To produce that product in two consecutive batch cycles would disrupt production of other refractory products.

(4) If you want to conduct a performance test over a single batch cycle, you must include in your Notification of Performance Test the rationale for testing over a single batch cycle.

(5) If you are granted approval to conduct a performance test over a single batch cycle, you must use paired sampling trains and collect two sets of emissions data. Each set of data can be considered a separate test run.

(g) You must use the data gathered during the performance test and the equations in paragraphs (g)(1) through (3) of this section to determine compliance with the emission limitations.

(1) To determine compliance with the total hydrocarbon (THC) emission concentration limit listed in Table 1 to this subpart, you must calculate your emission concentration corrected to 18 percent oxygen for each test run using Equation 1 of this section:

$$C_{THC-C} = \frac{2.9 \times C_{THC}}{(20.9 - C_{O_2})} \qquad \text{(Eq. 1)}$$

Where:

C_{THC-C}=THC concentration, corrected to 18 percent oxygen, parts per million by volume, dry basis (ppmvd)

C_{THC}=THC concentration (uncorrected), ppmvd

C_{O2}=oxygen concentration, percent.

(2) To determine compliance with any of the emission limits based on percentage reduction across an emissions control system specified in Table 1 to this subpart, you must calculate the percentage reduction for each test run using Equation 2 of this section:

$$PR = \frac{ER_i - ER_o}{ER_i} \times 100 \qquad \text{(Eq. 2)}$$

Where:

PR=percentage reduction, percent

ER_i=mass emissions rate of specific HAP or pollutant (THC, HF, or HCl) entering the control device, kilograms (pounds) per hour

ER_o=mass emissions rate of specific HAP or pollutant (THC, HF, or HCl) exiting the control device, kilograms (pounds) per hour.

(3) To determine compliance with production-based hydrogen fluoride (HF) and hydrogen chloride (HCl) emission limits in Table 1 to this subpart, you must calculate your mass emissions per unit of uncalcined clay processed for each test run using Equation 3 of this section:

$$MP = \frac{ER}{P} \qquad \text{(Eq. 3)}$$

Where:

MP=mass per unit of production, kilograms of pollutant per megagram (pounds per ton) of uncalcined clay processed

ER=mass emissions rate of specific HAP (HF or HCl) during each performance test run, kilograms (pounds) per hour

P=average uncalcined clay processing rate for the performance test, megagrams (tons) of uncalcined clay processed per hour.

(h) You must establish each site-specific operating limit in Table 2 to

this subpart that applies to you, as specified in Table 4 to this subpart.

(i) For each affected source that is equipped with an add-on APCD that is not addressed in Table 2 to this subpart or that is using process changes as a means of meeting the emission limits in Table 1 to this subpart, you must meet the requirements in § 63.8(f) and paragraphs (i)(1) through (3) of this section.

(1) For sources subject to the THC concentration limit specified in item 3 or 7 of Table 1 to this subpart, you must satisfy the requirements specified in paragraphs (i)(1)(i) through (iii) of this section.

(i) You must install a THC continuous emissions monitoring system (CEMS) at the outlet of the control device or in the stack of the affected source.

(ii) You must meet the requirements specified in Performance Specification (PS) 8 of 40 CFR part 60, appendix B.

(iii) You must meet the requirements specified in Procedure 1 of 40 CFR part 60, appendix F.

(2) For sources subject to the emission limits specified in item 3, 4, 7, or 8 of Table 1 to this subpart, you must submit a request for approval of alternative monitoring methods to the Administrator no later than the submittal date for the Notification of Performance Test, as specified in § 63.9812(d). The request must contain the information specified in paragraphs (i)(2)(i) through (v) of this section.

(i) Description of the alternative add-on APCD or process changes.

(ii) Type of monitoring device or method that will be used, including the sensor type, location, inspection procedures, quality assurance and quality control measures, and data recording device.

(iii) Operating parameters that will be monitored.

(iv) Frequency that the operating parameter values will be determined and recorded to establish continuous compliance with the operating limits.

(v) Averaging time.

(3) You must establish site-specific operating limits during the performance test based on the information included in the approved alternative monitoring methods request and, as applicable, as specified in Table 4 to this subpart.

§ 63.9802 How do I develop an emissions profile?

If you decide to develop an emissions profile for an affected batch process source; as indicated in item 8(a)(i)(4) or 17(b)(i)(4) of Table 4 to this subpart, you must measure and record mass emissions of the applicable pollutant throughout a complete batch cycle of the affected batch process source according to the procedures described in paragraph (a) or (b) of this section.

(a) If your affected batch process source is subject to the THC concentration limit specified in item 6(a), 7(a), 8, or 9 of Table 1 to this subpart or the THC percentage reduction limit specified in item 6(b) or 7(b) of Table 1 to this subpart, you must measure and record the THC mass emissions rate at the inlet to the control device using the test methods, averaging periods, and procedures specified in items 10(a) and (b) of Table 4 to this subpart for each complete hour of the batch process cycle.

(b) If your affected batch process source is subject to the HF and HCl percentage reduction emission limits in item 11 of Table 1 to this subpart, you must measure and record the HF mass emissions rate at the inlet to the control device through a series of 1-hour test runs according to the test method specified in item 14(a) of Table 4 to this subpart for each complete hour of the batch process cycle.

§ 63.9804 What are my monitoring system installation, operation, and maintenance requirements?

(a) You must install, operate, and maintain each CPMS required by this subpart according to your OM&M plan and the requirements in paragraphs (a)(1) through (15) of this section.

(1) You must satisfy all applicable requirements of performance specifications for CPMS specified in 40 CFR part 60, appendix B, upon promulgation of such performance specifications.

(2) You must satisfy all applicable requirements of quality assurance (QA) procedures for CPMS specified in 40 CFR part 60, appendix F, upon promulgation of such QA procedures.

(3) You must install each sensor of your CPMS in a location that provides representative measurement of the appropriate parameter over all operating conditions, taking into account the manufacturer's guidelines.

(4) You must use a CPMS that is capable of measuring the appropriate parameter over a range that extends from a value of at least 20 percent less than the lowest value that you expect your CPMS to measure, to a value of at least 20 percent greater than the highest value that you expect your CPMS to measure.

(5) You must use a data acquisition and recording system that is capable of recording values over the entire range specified in paragraph (a)(4) of this section.

(6) You must use a signal conditioner, wiring, power supply, and data acquisition and recording system that are compatible with the output signal of the sensors used in your CPMS.

(7) You must perform an initial calibration of your CPMS based on the procedures specified in the manufacturer's owner's manual.

(8) You must use a CPMS that is designed to complete a minimum of one cycle of operation for each successive 15-minute period. To have a valid hour of data, you must have at least three of four equally-spaced data values (or at least 75 percent of the total number of values if you collect more than four data values per hour) for that hour (not including startup, shutdown, malfunction, or out-of-control periods).

(9) You must record valid data from at least 90 percent of the hours during which the affected source or process operates.

(10) You must determine and record the 15-minute block averages of all measurements, calculated after every 15 minutes of operation as the average of the previous 15 operating minutes (not including periods of startup, shutdown, or malfunction).

(11) You must determine and record the 3-hour block averages of all 15-minute recorded measurements, calculated after every 3 hours of operation as the average of the previous 3 operating hours (not including periods of startup, shutdown, or malfunction).

(12) You must record the results of each inspection, calibration, initial validation, and accuracy audit.

(13) At all times, you must maintain your CPMS including, but not limited to, maintaining necessary parts for routine repairs of the CPMS.

(14) You must perform an initial validation of your CPMS under the conditions specified in paragraphs (14)(i) and (ii) of this section.

(i) Prior to the initial performance test on the affected source for which the CPMS is required.

(ii) Within 180 days of your replacing or relocating one or more of the sensors of your CPMS.

(15) Except for redundant sensors, as defined in § 63.9824, any device that you use to conduct an initial validation or accuracy audit of your CPMS must meet the accuracy requirements specified in paragraphs (15)(i) and (ii) of this section.

(i) The device must have an accuracy that is traceable to National Institute of Standards and Technology (NIST) standards.

(ii) The device must be at least three times as accurate as the required accuracy for the CPMS.

(b) For each temperature CPMS that is used to monitor the combustion chamber temperature of a thermal oxidizer or the catalyst bed inlet temperature of a catalytic oxidizer, you must meet the requirements in paragraphs (a) and (b)(1) through (6) of this section.

(1) Use a temperature CPMS with a minimum accuracy of ±1.0 percent of the temperature value or 2.8 degrees Celsius (°C) (5 degrees Fahrenheit (°F)), whichever is greater.

(2) Use a data recording system with a minimum resolution of one-half or better of the required CPMS accuracy specified in paragraph (b)(1) of this section.

(3) Perform an initial validation of your CPMS according to the requirements in paragraph (3)(i) or (ii) of this section.

(i) Place the sensor of a calibrated temperature measurement device adjacent to the sensor of your temperature CPMS in a location that is subject to the same environment as the sensor of your temperature CPMS. The calibrated temperature measurement device must satisfy the accuracy requirements of paragraph (a)(15) of this section. While the process and control device that is monitored by your CPMS are operating normally, record concurrently and compare the temperatures measured by your temperature CPMS and the calibrated temperature measurement device. Using the calibrated temperature measurement device as the reference, the temperature measured by your CPMS must be within the accuracy specified in paragraph (b)(1) of this section.

(ii) Perform any of the initial validation methods for temperature CPMS specified in performance specifications for CPMS established in 40 CFR part 60, appendix B.

(4) Perform an accuracy audit of your temperature CPMS at least quarterly, according to the requirements in paragraph (b)(4)(i), (ii), or (iii) of this section.

(i) If your temperature CPMS includes a redundant temperature sensor, record three pairs of concurrent temperature measurements within a 24-hour period. Each pair of concurrent measurements must consist of a temperature measurement by each of the two temperature sensors. The minimum time interval between any two such pairs of consecutive temperature measurements is 1 hour. The measurements must be taken during periods when the process and control device that is monitored by your temperature CPMS are operating normally. Calculate the mean of the three values for each temperature sensor. The mean values must agree within the required overall accuracy of the CPMS, as specified in paragraph (b)(1) of this section.

(ii) If your temperature CPMS does not include a redundant temperature sensor, place the sensor of a calibrated temperature measurement device adjacent to the sensor of your temperature CPMS in a location that is subject to the same environment as the sensor of your temperature CPMS. The calibrated temperature measurement device must satisfy the accuracy requirements of paragraph (a)(15) of this section. While the process and control device that is monitored by your temperature CPMS are operating normally, record concurrently and compare the temperatures measured by your CPMS and the calibrated temperature measurement device. Using the calibrated temperature measurement device as the reference, the temperature measured by your CPMS must be within the accuracy specified in paragraph (b)(1) of this section.

(iii) Perform any of the accuracy audit methods for temperature CPMS specified in QA procedures for CPMS established in 40 CFR part 60, appendix F.

(5) Conduct an accuracy audit of your CPMS following any 24-hour period throughout which the temperature measured by your CPMS exceeds the manufacturer's specified maximum operating temperature range, or install a new temperature sensor.

(6) If your CPMS is not equipped with a redundant temperature sensor, perform at least quarterly a visual inspection of all components of the CPMS for integrity, oxidation, and galvanic corrosion.

(c) For each pressure CPMS that is used to monitor the pressure drop across a DLA or wet scrubber, you must meet the requirements in paragraphs (a) and (c)(1) through (7) of this section.

(1) Use a pressure CPMS with a minimum accuracy of ±5.0 percent or 0.12 kilopascals (kPa) (0.5 inches of water column (in. w.c.)), whichever is greater.

(2) Use a data recording system with a minimum resolution of one-half the required CPMS accuracy specified in paragraph (c)(1) of this section, or better.

(3) Perform an initial validation of your pressure CPMS according to the requirements in paragraph (c)(3)(i) or (ii) of this section.

(i) Place the sensor of a calibrated pressure measurement device adjacent to the sensor of your pressure CPMS in a location that is subject to the same environment as the sensor of your pressure CPMS. The calibrated pressure measurement device must satisfy the accuracy requirements of paragraph (a)(15) of this section. While the process and control device that is monitored by your CPMS are operating normally, record concurrently and compare the pressure measured by your CPMS and the calibrated pressure measurement device. Using the calibrated pressure measurement device as the reference, the pressure measured by your CPMS must be within the accuracy specified in paragraph (c)(1) of this section.

(ii) Perform any of the initial validation methods for pressure CPMS specified in performance specifications for CPMS established in 40 CFR part 60, appendix B.

(4) Perform an accuracy audit of your pressure CPMS at least quarterly, according to the requirements in paragraph (c)(4)(i), (ii), or (iii) of this section.

(i) If your pressure CPMS includes a redundant pressure sensor, record three pairs of concurrent pressure measurements within a 24-hour period. Each pair of concurrent measurements must consist of a pressure measurement by each of the two pressure sensors. The minimum time interval between any two such pairs of consecutive pressure measurements is 1 hour. The measurements must be taken during periods when the process and control device that is monitored by your CPMS are operating normally. Calculate the mean of the three pressure measurement values for each pressure sensor. The mean values must agree within the required overall accuracy of the CPMS, as specified in paragraph (c)(1) of this section.

(ii) If your pressure CPMS does not include a redundant pressure sensor, place the sensor of a calibrated pressure measurement device adjacent to the sensor of your pressure CPMS in a location that is subject to the same environment as the sensor of your pressure CPMS. The calibrated pressure measurement device must satisfy the accuracy requirements of paragraph (a)(15) of this section. While the process and control device that is monitored by your CPMS are operating normally, record concurrently and compare the pressure measured by your CPMS and the calibrated pressure measurement device. Using the calibrated pressure measurement device as the reference, the pressure measured by your CPMS must be within the accuracy specified in paragraph (c)(1) of this section.

(iii) Perform any of the accuracy audit methods for pressure CPMS specified in

QA procedures for CPMS established in 40 CFR part 60, appendix F.

(5) Conduct an accuracy audit of your CPMS following any 24-hour period throughout which the pressure measured by your CPMS exceeds the manufacturer's specified maximum operating pressure range, or install a new pressure sensor.

(6) At least monthly, check all mechanical connections on your CPMS for leakage.

(7) If your CPMS is not equipped with a redundant pressure sensor, perform at least quarterly a visual inspection of all components of the CPMS for integrity, oxidation, and galvanic corrosion.

(d) For each liquid flow rate CPMS that is used to monitor the liquid flow rate in a wet scrubber, you must meet the requirements in paragraphs (a) and (d)(1) through (7) of this section.

(1) Use a flow rate CPMS with a minimum accuracy of ±5.0 percent or 1.9 liters per minute (L/min) (0.5 gallons per minute (gal/min)), whichever is greater.

(2) Use a data recording system with a minimum resolution of one-half the required CPMS accuracy specified in paragraph (d)(1) of this section, or better.

(3) Perform an initial validation of your CPMS according to the requirements in paragraph (3)(i) or (ii) of this section.

(i) Use a calibrated flow rate measurement system to measure the liquid flow rate in a location that is adjacent to the measurement location for your flow rate CPMS and is subject to the same environment as your flow rate CPMS. The calibrated flow rate measurement device must satisfy the accuracy requirements of paragraph (a)(15) of this section. While the process and control device that is monitored by your flow rate CPMS are operating normally, record concurrently and compare the flow rates measured by your flow rate CPMS and the calibrated flow rate measurement device. Using the calibrated flow rate measurement device as the reference, the flow rate measured by your CPMS must be within the accuracy specified in paragraph (d)(1) of this section.

(ii) Perform any of the initial validation methods for liquid flow rate CPMS specified in performance specifications for CPMS established in 40 CFR part 60, appendix B.

(4) Perform an accuracy audit of your flow rate CPMS at least quarterly, according to the requirements in paragraph (d)(4)(i), (ii), or (iii) of this section.

(i) If your flow rate CPMS includes a redundant sensor, record three pairs of concurrent flow rate measurements within a 24-hour period. Each pair of concurrent measurements must consist of a flow rate measurement by each of the two flow rate sensors. The minimum time interval between any two such pairs of consecutive flow rate measurements is 1 hour. The measurements must be taken during periods when the process and control device that is monitored by your flow rate CPMS are operating normally. Calculate the mean of the three flow rate measurement values for each flow rate sensor. The mean values must agree within the required overall accuracy of the CPMS, as specified in paragraph (d)(1) of this section.

(ii) If your flow rate CPMS does not include a redundant flow rate sensor, place the sensor of a calibrated flow rate measurement device adjacent to the sensor of your flow rate CPMS in a location that is subject to the same environment as the sensor of your flow rate CPMS. The calibrated flow rate measurement device must satisfy the accuracy requirements of paragraph (a)(15) of this section. While the process and control device that is monitored by your flow rate CPMS are operating normally, record concurrently and compare the flow rate measured by your pressure CPMS and the calibrated flow rate measurement device. Using the calibrated flow rate measurement device as the reference, the flow rate measured by your CPMS must be within the accuracy specified in paragraph (d)(1) of this section.

(iii) Perform any of the accuracy audit methods for liquid flow rate CPMS specified in QA procedures for CPMS established in 40 CFR part 60, appendix F.

(5) Conduct an accuracy audit of your flow rate CPMS following any 24-hour period throughout which the flow rate measured by your CPMS exceeds the manufacturer's specified maximum operating range, or install a new flow rate sensor.

(6) At least monthly, check all mechanical connections on your CPMS for leakage.

(7) If your CPMS is not equipped with a redundant flow rate sensor, perform at least quarterly a visual inspection of all components of the CPMS for integrity, oxidation, and galvanic corrosion.

(e) For each pH CPMS that is used to monitor the pH of a wet scrubber liquid, you must meet the requirements in paragraphs (a) and (e)(1) through (5) of this section.

(1) Use a pH CPMS with a minium accuracy of ±0.2 pH units.

(2) Use a data recording system with a minimum resolution of 0.1 pH units, or better.

(3) Perform an initial validation of your pH CPMS according to the requirements in paragraph (e)(3)(i) or (ii) of this section.

(i) Perform a single-point calibration using an NIST-certified buffer solution that is accurate to within ±0.02 pH units at 25°C (77°F). If the expected pH of the liquid that is monitored lies in the acidic range (less than 7 pH), use a buffer solution with a pH value of 4.00. If the expected pH of the liquid that is monitored is neutral or lies in the basic range (equal to or greater than 7 pH), use a buffer solution with a pH value of 10.00. Place the electrode of your pH CPMS in the container of buffer solution. Record the pH measured by your CPMS. Using the certified buffer solution as the reference, the pH measured by your CPMS must be within the accuracy specified in paragraph (e)(1) of this section.

(ii) Perform any of the initial validation methods for pH CPMS specified in performance specifications for CPMS established in 40 CFR part 60, appendix B.

(4) Perform an accuracy audit of your pH CPMS at least weekly, according to the requirements in paragraph (e)(4)(i), (ii), or (iii) of this section.

(i) If your pH CPMS includes a redundant pH sensor, record the pH measured by each of the two pH sensors. The measurements must be taken during periods when the process and control device that is monitored by your pH CPMS are operating normally. The two pH values must agree within the required overall accuracy of the CPMS, as specified in paragraph (e)(1) of this section.

(ii) If your pH CPMS does not include a redundant pH sensor, perform a single point calibration using an NIST-certified buffer solution that is accurate to within ±0.02 pH units at 25°C (77°F). If the expected pH of the liquid that is monitored lies in the acidic range (less than 7 pH), use a buffer solution with a pH value of 4.00. If the expected pH of the liquid that is monitored is neutral or lies in the basic range (equal to or greater than 7 pH), use a buffer solution with a pH value of 10.00. Place the electrode of the pH CPMS in the container of buffer solution. Record the pH measured by your CPMS. Using the certified buffer solution as the reference, the pH measured by your CPMS must be within the accuracy specified in paragraph (e)(1) of this section.

(iii) Perform any of the accuracy audit methods for pH CPMS specified in QA

procedures for CPMS established in 40 CFR part 60, appendix F.

(5) If your CPMS is not equipped with a redundant pH sensor, perform at least monthly a visual inspection of all components of the CPMS for integrity, oxidation, and galvanic corrosion.

(f) For each bag leak detection system, you must meet the requirements in paragraphs (f)(1) through (11) of this section.

(1) Each triboelectric bag leak detection system must be installed, calibrated, operated, and maintained according to the "Fabric Filter Bag Leak Detection Guidance" (EPA–454/R–98–015, September 1997). That document is available from the U.S. EPA; Office of Air Quality Planning and Standards; Emissions, Monitoring and Analysis Division; Emission Measurement Center (D205–02), Research Triangle Park, NC 27711. It is also available on the Technology Transfer Network (TTN) at the following address: *http://www.epa.gov/ttn/emc/cem.html.* Other types of bag leak detection systems must be installed, operated, calibrated, and maintained in a manner consistent with the manufacturer's written specifications and recommendations.

(2) The bag leak detection system must be certified by the manufacturer to be capable of detecting particulate matter (PM) emissions at concentrations of 10 milligrams per actual cubic meter (0.0044 grains per actual cubic foot) or less.

(3) The bag leak detection system sensor must provide an output of relative PM loadings.

(4) The bag leak detection system must be equipped with a device to continuously record the output signal from the sensor.

(5) The bag leak detection system must be equipped with an alarm system that will be engaged automatically when an increase in relative PM emissions over a preset level is detected. The alarm must be located where it is easily recognized by plant operating personnel.

(6) For positive pressure fabric filter systems, a bag leak detector must be installed in each baghouse compartment or cell.

(7) For negative pressure or induced air fabric filters, the bag leak detector must be installed downstream of the fabric filter.

(8) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(9) The baseline output must be established by adjusting the range and the averaging period of the device and establishing the alarm set points and the alarm delay time according to section 5.0 of the "Fabric Filter Bag Leak Detection Guidance."

(10) Following initial adjustment of the system, the owner or operator must not adjust the sensitivity or range, averaging period, alarm set points, or alarm delay time except as detailed in the OM&M plan. In no case may the sensitivity be increased by more than 100 percent or decreased by more than 50 percent over a 365-day period unless such adjustment follows a complete fabric filter inspection that demonstrates that the fabric filter is in good operating condition. You must record each adjustment of your bag leak detection system.

(11) Record the results of each inspection, calibration, and validation check.

(g) For each lime feed rate measurement device that is used to monitor the lime feed rate of a dry injection fabric filter (DIFF) or dry lime scrubber/fabric filter (DLS/FF), or the chemical feed rate of a wet scrubber, you must meet the requirements in paragraph (a) of this section.

(h) For each affected source that is subject to the emission limit specified in item 3, 4, 7, or 8 of Table 1 to this subpart, you must satisfy the requirements of paragraphs (h)(1) through (3) of this section.

(1) Install a THC CEMS at the outlet of the control device or in the stack of the affected source.

(2) Meet the requirements of PS–8 of 40 CFR part 60, appendix B.

(3) Meet the requirements of Procedure 1 of 40 CFR part 60, appendix F.

(i) Requests for approval of alternate monitoring methods must meet the requirements in §§ 63.9800(i)(2) and 63.8(f).

§ 63.9806 How do I demonstrate initial compliance with the emission limits, operating limits, and work practice standards?

(a) You must demonstrate initial compliance with each emission limit that applies to you according to the requirements specified in Table 5 to this subpart.

(b) You must establish each site-specific operating limit in Table 2 to this subpart that applies to you according to the requirements specified in § 63.9800 and Table 4 to this subpart.

(c) You must demonstrate initial compliance with each work practice standard that applies to you according to the requirements specified in Table 6 to this subpart.

(d) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.9812(e).

Continuous Compliance Requirements

§ 63.9808 How do I monitor and collect data to demonstrate continuous compliance?

(a) You must monitor and collect data according to this section.

(b) At all times, you must maintain your monitoring systems including, but not limited to, maintaining necessary parts for routine repairs of the monitoring equipment.

(c) Except for, as applicable, monitoring system malfunctions, associated repairs, and required quality assurance or quality control activities, you must monitor continuously whenever your affected process unit is operating. For purposes of calculating data averages, you must not use data recorded during monitoring system malfunctions, associated repairs, and required quality assurance or quality control activities. You must use all the data collected during all other periods in assessing compliance. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring system malfunctions include out of control continuous monitoring systems (CMS), such as a CPMS. Any averaging period for which you do not have valid monitoring data as a result of a monitoring system malfunction and for which such data are required constitutes a deviation, and you must notify the Administrator in accordance with § 63.9814(e). Monitoring system failures are different from monitoring system malfunctions in that they are caused in part by poor maintenance or careless operation. Any period for which there is a monitoring system failure and data are not available for required calculations constitutes a deviation and you must notify the Administrator in accordance with § 63.9814(e).

§ 63.9810 How do I demonstrate continuous compliance with the emission limits, operating limits, and work practice standards?

(a) You must demonstrate continuous compliance with each emission limit specified in Table 1 to this subpart that applies to you according to the requirements specified in Table 7 to this subpart.

(b) You must demonstrate continuous compliance with each operating limit specified in Table 2 to this subpart that applies to you according to the requirements specified in Table 8 to this subpart.

(c) You must demonstrate continuous compliance with each work practice standard specified in Table 3 to this subpart that applies to you according to the requirements specified in Table 9 to this subpart.

(d) For each affected source that is equipped with an add-on APCD that is not addressed in Table 2 to this subpart or that is using process changes as a means of meeting the emission limits in Table 1 to this subpart, you must demonstrate continuous compliance with each emission limit in Table 1 to this subpart and each operating limit established as required in § 63.9800(i)(3) according to the methods specified in your approved alternative monitoring methods request as described in § 63.9800(i)(2).

(e) You must report each instance in which you did not meet each emission limit and each operating limit in this subpart that applies to you. This includes periods of startup, shutdown, and malfunction. These instances are deviations from the emission limitations in this subpart. These deviations must be reported according to the requirements in § 63.9814.

(1) During periods of startup, shutdown, and malfunction, you must operate according to your SSMP.

(2) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating according to your SSMP and your OM&M plan. The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

Notifications, Reports, and Records

§ 63.9812 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.7(b) and (c), 63.8(f)(4), and 63.9 (b) through (e) and (h) that apply to you by the dates specified.

(b) As specified in § 63.9(b)(2) and (3), if you start up your affected source before April 16, 2003, you must submit an Initial Notification not later than 120 calendar days after April 16, 2003.

(c) As specified in § 63.9(b)(3), if you start up your new or reconstructed affected source on or after April 16, 2003, you must submit an Initial Notification not later than 120 calendar days after you become subject to this subpart.

(d) If you are required to conduct a performance test, you must submit a Notification of Performance Test at least 60 calendar days before the performance test is scheduled to begin, as required in § 63.7(b)(1).

(e) If you are required to conduct a performance test, you must submit a Notification of Compliance Status as specified in § 63.9(h) and paragraphs (e)(1) and (2) of this section.

(1) For each compliance demonstration that includes a performance test conducted according to the requirements in Table 4 to this subpart, you must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test, according to § 63.10(d)(2).

(2) In addition to the requirements in § 63.9(h)(2)(i), you must include the information in paragraphs (e)(2)(i) through (iv) of this section in your Notification of Compliance Status.

(i) The operating limit parameter values established for each affected source with supporting documentation and a description of the procedure used to establish the values.

(ii) Design information and analysis with supporting documentation demonstrating conformance with requirements for capture/collection systems in Table 2 to this subpart.

(iii) A description of the methods used to comply with any applicable work practice standard.

(iv) For each APCD that includes a fabric filter, analysis and supporting documentation demonstrating conformance with EPA guidance and specifications for bag leak detection systems in § 63.9804(f).

(f) If you operate a clay refractory products kiln or a chromium refractory products kiln that is subject to the work practice standard specified in item 3 or 4 of Table 3 to this subpart, and you intend to use a fuel other than natural gas or equivalent to fire the affected kiln, you must submit a notification of alternative fuel use within 48 hours of the declaration of a period of natural gas curtailment or supply interruption, as defined in § 63.9824. The notification must include the information specified in paragraphs (f)(1) through (5) of this section.

(1) Company name and address.

(2) Identification of the affected kiln.

(3) Reason you are unable to use natural gas or equivalent fuel, including the date when the natural gas curtailment was declared or the natural gas supply interruption began.

(4) Type of alternative fuel that you intend to use.

(5) Dates when the alternative fuel use is expected to begin and end.

(g) If you own or operate an affected continuous kiln and must perform scheduled maintenance on the control device for that kiln, you must request approval from the Administrator before bypassing the control device, as specified in § 63.9792(e). You must submit a separate request for approval each time you plan to bypass the kiln control device.

§ 63.9814 What reports must I submit and when?

(a) You must submit each report in Table 10 to this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report by the date in Table 10 to this subpart and as specified in paragraphs (b)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.9786 and ending on June 30 or December 31 and lasting at least 6 months but less than 12 months. For example, if your compliance date is March 1, then the first semiannual reporting period would begin on March 1 and end on December 31.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31 for compliance periods ending on June 30 and December 31, respectively.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31 for compliance periods ending on June 30 and December 31, respectively.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71 and, if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section. In such cases, you must notify the Administrator of this change.

(c) The compliance report must contain the information in paragraphs (c)(1) through (6) of this section.

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying that, based on information and belief formed after reasonable inquiry, the statements and information in the report are true, accurate, and complete.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If you had a startup, shutdown, or malfunction during the reporting period, and you took actions consistent with your SSMP and OM&M plan, the compliance report must include the information specified in § 63.10(d)(5)(i).

(5) If there are no deviations from any emission limitations (emission limit, operating limit, or work practice standard) that apply to you, the compliance report must include a statement that there were no deviations from the emission limitations during the reporting period.

(6) If there were no periods during which any affected CPMS was out of control as specified in § 63.8(c)(7), the compliance report must include a statement that there were no periods during which the CPMS was out of control during the reporting period.

(d) For each deviation from an emission limitation (emission limit, operating limit, or work practice standard) that occurs at an affected source where you are not using a CPMS to comply with the emission limitations in this subpart, the compliance report must contain the information in paragraphs (c)(1) through (4) and (d)(1) and (2) of this section. This includes periods of startup, shutdown, and malfunction.

(1) The compliance report must include the total operating time of each affected source during the reporting period.

(2) The compliance report must include information on the number, duration, and cause of deviations (including unknown cause, if applicable) and the corrective action taken.

(e) For each deviation from an emission limitation (emission limit, operating limit, or work practice standard) occurring at an affected source where you are using a CPMS to comply with the emission limitation in this subpart, the compliance report must include the information in paragraphs (c)(1) through (4) and (e)(1) through (13) of this section. This includes periods of startup, shutdown, and malfunction.

(1) The total operating time of each affected source during the reporting period.

(2) The date and time that each startup, shutdown, or malfunction started and stopped.

(3) The date, time, and duration that each CPMS was inoperative.

(4) The date, time and duration that each CPMS was out of control, including the information in § 63.8(c)(8), as required by your OM&M plan.

(5) The date and time that each deviation from an emission limitation (emission limit, operating limit, or work practice standard) started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction.

(6) A description of corrective action taken in response to a deviation.

(7) A summary of the total duration of the deviations during the reporting period and the total duration as a percentage of the total source operating time during that reporting period.

(8) A breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(9) A summary of the total duration of CPMS downtime during the reporting period and the total duration of CPMS downtime as a percentage of the total source operating time during that reporting period.

(10) A brief description of the process units.

(11) A brief description of the CPMS.

(12) The date of the latest CPMS initial validation or accuracy audit.

(13) A description of any changes in CPMS, processes, or controls since the last reporting period.

(f) If you have obtained a title V operating permit pursuant to 40 CFR part 70 or 40 CFR part 71, you must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If you submit a compliance report according to Table 10 to this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the compliance report includes all required information concerning deviations from any emission limitation (including any operating limit), then submitting the compliance report will satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submitting a compliance report will not otherwise affect any obligation you may have to report deviations from permit requirements to the permit authority.

(g) If you operate a clay refractory products kiln or a chromium refractory products kiln that is subject to the work practice standard specified in item 3 or 4 of Table 3 to this subpart, and you use a fuel other than natural gas or equivalent to fire the affected kiln, you must submit a report of alternative fuel use within 10 working days after terminating the use of the alternative fuel. The report must include the information in paragraphs (g)(1) through (6) of this section.

(1) Company name and address.

(2) Identification of the affected kiln.

(3) Reason for using the alternative fuel.

(4) Type of alternative fuel used to fire the affected kiln.

(5) Dates that the use of the alternative fuel started and ended.

(6) Amount of alternative fuel used.

§ 63.9816 What records must I keep?

(a) You must keep the records listed in paragraphs (a)(1) through (3) of this section.

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(3) Records of performance tests as required in § 63.10(b)(2)(viii).

(b) You must keep the records required in Tables 7 through 9 to this subpart to show continuous compliance with each emission limitation that applies to you.

(c) You must also maintain the records listed in paragraphs (c)(1) through (10) of this section.

(1) Records of emission data used to develop an emissions profile, as indicated in items 8(a)(i)(4) and 17(b)(i)(4) of Table 4 to this subpart.

(2) Records that document how you comply with any applicable work practice standard.

(3) For each bag leak detection system, records of each alarm, the time of the alarm, the time corrective action was initiated and completed, and a brief description of the cause of the alarm and the corrective action taken.

(4) For each kiln controlled with a DLA, records that document the source of limestone used.

(5) For each deviation of an operating limit parameter value, the date, time,

and duration of the deviation, a brief explanation of the cause of the deviation and the corrective action taken, and whether the deviation occurred during a period of startup, shutdown, or malfunction.

(6) For each affected source, records of production rate on a process throughput basis (either feed rate to the process unit or discharge rate from the process unit).

(7) Records of any approved alternative monitoring method(s) or test procedure(s).

(8) Records of maintenance activities and inspections performed on control devices, including all records associated with the scheduled maintenance of continuous kiln control devices, as specified in § 63.9792(e).

(9) If you operate a source that is subject to the THC emission limits specified in item 2, 3, 6, or 7 of Table 1 to this subpart and is controlled with a catalytic oxidizer, records of annual checks of catalyst activity levels and subsequent corrective actions.

(10) Current copies of the SSMP and the OM&M plan, including any revisions and records documenting conformance with those revisions.

§ 63.9818 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record onsite for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You may keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.9820 What parts of the General Provisions apply to me?

Table 11 to this subpart shows which parts of the General Provisions specified in §§ 63.1 through 63.15 apply to you.

§ 63.9822 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. Environmental Protection Agency (U.S. EPA), or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if implementation and enforcement to this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority to this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the applicability requirements in §§ 63.9782 and 63.9784, the compliance date requirements in § 63.9786, and the emission limitations in § 63.9788.

(2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.9824 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in 40 CFR 63.2, the General Provisions of this part, and in this section as follows:

Additive means a minor addition of a chemical, mineral, or metallic substance that is added to a refractory mixture to facilitate processing or impart specific properties to the final refractory product.

Add-on air pollution control device (APCD) means equipment installed on a process vent that reduces the quantity of a pollutant that is emitted to the air.

Autoclave means a vessel that is used to impregnate fired and/or unfired refractory shapes with pitch to form pitch-impregnated refractory products. Autoclaves also can be used as defumers following the impregnation process.

Bag leak detection system means an instrument that is capable of monitoring particulate matter loadings in the exhaust of a fabric filter in order to detect bag failures. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light-scattering, light-transmittance, or other effects to monitor relative PM loadings.

Basket means the metal container used to hold refractory shapes for pitch impregnation during the shape preheating, impregnation, defuming, and, if applicable, coking processes.

Batch process means a process in which a set of refractory shapes is acted upon as a single unit according to a predetermined schedule, during which none of the refractory shapes being processed are added or removed. A batch process does not operate continuously.

Binder means a substance added to a granular material to give it workability and green or dry strength.

Catalytic oxidizer means an add-on air pollution control device that is designed specifically to destroy organic compounds in a process exhaust gas stream by catalytic incineration. A catalytic oxidizer includes a bed of catalyst media through which the process exhaust stream passes to promote combustion and incineration at a lower temperature than would be possible without the catalyst.

Chromium refractory product means a refractory product that contains at least 1 percent chromium by weight.

Clay refractory product means a refractory product that contains at least 10 percent uncalcined clay by weight prior to firing in a kiln. In this definition, the term "clay" means any of the following six classifications of clay defined by the U.S. Geologic Survey: ball clay, bentonite, common clay and shale, fire clay, fuller's earth, and kaolin.

Coking oven means a thermal process unit that operates at a peak temperature typically between 540° and 870°C (1000° and 1600°F) and is used to drive off the volatile constituents of pitch-impregnated refractory shapes under a reducing or oxygen-deprived atmosphere.

Continuous parameter monitoring system (CPMS) means the total equipment that is used to measure and record temperature, pressure, liquid flow rate, gas flow rate, or pH on a continuous basis in one or more locations. "Total equipment" includes the sensor, mechanical components, electronic components, data acquisition system, data recording system, electrical wiring, and other components of a CPMS.

Continuous process means a process that operates continuously. In a continuous process unit, the materials or shapes that are processed are either continuously charged (fed) to and discharged from the process unit, or are charged and discharged at regular time intervals without the process unit being shut down. Continuous thermal process units, such as tunnel kilns, generally include temperature zones that are maintained at relatively constant

temperature and through which the materials or shapes being processed are conveyed continuously or at regular time intervals.

Curing oven means a thermal process unit that operates at a peak temperature typically between 90° and 340°C (200° and 650°F) and is used to activate a thermosetting resin, pitch, or other binder in refractory shapes. Curing ovens also perform the same function as shape dryers in removing the free moisture from refractory shapes.

Defumer means a process unit that is used for holding pitch-impregnated refractory shapes as the shapes defume or cool immediately following the impregnation process. This definition includes autoclaves that are opened and exhausted to the atmosphere following an impregnation cycle and used for holding pitch-impregnated refractory shapes while the shapes defume or cool.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart including, but not limited to, any emission limitation (emission limit, operating limit, or work practice standard);

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation (emission limit, operating limit, or work practice standard) in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Dry injection fabric filter (DIFF) means an add-on air pollution control device that includes continuous injection of hydrated lime or other sorbent into a duct or reaction chamber followed by a fabric filter.

Dry lime scrubber/fabric filter (DLS/FF) means an add-on air pollution control device that includes continuous injection of humidified hydrated lime or other sorbent into a reaction chamber followed by a fabric filter. These systems may include recirculation of some of the sorbent.

Dry limestone adsorber (DLA) means an air pollution control device that includes a limestone storage bin, a reaction chamber that is essentially a packed-tower filled with limestone, and may or may not include a peeling drum that mechanically scrapes reacted limestone to regenerate the stone for reuse.

Emission limitation means any restriction on the emissions a process unit may discharge.

Fabric filter means an add-on air pollution control device used to capture particulate matter by filtering a process exhaust stream through a filter or filter media; a fabric filter is also known as a baghouse.

Fired refractory shape means a refractory shape that has been fired in a kiln.

HAP means any hazardous air pollutant that appears in section 112(b) of the Clean Air Act.

Kiln means a thermal process unit that operates at a peak temperature greater than 820°C (1500°F) and is used for firing or sintering refractory, ceramic, or other shapes.

Kiln furniture means any refractory shape that is used to hold, support, or position ceramic or refractory products in a kiln during the firing process.

Maximum organic HAP processing rate means the combination of process and refractory product formulation that has the greatest potential to emit organic HAP. The maximum organic HAP processing rate is a function of the organic HAP processing rate, process operating temperature, and other process operating parameters that affect emissions of organic HAP. (See also the definition of *organic HAP processing rate*.)

Organic HAP processing rate means the rate at which the mass of organic HAP materials contained in refractory shapes are processed in an affected thermal process unit. The organic HAP processing rate is a function of the amount of organic HAP contained in the resins, binders, and additives used in a refractory mix; the amounts of those resins, binders, and additives in the refractory mix; and the rate at which the refractory shapes formed from the refractory mix are processed in an affected thermal process unit. For continuous process units, the organic HAP processing rate is expressed in units of mass of organic HAP per unit of time (*e.g.*, pounds per hour). For batch process units, the organic HAP processing rate is expressed in units of mass of organic HAP per unit mass of refractory shapes processed during the batch process cycle (*e.g.*, pounds per ton).

Particulate matter (PM) means, for the purposes of this subpart, emissions of particulate matter that serve as a measure of total particulate emissions as measured by EPA Method 5 of 40 CFR part 60, appendix A.

Peak emissions period means the period of consecutive hourly mass emissions of the applicable pollutant that is greater than any other period of consecutive hourly mass emissions for the same pollutant over the course of a specified batch process cycle, as defined in paragraphs (1) and (2) of this definition. The peak emissions period is a function of the rate at which the temperature of the refractory shapes is increased, the mass and loading configuration of the shapes in the process unit, the constituents of the refractory mix, and the type of pollutants emitted.

(1) The 3-hour peak THC emissions period is the period of 3 consecutive hours over which the sum of the hourly THC mass emissions rates is greater than the sum of the hourly THC mass emissions rates for any other period of 3 consecutive hours during the same batch process cycle.

(2) The 3-hour peak HF emissions period is the period of 3 consecutive hours over which the sum of the hourly HF mass emissions rates is greater than the sum of the hourly HF mass emissions rates for any other period of 3 consecutive hours during the same batch process cycle.

Period of natural gas curtailment or supply interruption means a period of time during which the supply of natural gas to an affected facility is halted for reasons beyond the control of the facility. An increase in the cost or unit price of natural gas does not constitute a period of natural gas curtailment or supply interruption.

Pitch means the residue from the distillation of petroleum or coal tar.

Pitch-bonded refractory product means a formed refractory product that is manufactured using pitch as a bonding agent. Pitch-bonded refractory products are manufactured by mixing pitch with magnesium oxide, graphite, alumina, silicon carbide, silica, or other refractory raw materials, and forming the mix into shapes. After forming, pitch-bonded refractory products are cured in a curing oven and may be subsequently fired in a kiln.

Pitch-impregnated refractory product means a refractory shape that has been fired in a kiln, then impregnated with heated coal tar or petroleum pitch under pressure. After impregnation, pitch-impregnated refractory shapes may undergo the coking process in a coking oven. The total carbon content of a pitch-impregnated refractory product is less than 50 percent.

Pitch working tank means a tank that is used for heating pitch to the impregnation temperature, typically between 150° and 260°C (300° and 500°F); temporarily storing heated pitch between impregnation cycles; and transferring pitch to and from the

autoclave during the impregnation step in manufacturing pitch-impregnated refractory products.

Plant site means all contiguous or adjoining property that is under common control, including properties that are separated only by a road or other public right-of-way. Common control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, or any combination thereof.

Redundant sensor means a second sensor or a back-up sensor that is integrated into a CPMS and is used to check the parameter value (*e.g.*, temperature, pressure) measured by the primary sensor of the CPMS.

Refractory product means nonmetallic materials containing less than 50 percent carbon by weight and having those chemical and physical properties that make them applicable for structures, or as components of systems, that are exposed to environments above 538°C (1000°F). This definition includes, but is not limited to: refractory bricks, kiln furniture, crucibles, refractory ceramic fiber, and other materials used as linings for boilers, kilns, and other processing units and equipment where extremes of temperature, corrosion, and abrasion would destroy other materials.

Refractory products that use organic HAP means resin-bonded refractory products, pitch-bonded refractory products, and other refractory products that are produced using a substance that is an organic HAP, that releases an organic HAP during production of the refractory product, or that contains an organic HAP, such as methanol or ethylene glycol.

Refractory shape means any refractory piece forming a stable mass with specific dimensions.

Research and development process unit means any process unit whose purpose is to conduct research and development for new processes and products and is not engaged in the manufacture of products for commercial sale, except in a de minimis manner.

Resin-bonded refractory product means a formed refractory product that is manufactured using a phenolic resin or other type of thermosetting resin as a bonding agent. Resin-bonded refractory products are manufactured by mixing resin with alumina, magnesium oxide, graphite, silica, zirconia, or other refractory raw materials, and forming the mix into shapes. After forming, resin-bonded refractory products are cured in a curing oven and may be subsequently fired in a kiln.

Responsible official means one of the following:

(1) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decisionmaking functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representatives is approved in advance by the Administrator;

(2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(3) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (*e.g.*, a Regional Administrator of EPA); or

(4) For affected sources (as defined in this subpart) applying for or subject to a title V permit: "responsible official" shall have the same meaning as defined in part 70 or Federal title V regulations in this chapter (42 U.S.C. 7661), whichever is applicable.

Shape dryer means a thermal process unit that operates at a peak temperature typically between 40° and 700°C (100° and 1300°F) and is used exclusively to reduce the free moisture content of a refractory shape. Shape dryers generally are the initial thermal process step following the forming step in refractory products manufacturing. (See also the definition of a *curing oven*.)

Shape preheater means a thermal process unit that operates at a peak temperature typically between 180° and 320°C (350° and 600°F) and is used to heat fired refractory shapes prior to the impregnation step in manufacturing pitch-impregnated refractory products.

Thermal oxidizer means an add-on air pollution control device that includes one or more combustion chambers and is designed specifically to destroy organic compounds in a process exhaust gas stream by incineration.

Uncalcined clay means clay that has not undergone thermal processing in a calciner.

Wet scrubber means an add-on air pollution control device that removes pollutants from a gas stream by bringing them into contact with a liquid, typically water.

Work practice standard means any design, equipment, work practice, or operational standard, or combination thereof, that is promulgated pursuant to section 112(h) of the Clean Air Act.

Tables to Subpart SSSSS of Part 63

As stated in § 63.9788, you must comply with the emission limits for affected sources in the following table:

TABLE 1 TO SUBPART SSSSS OF PART 63.—EMISSION LIMITS

For . . .	You must meet the following emission limits . . .
1. Each new or existing curing oven, shape dryer, and kiln that is used to process refractory products that use organic HAP; each new or existing coking oven and defumer that is used to produce pitch-impregnated refractory products; each new shape preheater that is used to produce pitch-impregnated refractory products; AND each new or existing process unit that is exhausted to a thermal or catalytic oxidizer that also controls emissions from an affected shape preheater or pitch working tank.	As specified in items 2 through 9 of this table.
2. Continuous process units that are controlled with a thermal or catalytic oxidizer.	a. The 3-hour block average THC concentration must not exceed 20 parts per million by volume, dry basis (ppmvd), corrected to 18 percent oxygen, at the outlet of the control device; or b. The 3-hour block average THC mass emissions rate must be reduced by at least 95 percent.
3. Continuous process units that are equipped with a control device other than a thermal or catalytic oxidizer.	a. The 3-hour block average THC concentration must not exceed 20 ppmvd, corrected to 18 percent oxygen, at the outlet of the control device; or b. The 3-hour block average THC mass emissions rate must be reduced by at least 95 percent.
4. Continuous process units that use process changes to reduce organic HAP emissions.	The 3-hour block average THC concentration must not exceed 20 ppmvd, corrected to 18 percent oxygen, at the outlet of the process gas stream.
5. Continuous kilns that are not equipped with a control device	The 3-hour block average THC concentration must not exceed 20 ppmvd, corrected to 18 percent oxygen, at the outlet of the process gas stream.
6. Batch process units that are controlled with a thermal or catalytic oxidizer.	a. The 2-run block average THC concentration for the 3-hour peak emissions period must not exceed 20 ppmvd, corrected to 18 percent oxygen, at the outlet of the control device; or b. The 2-run block average THC mass emissions rate for the 3-hour peak emissions period must be reduced by at least 95 percent.
7. Batch process units that are equipped with a control device other than a thermal or catalytic oxidizer.	a. The 2-run block average THC concentration for the 3-hour peak emissions period must not exceed 20 ppmvd, corrected to 18 percent oxygen, at the outlet of the control device; or b. The 2-run block average THC mass emissions rate for the 3-hour peak emissions period must be reduced by at least 95 percent.
8. Batch process units that use process changes to reduce organic HAP emissions.	The 2-run block average THC concentration for the 3-hour peak emissions period must not exceed 20 ppmvd, corrected to 18 percent oxygen, at the outlet of the process gas stream.
9. Batch process kilns that are not equipped with a control device	The 2-run block average THC concentration for the 3-hour peak emissions period must not exceed 20 ppmvd, corrected to 18 percent oxygen, at the outlet of the process gas stream.
10. Each new continuous kiln that is used to produce clay refractory products.	a. The 3-hour block average HF emissions must not exceed 0.019 kilograms per megagram (kg/Mg) (0.038 pounds per ton (lb/ton)) of uncalcined clay processed, OR the 3-hour block average HF mass emissions rate must be reduced by at least 90 percent; and b. The 3-hour block average HCl emissions must not exceed 0.091 kg/Mg (0.18 lb/ton) of uncalcined clay processed, OR the 3-hour block average HCl mass emissions rate must be reduced by at least 30 percent.
11. Each new batch process kiln that is used to produce clay refractory products.	a. The 2-run block average HF mass emissions rate for the 3-hour peak emissions period must be reduced by at least 90 percent; and b. The 2-run block average HCl mass emissions rate for the 3-hour peak emissions period must be reduced by at least 30 percent.

As stated in § 63.9788, you must comply with the operating limits for affected sources in the following table:

TABLE 2 TO SUBPART SSSSS OF PART 63.—OPERATING LIMITS

For . . .	You must . . .
1. Each affected source listed in Table 1 to this subpart	a. Operate all affected sources according to the requirements to this subpart on and after the date on which the initial performance test is conducted or required to be conducted, whichever date is earlier; and b. Capture emissions and vent them through a closed system; and c. Operate each control device that is required to comply with this subpart on each affected source during all periods that the source is operating, except where specified in § 63.9792(e), item 2 of this table, and item 13 of Table 4 to this subpart; and

TABLE 2 TO SUBPART SSSSS OF PART 63.—OPERATING LIMITS—Continued

For . . .	You must . . .
	d. Record all operating parameters specified in Table 8 to this subpart for the affected source; and e. Prepare and implement a written OM&M plan as specified in § 63.9792(d).
2. Each affected continuous kiln that is equipped with an emission control device.	a. Receive approval from the Administrator before taking the control device on the affected kiln out of service for scheduled maintenance, as specified in § 63.9792(e); and b. Minimize HAP emissions from the affected kiln during all periods of scheduled maintenance of the kiln control device when the kiln is operating and the control device is out of service; and c. Minimize the duration of all periods of scheduled maintenance of the kiln control device when the kiln is operating and the control device is out of service.
3. Each new or existing curing oven, shape dryer, and kiln that is used to process refractory products that use organic HAP; each new or existing coking oven and defumer that is used to produce pitch-impregnated refractory products; each new shape preheater that is used to produce pitch-impregnated refractory products; AND each new or existing process unit that is exhausted to a thermal or catalytic oxidizer that also controls emissions from an affected shape preheater or pitch working tank.	Satisfy the applicable operating limits specified in items 4 through 9 of this table.
4. Each affected continuous process unit	Maintain the 3-hour block average organic HAP processing rate (pounds per hour) at or below the maximum organic HAP processing rate established during the most recent performance test.
5. Continuous process units that are equipped with a thermal oxidizer	Maintain the 3-hour block average operating temperature in the thermal oxidizer combustion chamber at or above the minimum allowable operating temperature for the oxidizer established during the most recent performance test.
6. Continuous process units that are equipped with a catalytic oxidizer	a. Maintain the 3-hour block average operating temperature at the inlet of the catalyst bed of the oxidizer at or above the minimum allowable operating temperature for the oxidizer established during the most recent performance test; and b. Check the activity level of the catalyst at least every 12 months.
7. Each affected batch process unit	For each batch cycle, maintain the organic HAP processing rate (pounds per batch) at or below the maximum organic HAP processing rate established during the most recent performance test.
8. Batch process units that are equipped with a thermal oxidizer	a. From the start of each batch cycle until 3 hours have passed since the process unit reached maximum temperature, maintain the hourly average operating temperature in the thermal oxidizer combustion chamber at or above the minimum allowable operating temperature established for the corresponding period during the most recent performance test, as determined according to item 11 of Table 4 to this subpart; and b. For each subsequent hour of the batch cycle, maintain the hourly average operating temperature in the thermal oxidizer combustion chamber at or above the minimum allowable operating temperature established for the corresponding hour during the most recent performance test, as specified in item 13 of Table 4 to this subpart.
9. Batch process units that are equipped with a catalytic oxidizer	a. From the start of each batch cycle until 3 hours have passed since the process unit reached maximum temperature, maintain the hourly average operating temperature at the inlet of the catalyst bed at or above the minimum allowable operating temperature established for the corresponding period during the most recent performance test, as determined according to item 12 of Table 4 to this subpart; and b. For each subsequent hour of the batch cycle, maintain the hourly average operating temperature at the inlet of the catalyst bed at or above the minimum allowable operating temperature established for the corresponding hour during the most recent performance test, as specified in item 13 of Table 4 to this subpart; and c. Check the activity level of the catalyst at least every 12 months.
10. Each new kiln that is used to process clay refractory products	Satisfy the applicable operating limits specified in items 11 through 13 of this table.
11. Each affected kiln that is equipped with a DLA	a. Maintain the 3-hour block average pressure drop across the DLA at or above the minimum levels established during the most recent performance test; and b. Maintain free-flowing limestone in the feed hopper, silo, and DLA at all times; and c. Maintain the limestone feeder at or above the level established during the most recent performance test; and

TABLE 2 TO SUBPART SSSSS OF PART 63.—OPERATING LIMITS—Continued

For . . .	You must . . .
12. Each affected kiln that is equipped with a DIFF or DLS/FF	d. Use the same grade of limestone from the same source as was used during the most recent performance test and maintain records of the source and type of limestone used. a. Initiate corrective action within 1 hour of a bag leak detection system alarm and complete corrective actions in accordance with the OM&M plan; and b. Verify at least once each 8-hour shift that lime is free-flowing by means of a visual check, checking the output of a load cell, carrier gas/lime flow indicator, or carrier gas pressure drop measurement system; and c. Record the lime feeder setting daily to verify that the feeder setting is at or above the level established during the most recent performance test.
13. Each affected kiln that is equipped with a wet scrubber	a. Maintain the 3-hour block average pressure drop across the scrubber, liquid pH, and liquid flow rate at or above the minimum levels established during the most recent performance test; and b. If chemicals are added to the scrubber liquid, maintain the 3-hour block average chemical feed rate at or above the minimum chemical feed rate established during the most recent performance test.

As stated in § 63.9788, you must comply with the work practice standards for affected sources in the following table:

TABLE 3 TO SUBPART SSSSS OF PART 63.—WORK PRACTICE STANDARDS

For . . .	You must . . .	According to one of the following requirements . . .
1. Each basket or container that is used for holding fired refractory shapes in an existing shape preheater and autoclave during the pitch impregnation process.	a. Control POM emissions from any affected shape preheater.	i. At least every 10 preheating cycles, clean the residual pitch from the surfaces of the basket or container by abrasive blasting prior to placing the basket or container in the affected shape preheater; or ii. At least every 10 preheating cycles, subject the basket or container to a thermal process cycle that meets or exceeds the operating temperature and cycle time of the affected preheater, AND is conducted in a process unit that is exhausted to a thermal or catalytic oxidizer that is comparable to the control device used on an affected defumer or coking oven; or iii. Capture emissions from the affected shape preheater and vent them to the control device that is used to control emissions from an affected defumer or coking oven, or to a comparable thermal or catalytic oxidizer.
2. Each new or existing pitch working tank	Control POM emissions	Capture emissions from the affected pitch working tank and vent them to the control device that is used to control emissions from an affected defumer or coking oven, OR to a comparable thermal or catalytic oxidizer.
3. Each new or existing chromium refractory products kiln.	Minimize fuel-based HAP emissions	Use natural gas, or equivalent, as the kiln fuel, except during periods of natural gas curtailment or supply interruption, as defined in § 63.9824.
4. Each existing clay refractory products kiln	Minimize fuel-based HAP emissions	Use natural gas, or equivalent, as the kiln fuel, except during periods of natural gas curtailment or supply interruption, as defined in § 63.9824.

As stated in § 63.9800, you must comply with the requirements for performance tests for affected sources in the following table:

TABLE 4 TO SUBPART SSSSS TO PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS

For . . .	You must . . .	Using . . .	According to the following requirements . . .
1. Each affected source listed in Table 1 to this subpart.	a. Conduct performance tests	i. The requirements of the general provisions in subpart A of this part and the requirements to this subpart.	(1) Record the date of the test; and (2) Identify the emission source that is tested; and (3) Collect and record the corresponding operating parameter and emission test data listed in this table for each run of the performance test; and (4) Repeat the performance test at least every 5 years; and (5) Repeat the performance test before changing the parameter value for any operating limit specified in your OM&M plan; and (6) If complying with the THC concentration or THC percentage reduction limits specified in items 2 through 9 of Table 1 to this subpart, repeat the performance test under the conditions specified in items 2.a.2. and 2.a.3. of this table; and (7) If complying with the emission limits for new clay refractory products kilns specified in items 10 and 11 of Table 1 to this subpart, repeat the performance test under the conditions specified in items 14.a.i.4. and 17.a.i.4. of this table.
	b. Select the locations of sampling ports and the number of traverse points.	i. Method 1 or 1A of 40 CFR part 60, appendix A.	(1) To demonstrate compliance with the percentage reduction limits specified in items 2.b., 3.b., 6.b., 7.b., 10, and 11 of Table 1 to this subpart, locate sampling sites at the inlet of the control device and at either the outlet of the control device or at the stack prior to any releases to the atmosphere; and (2) To demonstrate compliance with any other emission limit specified in Table 1 to this subpart, locate all sampling sites at the outlet of the control device or at the stack prior to any releases to the atmosphere.
	c. Determine gas velocity and volumetric flow rate.	Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A.	Measure gas velocities and volumetric flow rates at 1-hour intervals throughout each test run.
	d. Conduct gas molecular weight analysis.	(i) Method 3, 3A, or 3B of 40 CFR part 60, appendix A; or (ii) ASME PTC 19.10–1981–Part 10	As specified in the applicable test method. You may use ASME PTC 19.10–1981–Part 10 (available for purchase from Three Park Avenue, New York, NY 10016–5990) as an alternative to EPA Method 3B.
	e. Measure gas moisture content	Method 4 of 40 CFR part 60, appendix A.	As specified in the applicable test method.

TABLE 4 TO SUBPART SSSSS TO PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

For . . .	You must . . .	Using . . .	According to the following requirements . . .
2. Each new or existing curing oven, shape dryer, and kiln that is used to process refractory products that use organic HAP; each new or existing coking oven and defumer that is used to produce pitch-impregnated refractory products; each new shape preheater that is used to produce pitch-impregnated refractory products; AND each new or existing process unit that is exhausted to a thermal or catalytic oxidizer that also controls emissions from an affected shape preheater or pitch working tank.	a. Conduct performance tests		(1) Conduct the performance test while the source is operating at the maximum organic HAP processing rate, as defined in § 63.9824, reasonably expected to occur; and (2) Repeat the performance test before starting production of any product for which the organic HAP processing rate is likely to exceed the maximum organic HAP processing rate established during the most recent performance test by more than 10 percent, as specified in § 63.9798(c); and (3) Repeat the performance test on any affected uncontrolled kiln following process changes (e.g., shorter curing oven cycle time) that could increase organic HAP emissions from the affected kiln, as specified in § 63.9798(d).
	b. Satisfy the applicable requirements listed in items 3 through 13 of this table.		
3. Each affected continuous process unit.	a. Perform a minimum of 3 test runs	The appropriate test methods specified in items 1, 4, and 5 of this table.	Each test run must be at least 1 hour in duration.
	b. Establish the operating limit for the maximum organic HAP processing rate.	i. Method 311 of 40 CFR part 63, appendix A, OR material safety data sheets (MSDS), OR product labels to determine the mass fraction of organic HAP in each resin, binder, or additive; and	(1) Calculate and record the organic HAP content of all refractory shapes that are processed during the performance test, based on the mass fraction of organic HAP in the resins, binders, or additives; the mass fraction of each resin, binder, or additive, in the product; and the process feed rate; and
		ii. Product formulation data that specify the mass fraction of each resin, binder, and additive in the products that are processed during the performance test; and	(2) Calculate and record the organic HAP processing rate (pounds per hour) for each test run; and
		iii. Process feed rate data (tons per hour).	(3) Calculate and record the maximum organic HAP processing rate as the average of the organic HAP processing rates for the three test runs.
	c. Record the operating temperature of the affected source.	Process data	During each test run and at least once per hour, record the operating temperature in the highest temperature zone of the affected source.
4. Each continuous process unit that is subject to the THC emission limit listed in item 2.a., 3.a., 4, or 5 of Table 1 to this subpart.	a. Measure THC concentrations at the outlet of the control device or in the stack.	i. Method 25A of 40 CFR part 60, appendix A.	(1) Each minute, measure and record the concentrations of THC in the exhaust stream; and (2) Provide at least 50 1-minute measurements for each valid hourly average THC concentration.

TABLE 4 TO SUBPART SSSSS TO PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

For . . .	You must . . .	Using . . .	According to the following requirements . . .
	b. Measure oxygen concentrations at the outlet of the control device or in the stack.	i. Method 3A of 40 CFR part 60, appendix A.	(1) Each minute, measure and record the concentrations of oxygen in the exhaust stream; and (2) Provide at least 50 1-minute measurements for each valid hourly average THC concentration.
	c. Determine the hourly average THC concentration, corrected to 18 percent oxygen.	i. Equation 1 of § 63.9800(g)(1); and ... ii. The 1-minute THC and oxygen concentration data.	(1) Calculate the hourly average THC concentration for each hour of the performance test as the average of the 1-minute THC measurements; and (2) Calculate the hourly average oxygen concentration for each hour of the performance test as the average of the 1-minute oxygen measurements; and (3) Correct the hourly average THC concentrations to 18 percent oxygen using Equation 1 of § 63.9800(g)(1).
	d. Determine the 3-hour block average THC emission concentration, corrected to 18 percent oxygen.	The hourly average concentration of THC, corrected to 18 percent oxygen, for each test run.	Calculate the 3-hour block average THC emission concentration, corrected to 18 percent oxygen, as the average of the hourly average THC emission concentrations, corrected to 18 percent oxygen.
5. Each continuous process unit that is subject to the THC percentage reduction limit listed in item 2.b. or 3.b. of Table 1 to this subpart.	a. Measure THC concentrations at the inlet and outlet of the control device.	i. Method 25A of 40 CFR part 60, appendix A.	(1) Each minute, measure and record the concentrations of THC at the inlet and outlet of the control device; and (2) Provide at least 50 1-minute measurements for each valid hourly average THC concentration at the control device inlet and outlet.
	b. Determine the hourly THC mass emissions rates at the inlet and outlet of the control device.	i. The 1-minute THC concentration data at the control device inlet and outlet; and ii. The volumetric flow rates at the control device inlet and outlet.	Calculate the hourly THC mass emissions rates at the control device inlet and outlet for each hour of the performance test.
	c. Determine the 3-hour block average THC percentage reduction.	i. The hourly THC mass emissions rates at the inlet and outlet of the control device.	(1) Calculate the hourly THC percentage reduction for each hour of the performance test using Equation 2 of § 63.9800(g)(1); and (2) Calculate the 3-hour block average THC percentage reduction.
6. Each continous process unit that is equipped with a thermal oxidizer.	a. Establish the operating limit for the minimum allowable thermal oxidizer combustion chamber temperature.	i. Continuous recording of the output of the combustion chamber temperature measurement device.	(1) At least every 15 minutes, measure and record the thermal oxidizer combustion chamber temperature; and (2) Provide at least one measurement during at least three 15-minute periods per hour of testing; and (3) Calculate the hourly average thermal oxidizer combustion chamber temperature for each hour of the performance test; and (4) Calculate the minimum allowable combustion chamber temperature as the average of the combustion chamber temperatures for the three test runs, minus 14°C (25°F).
7. Each continuous process unit that is equipped with a catalytic oxidizer.	a. Establish the operating limit for the minimum allowable temperature at the inlet of the catalyst bed.	i. Continuous recording of the output of the temperature measurement device.	(1) At least every 15 minutes, measure and record the temperature at the inlet of the catalyst bed; and (2) Provide at least one catalyst bed inlet temperature measurement during at least three 15-minute periods per hour of testing; and (3) Calculate the hourly average catalyst bed inlet temperature for each hour of the performance test; and

TABLE 4 TO SUBPART SSSSS TO PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

For . . .	You must . . .	Using . . .	According to the following requirements . . .
			(4) Calculate the minimum allowable catalyst bed inlet temperature as the average of the catalyst bed inlet temperatures for the three test runs, minus 14°C (25°F).
8. Each affected batch process unit.	a. Perform a minimum of two test runs	i. The appropriate test methods specified in items 1, 9, and 10 of this table.	(1) Each test run must be conducted over a separate batch cycle unless you satisfy the requirements of § 63.9800(f)(3) and (4); and (2) Each test run must begin with the start of a batch cycle, except as specified in item 8.a.i.4. of this table; and (3) Each test run must continue until the end of the batch cycle, except as specified in items 8.a.i.4. and 8.a.i.5. of this table; and (4) If you develop an emissions profile, as described in § 63.9802(a), AND for sources equipped with a thermal or catalytic oxidizer, you do not reduce the oxidizer operating temperature, as specified in item 13 of this table, you can limit each test run to the 3-hour peak THC emissions period; and (5) If you do not develop an emissions profile, a test run can be stopped, and the results of that run considered complete, if you measure emissions continuously until at least 3 hours after the affected process unit has reached maximum temperature, AND the hourly average THC mass emissions rate has not increased during the 3-hour period since maximum process temperature was reached, and the hourly average concentrations of THC at the inlet of the control device have not exceeded 20 ppmvd, corrected to 18 percent oxygen, during the 3-hour period since maximum process temperature was reached or the hourly average THC percentage reduction has been at least 95 percent during the 3-hour period since maximum process temperature was reached, AND, for sources equipped with a thermal or catalytic oxidizer, at least 1 hour has passed since any reduction in the operating temperature of the oxidizer, as specified in item 13 of this table.
	b. Establish the operating limit for the maximum organic HAP processing rate.	i. Method 311 of 40 CFR part 63, appendix A, OR MSDS, OR product labels to determine the mass fraction of organic HAP in each resin, binder, or additive; and	(1) Calculate and record the organic HAP content of all refractory shapes that are processed during the performance test, based on the mass fraction of HAP in the resins, binders, or additives; the mass fraction of each resin, binder, or additive, in the product, and the batch weight prior to processing; and
		ii. Product formulation data that specify the mass fraction of each resin, binder, and additive in the products that are processed during the performance test; and	(2) Calculate and record the organic HAP processing rate (pounds per batch) for each test run; and
		iii. Batch weight (tons)	(3) Calculate and record the maximum organic HAP processing rate as the average of the organic HAP processing rates for the two test runs.

TABLE 4 TO SUBPART SSSSS TO PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

For . . .	You must . . .	Using . . .	According to the following requirements . . .
	c. Record the batch cycle time	Process data	Record the total elapsed time from the start to the completion of the batch cycle.
	d. Record the operating temperature of the affected source.	Process data	Record the operating temperature of the affected source at least once every hour from the start to the completion of the batch cycle.
9. Each batch process unit that is subject to the THC emission limit listed in item 6.a., 7.a., 8, or 9 of Table 1 to this subpart.	a. Measure THC concentrations at the outlet of the control device or in the stack.	i. Method 25A of 40 CFR part 60, appendix A.	(1) Each minute, measure and record the concentrations of THC in the exhaust stream; and (2) Provide at least 50 1-minute measurements for each valid hourly average THC concentration.
	b. Measure oxygen concentrations at the outlet of the control device or in the stack.	i. Method 3A of 40 CFR part 60, appendix A.	(1) Each minute, measure and record the concentrations of oxygen in the exhaust stream; and (2) Provide at least 50 1-minute measurements for each valid hourly average oxygen concentration.
	c. Determine the hourly average THC concentration, corrected to 18 percent oxygen.	i. Equation 1 of § 63.9800(g)(1); and ... ii. The 1-minute THC and oxygen concentration data.	(1) Calculate the hourly average THC concentration for each hour of the performance test as the average of the 1-minute THC measurements; and (2) Calculate the hourly average oxygen concentration for each hour of the performance test as the average of the 1-minute oxygen measurements; and (3) Correct the hourly average THC concentrations to 18 percent oxygen using Equation 1 of § 63.9800(g)(1).
	d. Determine the 3-hour peak THC emissions period for each test run.	The hourly average THC concentrations, corrected to 18 percent oxygen.	Select the period of 3 consecutive hours over which the sum of the hourly average THC concentrations, corrected to 18 percent oxygen, is greater than the sum of the hourly average THC emission concentrations, corrected to 18 percent oxygen, for any other period of 3 consecutive hours during the test run.
	e. Determine the average THC concentration, corrected to 18 percent oxygen, for each test run.	The hourly average THC emission concentrations, corrected to 18 percent oxygen, for the 3-hour peak THC emissions period.	Calculate the average of the hourly average THC concentrations, corrected to 18 percent oxygen, for the 3 hours of the peak emissions period for each test run.
	f. Determine the 2-run block average THC concentration, corrected to 18 percent oxygen, for the emission test.	The average THC concentration, corrected to 18 percent oxygen, for each test run.	Calculate the average of the average THC concentrations, corrected to 18 percent oxygen, for each run.
10. Each batch process unit that is subject to the THC percentage reduction limit listed in item 6.b. or 7.b. of Table 1 to this subpart.	a. Measure THC concentrations at the inlet and outlet of the control device.	i. Method 25A of 40 CFR part 60, appendix A.	(1) Each minute, measure and record the concentrations of THC at the control device inlet and outlet; and (2) Provide at least 50 1-minute measurements for each valid hourly average THC concentration at the control device inlet and outlet.
	b. Determine the hourly THC mass emissions rates at the control device inlet and outlet.	i. The 1-minute THC concentration data at the control device inlet and outlet; and ii. The volumetric flow rates at the control device inlet and outlet.	(1) Calculate the hourly mass emissions rates at the control device inlet and outlet for each hour of the performance test.

TABLE 4 TO SUBPART SSSSS TO PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

For . . .	You must . . .	Using . . .	According to the following requirements . . .
	c. Determine the 3-hour peak THC emissions period for each test run.	The hourly THC mass emissions rates at the control device inlet.	Select the period of 3 consecutive hours over which the sum of the hourly THC mass emissions rates at the control device inlet is greater than the sum of the hourly THC mass emissions rates at the control device inlet for any other period of 3 consecutive hours during the test run.
	d. Determine the average THC percentage reduction for each test run.	i. Equation 2 of § 63.9800(g)(2); and ... ii. The hourly THC mass emissions rates at the control device inlet and outlet for the 3-hour peak THC emissions period.	Calculate the average THC percentage reduction for each test run using Equation 2 of § 63.9800(g)(2).
	e. Determine the 2-run block average THC percentage reduction for the emission test.	The average THC percentage reduction for each test run.	Calculate the average of the average THC percentage reductions for each test run.
11. Each batch process unit that is equipped with a thermal oxidizer.	a. Establish the operating limit for the minimum thermal oxidizer combustion chamber temperature.	i. Continuous recording of the output of the combustion chamber temperature measurement device.	(1) At least every 15 minutes, measure and record the thermal oxidizer combustion chamber temperature; and (2) Provide at least one temperature measurement during at least three 15-minute periods per hour of testing; and (3) Calculate the hourly average combustion chamber temperature for each hour of the 3-hour peak emissions period, as defined in item 9.d. or 10.c. of this table, whichever applies; and (4) Calculate the minimum allowable thermal oxidizer combustion chamber operating temperature as the average of the hourly combustion chamber temperatures for the 3-hour peak emissions period, minus 14°C (25°F).
12. Each batch process unit that is equipped with a catalytic oxidizer.	a. Establish the operating limit for the minimum temperature at the inlet of the catalyst bed.	i. Continuous recording of the output of the temperature measurement device.	(1) At least every 15 minutes, measure and record the temperature at the inlet of the catalyst bed; and (2) Provide at least one catalyst bed inlet temperature measurement during at least three 15-minute periods per hour of testing; and (3) Calculate the hourly average catalyst bed inlet temperature for each hour of the 3-hour peak emissions period, as defined in item 9.d. or 10.c. of this table, whichever applies; and (4) Calculate the minimum allowable catalytic oxidizer catalyst bed inlet temperature as the average of the hourly catalyst bed inlet temperatures for the 3-hour peak emissions period, minus 14°C (25°F).
13. Each batch process unit that is equipped with a thermal or catalytic oxidizer.	a. During each test run, maintain the applicable operating temperature of the oxidizer until emission levels allow the oxidizer to be shut off or the operating temperature of the oxidizer to be reduced.		(1) The oxidizer can be shut off or the oxidizer operating temperature can be reduced if you do not use an emission profile to limit testing to the 3-hour peak emissions period, as specified in item 8.a.i.4. of this table; and (2) At least 3 hours have passed since the affected process unit reached maximum temperature; and

TABLE 4 TO SUBPART SSSSS TO PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

For . . .	You must . . .	Using . . .	According to the following requirements . . .
			(3) The applicable emission limit specified in item 6.a. or 6.b. of Table 1 to this subpart was met during each of the previous three 1-hour periods; and (4) The hourly average THC mass emissions rate did not increase during the 3-hour period since maximum process temperature was reached; and (5) The applicable emission limit specified in item 6.a. and 6.b. of Table 1 to this subpart was met during each of the four 15-minute periods immediately following the oxidizer temperature reduction; and (6) If the applicable emission limit specified in item 6.a. or 6.b. of Table 1 to this subpart was not met during any of the four 15-minute periods immediately following the oxidizer temperature reduction, you must return the oxidizer to its normal operating temperature as soon as possible and maintain that temperature for at least 1 hour; and (7) Continue the test run until the applicable emission limit specified in items 6.a. and 6.b. of Table 1 to this subpart is met for at least four consecutive 15-minute periods that immediately follow the temperature reduction; and (8) Calculate the hourly average oxidizer operating temperature for each hour of the performance test since the affected process unit reached maximum temperature.
14. Each new continuous kiln that is used to process clay refractory products.	a. Measure emissions of HF and HCl ..	i. Method 26A of 40 CFR part 60, appendix A; or ii. Method 26 of 40 CFR part 60, appendix A; or iii. Method 320 of 40 CFR part 63, appendix A.	(1) Conduct the test while the kiln is operating at the maximum production level; and (2) You may use Method 26 of 40 CFR part 60, appendix A, only if no acid PM (*e.g.*, HF or HCl dissolved in water droplets emitted by sources controlled by a wet scrubber) is present; and (3) If you use Method 320 of 40 CFR part 63, appendix A, you must follow the analyte spiking procedures of Section 13 of Method 320 unless you can demonstrate that the complete spiking procedure has been conducted at a similar source; and (4) Repeat the performance test if the affected source is controlled with a DLA and you change the source of the limestone used in the DLA.
	b. Perform a minimum of 3 test runs ...	The appropriate test methods specified in items 1 and 14.a. of this table.	Each test run must be at least 1 hour in duration.

TABLE 4 TO SUBPART SSSSS TO PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

For . . .	You must . . .	Using . . .	According to the following requirements . . .
15. Each new continuous kiln that is subject to the production-based HF and HCl emission limits specified in items 10.a. and 10.b. of Table 1 to this subpart.	a. Record the uncalcined clay processing rate.	i. Production data; and ii. Product formulation data that specify the mass fraction of uncalcined clay in the products that are processed during the performance test.	(1) Record the production rate (tons per hour of fired product); and (2) Calculate and record the average rate at which uncalcined clay is processed (tons per hour) for each test run; and (3) Calculate and record the 3-run average uncalcined clay processing rate as the average of the average uncalcined clay processing rates for each test run.
	b. Determine the HF mass emissions rate at the outlet of the control device or in the stack.	i. Method 26A of 40 CFR part 60, appendix A; or ii. Method 26 of 40 CFR part 60, appendix A; or iii. Method 320 of 40 CFR part 63, appendix A.	Calculate the HF mass emissions rate for each test.
	c. Determine the 3-hour block average production-based HF emissions rate.	i. The HF mass emissions rate for each test run; and ii. The average uncalcined clay processing rate.	(1) Calculate the hourly production-based HF emissions rate for each test run using Equation 3 of § 63.9800(g)(3); and (2) Calculate the 3-hour block average production-based HF emissions rate as the average of the hourly production-based HF emissions rates for each test run.
	d. Determine the HCl mass emissions rate at the outlet of the control device or in the stack.	i. Method 26A of 40 CFR part 60, appendix A; or ii. Method 26 of 40 CFR part 60, appendix A; or iii. Method 320 of 40 CFR part 63, appendix A.	Calculate the HCl mass emissions rate for each test run.
	e. Determine the 3-hour block average production-based HCl emissions rate.	i. The HCl mass emissions rate for each test run; and ii. The average uncalcined clay processing rate.	(1) Calculate the hourly production-based HCl emissions rate for each test run using Equation 3 of § 63.9800(g)(3); and (2) Calculate the 3-hour block average production-based HCl emissions rate as the average of the production-based HCl emissions rates for each test run.
16. Each new continuous kiln that is subject to the HF and HCl percentage reduction limits specified in items 10.a. and 10.b. of Table 1 to this subpart.	a. Measure the HF mass emissions rates at the inlet and outlet of the control device.	i. Method 26A of 40 CFR part 60, appendix A; or ii. Method 26 of 40 CFR part 60, appendix A; or iii. Method 320 of 40 CFR part 63, appendix A.	Calculate the HF mass emissions rates at the control device inlet and outlet for each test run.
	b. Determine the 3-hour block average HF percentage reduction.	i. The HF mass emissions rates at the inlet and outlet of the control device for each test run	(1) Calculate the hourly HF percentage reduction using Equation 2 of § 63.9800(g)(2); and (2) Calculate the 3-hour block average HF percentage reduction as the average of the HF percentage reductions for each test run.
	c. Measure the HCl mass emissions rates at the inlet and outlet of the control device.	i. Method 26A of 40 CFR part 60, appendix A; or ii. Method 26 of 40 CFR part 60, appendix A; or iii. Method 320 of 40 CFR part 63, appendix A.	Calculate the HCl mass emissions rates at the control device inlet and outlet for each test run.
	d. Determine the 3-hour block average HCl percentage reduction.	i. The HCl mass emissions rates at the inlet and outlet of the control device for each test run.	(1) Calculate the hourly HCl percentage reduction using Equation 2 of § 63.9800(g)(2); and (2) Calculate the 3-hour block average HCl percentage reduction as the average of HCl percentage reductions for each test run.

TABLE 4 TO SUBPART SSSSS TO PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

For . . .	You must . . .	Using . . .	According to the following requirements . . .
17. Each new batch process kiln that is used to process clay refractory products.	a. Measure emissions of HF and HCl at the inlet and outlet of the control device.	i. Method 26A of 40 CFR part 60, appendix A; or ii. Method 26 of 40 CFR part 60, appendix A; or iii. Method 320 of 40 CFR part 63, appendix A.	(1) Conduct the test while the kiln is operating at the maximum production level; and (2) You may use Method 26 of 40 CFR part 60, appendix A, only if no acid PM (*e.g.*, HF or HCl dissolved in water droplets emitted by sources controlled by a wet scrubber) is present; and (3) If you use Method 320 of 40 CFR part 63, you must follow the analyte spiking procedures of Section 13 of Method 320 unless you can demonstrate that the complete spiking procedure has been conducted at a similar source; and (4) Repeat the performance test if the affected source is controlled with a DLA and you change the source of the limestone used in the DLA.
	b. Perform a minimum of 2 test runs ...	i. The appropriate test methods specified in items 1 and 17.a. of this table.	(1) Each test run must be conducted over a separate batch cycle unless you satisfy the requirements of §63.9800(f)(3) and (4); and (2) Each test run must consist of a series of 1-hour runs at the inlet and outlet of the control device, beginning with the start of a batch cycle, except as specified in item 17.b.i.4. of this table; and (3) Each test run must continue until the end of the batch cycle, except as specified in item 17.b.i.4. of this table; and (4) If you develop an emissions profile, as described in §63.9802(b), you can limit each test run to the 3-hour peak HF emissions period.
	c. Determine the hourly HF and HCl mass emissions rates at the inlet and outlet of the control device.	i. The appropriate test methods specified in items 1 and 17.a. of this table.	Determine the hourly mass HF and HCl emissions rates at the inlet and outlet of the control device for each hour of each test run.
	d. Determine the 3-hour peak HF emissions period.	The hourly HF mass emissions rates at the inlet of the control device.	Select the period of 3 consecutive hours over which the sum of the hourly HF mass emissions rates at the control device inlet is greater than the sum of the hourly HF mass emissions rates at the control device inlet for any other period of 3 consecutive hours during the test run.
	e. Determine the 2-run block average HF percentage reduction for the emissions test.	i. The hourly average HF emissions rates at the inlet and outlet of the control device.	(1) Calculate the HF percentage reduction for each hour of the 3-hour peak HF emissions period using Equation 2 of §63.9800(g)(2); and (2) Calculate the average HF percentage reduction for each test run as the average of the hourly HF percentage reductions for the 3-hour peak HF emissions period for that run; and (3) Calculate the 2-run block average HF percentage reduction for the emission test as the average of the average HF percentage reductions for the two test runs.

TABLE 4 TO SUBPART SSSSS TO PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

For . . .	You must . . .	Using . . .	According to the following requirements . . .
	f. Determine the 2-run block average HCl percentage reduction for the emission test.	i. The hourly average HCl emissions rates at the inlet and outlet of the control device.	(1) Calculate the HCl percentage reduction for each hour of the 3-hour peak HF emissions period using Equation 2 § 63.9800(g)(2); and (2) Calculate the average HCl percentage reduction for each test run as the average of the hourly HCl percentage reductions for the 3-hour peak HF emissions period for that run; and (3) Calculate the 2-run block average HCl percentage reduction for the emission test as the average of the average HCl percentage reductions for the two test runs.
18. Each new kiln that is used to process clay refractory products and is equipped with a DLA.	a. Establish the operating limit for the minimum pressure drop across the DLA.	Data from the pressure drop measurement device during the performance test.	(1) At least every 15 minutes, measure the pressure drop across the DLA; and (2) Provide at least one pressure drop measurement during at least three 15-minute periods per hour of testing; and (3) Calculate the hourly average pressure drop across the DLA for each hour of the performance test; and (4) Calculate and record the minimum pressure drop as the average of the hourly average pressure drops across the DLA for the two or three test runs, whichever applies.
	b. Establish the operating limit for the limestone feeder setting.	Data from the limestone feeder during the performance test.	(1) Ensure that limestone in the feed hopper, silo, and DLA is free-flowing at all times during the performance test; and (2) Establish the limestone feeder setting 1 week prior to the performance test; and (3) Record and maintain the feeder setting for the 1-week period that precedes the performance test and during the performance test.
19. Each new kiln that is used to process clay refractory products and is equipped with a DIFF or DLS/FF.	a. Document conformance with specifications and requirements of the bag leak detection system.	Data from the installation and calibration of the bag leak detection system.	Submit analyses and supporting documentation demonstrating conformance with EPA guidance and specifications for bag leak detection systems as part of the Notification of Compliance Status.
	b. Establish the operating limit for the lime feeder setting.	i. Data from the lime feeder during the performance test.	(1) For continuous lime injection systems, ensure that lime in the feed hopper or silo is free-flowing at all times during the performance test; and (2) Record the feeder setting for the three test runs; and (3) If the feed rate setting varies during the three test runs, calculate and record the average feed rate for the two or three test runs, whichever applies.
20. Each new kiln that is used to process clay refractory products and is equipped with a wet scrubber.	a. Establish the operating limit for the minimum scrubber pressure drop.	i. Data from the pressure drop measurement device during the performance test.	(1) At least every 15 minutes, measure the pressure drop across the scrubber; and (2) Provide at least one pressure drop measurement during at least three 15-minute periods per hour of testing; and

TABLE 4 TO SUBPART SSSSS TO PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

For . . .	You must . . .	Using . . .	According to the following requirements . . .
			(3) Calculate the hourly average pressure drop across the scrubber for each hour of the performance test; and (4) Calculate and record the minimum pressure drop as the average of the hourly average pressure drops across the scrubber for the two or three test runs, whichever applies.
	b. Establish the operating limit for the minimum scrubber liquid pH.	i. Data from the pH measurement device during the performance test.	(1) At least every 15 minutes, measure scrubber liquid pH; and (2) Provide at least one pH measurement during at least three 15-minute periods per hour of testing; and (3) Calculate the hourly average pH values for each hour of the performance test; and (4) Calculate and record the minimum liquid pH as the average of the hourly average pH measurements for the two or three test runs, whichever applies.
	c. Establish the operating limit for the minimum scrubber liquid flow rate.	i. Data from the flow rate measurement device during the performance test.	(1) At least every 15 minutes, measure the scrubber liquid flow rate; and (2) Provide at least one flow rate measurement during at least three 15-minute periods per hour of testing; and (3) Calculate the hourly average liquid flow rate for each hour of the performance test; and (4) Calculate and record the minimum liquid flow rate as the average of the hourly average liquid flow rates for the two or three test runs, whichever applies.
	d. If chemicals are added to the scrubber liquid, establish the operating limit for the minimum scrubber chemical feed rate.	i. Data from the chemical feed rate measurement device during the performance test.	(1) At least every 15 minutes, measure the scrubber chemical feed rate; and (2) Provide at least one chemical feed rate measurement during at least three 15-minute periods per hour of testing; and (3) Calculate the hourly average chemical feed rate for each hour of the performance test; and (4) Calculate and record the minimum chemical feed rate as the average of the hourly average chemical feed rates for the two or three test runs, whichever applies.

As stated in § 63.9806, you must show initial compliance with the emission limits for affected sources according to the following table:

TABLE 5 TO SUBPART SSSSS OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITS

For . . .	For the following emission limit . . .	You have demonstrated compliance if . . .
1. Each affected source listed in Table 1 to this subpart.	a. Each applicable emission limit listed in Table 1 to this subpart.	i. Emissions measured using the test methods specified in Table 4 to this subpart satisfy the applicable emission limits specified in Table 1 to this subpart; and ii. You establish and have a record of the operating limits listed in Table 2 to this subpart over the performance test period; and iii. You report the results of the performance test in the Notification of Compliance Status, as specified by § 63.9812(e)(1) and (2).

TABLE 5 TO SUBPART SSSSS OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITS—Continued

For . . .	For the following emission limit . . .	You have demonstrated compliance if . . .
2. Each new or existing curing oven, shape dryer, and kiln that is used to process refractory products that use organic HAP; each new or existing coking oven and defumer that is used to produce pitch-impregnated refractory products; each new shape preheater that is used to produce pitch-impregnated refractory products; AND each new or existing process unit that is exhausted to a thermal or catalytic oxidizer that also controls emissions from an affected shape preheater or pitch working tank.	As specified in items 3 through 8 of this table	You have satisfied the applicable requirements specified in items 3 through 8 of this table.
3. Each affected continuous process unit that is subject to the THC emission concentration limit listed in item 2.a., 3.a., 4, or 5 of Table 1 to this subpart.	The average THC concentration must not exceed 20 ppmvd, corrected to 18 percent oxygen.	The 3-hour block average THC emission concentration measured during the performance test using Methods 25A and 3A is equal to or less than 20 ppmvd, corrected to 18 percent oxygen.
4. Each affected continuous process unit that is subject to the THC percentage reduction limit listed in item 2.b. or 3.b. of Table 1 to this subpart.	The average THC percentage reduction must equal or exceed 95 percent.	The 3-hour block average THC percentage reduction measured during the performance test using Method 25A is equal to or greater than 95 percent.
5. Each affected batch process unit that is subject to the THC emission concentration limit listed in item 6.a., 7.a., 8, or 9 of Table 1 to this subpart.	The average THC concentration must not exceed 20 ppmvd, corrected to 18 percent oxygen.	The 2-run block average THC emission concentration for the 3-hour peak emissions period measured during the performance test using Methods 25A and 3A is equal to or less than 20 ppmvd, corrected to 18 percent oxygen.
6. Each affected batch process unit that is subject to the THC percentage reduction limit listed in item 6.b. or 7.b. of Table 1 to this subpart.	The average THC percentage reduction must equal or exceed 95 percent.	The 2-run block average THC percentage reduction for the 3-hour peak emissions period measured during the performance test using Method 25A is equal to or exceeds 95 percent.
7. Each affected continuous or batch process unit that is equipped with a control device other than a thermal or catalytic oxidizer and is subject to the emission limit listed in item 3 or 7 of Table 1 to this subpart.	a. The average THC concentration must not exceed 20 ppmvd, corrected to 18 percent oxygen; or	i. You have installed a THC CEMS at the outlet of the control device or in the stack of the affected source; and
	b. The average THC percentage reduction must equal or exceed 95 percent.	ii. You have satisfied the requirements of PS–8 of 40 CFR part 60, appendix B.
8. Each affected continuous or batch process unit that uses process changes to reduce organic HAP emissions and is subject to the emission limit listed in item 4 or 8 of Table 1 to this subpart.	The average THC concentration must not exceed 20 ppmvd, corrected to 18 percent oxygen.	i. You have installed a THC CEMS at the outlet of the control device or in the stack of the affected source; and ii. You have satisfied the requirements of PS–8 of 40 CFR part 60, appendix B.
9. Each new continuous kiln that is used to process clay refractory products.	a. The average HF emissions must not exceed 0.019 kg/Mg (0.038 lb/ton) of uncalcined clay processed; OR the average uncontrolled HF emissions must be reduced by at least 90 percent.	i. The 3-hour block average production-based HF emissions rate measured during the performance test using one of the methods specified in item 14.a.i. of Table 4 to this subpart is equal to or less than 0.019 kg/Mg (0.038 lb/ton) of uncalcined clay processed; or ii. The 3-hour block average HF emissions reduction measured during the performance test is equal to or greater than 90 percent.
	b. The average HCl emissions must not exceed 0.091 kg/Mg (0.18 lb/ton) of uncalcined clay processed; OR the average uncontrolled HCl emissions must be reduced by at least 30 percent.	i. The 3-hour block average production-based HCl emissions rate measured during the performance test using one of the methods specified in item 14.a.i. of Table 4 to this subpart is equal to or less than 0.091 kg/Mg (0.18 lb/ton) of uncalcined clay processed; or ii. The 3-hour block average HCl emissions reduction measured during the performance test is equal to or greater than 30 percent.
10. Each new batch process kiln that is used to process clay refractory products.	a. The average uncontrolled HF emissions must be reduced by at least 90 percent.	The 2-run block average HF emission reduction measured during the performance test is equal to or greater than 90 percent.
	b. The average uncontrolled HCl emissions must be reduced by at least 30 percent.	The 2-run block average HCl emissions reduction measured during the performance test is equal to or greater than 30 percent.

As stated in § 63.9806, you must show initial compliance with the work practice standards for affected sources according to the following table:

TABLE 6 TO SUBPART SSSSS OF PART 63.—INITIAL COMPLIANCE WITH WORK PRACTICE STANDARDS

For each . . .	For the following standard . . .	You have demonstrated initial compliance if . . .
1. Each affected source listed in Table 3 to this subpart.	a. Each applicable work practice standard listed in Table 3 to this subpart.	i. You have selected a method for performing each of the applicable work practice standards listed in Table 3 to this subpart; and ii. You have included in your Initial Notification a description of the method selected for complying with each applicable work practice standard, as required by § 63.9(b); and iii. You submit a signed statement with the Notification of Compliance Status that you have implemented the applicable work practice standard listed in Table 3 to this subpart; and iv. You have described in your OM&M plan the method for complying with each applicable work practice standard specified in Table 3 to this subpart.
2. Each basket or container that is used for holding fired refractory shapes in an existing shape preheater and autoclave during the pitch impregnation process.	a. Control POM emissions from any affected shape preheater.	i. You have implemented at least one of the work practice standards listed in item 1 of Table 3 to this subpart; and ii. You have established a system for recording the date and cleaning method for each time you clean an affected basket or container.
3. Each affected new or existing pitch working tank.	Control POM emissions	You have captured and vented emissions from the affected pitch working tank to the device that is used to control emissions from an affected defumer or coking oven, or to a thermal or catalytic oxidizer that is comparable to the control device used on an affected defumer or coking oven.
4. Each new or existing chromium refractory products kiln.	Minimize fuel-based HAP emissions	You use natural gas, or equivalent, as the kiln fuel.
5. Each existing clay refractory products kiln	Minimize fuel-based HAP emissions	You use natural gas, or equivalent, as the kiln fuel.

As stated in § 63.9810, you must show continuous compliance with the emission limits for affected sources according to the following table:

TABLE 7 TO SUBPART SSSSS TO PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITS

For . . .	For the following emission limit . . .	You must demonstrate continuous compliance by . . .
1. Each affected source listed in Table 1 to this subpart.	a. Each applicable emission limit listed in Table 1 to this subpart.	i. Collecting and recording the monitoring and process data listed in Table 2 (operating limits) to this subpart; and ii. Reducing the monitoring and process data associated with the operating limits specified in Table 2 to this subpart; and iii. Recording the results of any control device inspections; and iv. Reporting, in accordance with § 63.9814(e), any deviation from the applicable operating limits specified in Table 2 to this subpart.
2. Each new or existing curing oven, shape dryer, and kiln that is used to process refractory products that use organic HAP; each new or existing coking oven and defumer that is used to produce pitch-impregnated refractory products; each new shape preheater that is used to produce pitch-impregnated refractory products; AND each new or existing process unit that is exhausted to a thermal or catalytic oxidizer that also controls emissions from an affected shape preheater or pitch working tank.	As specified in items 3 though 7 of this table	Satisfying the applicable requirements specified in items 3 through 7 of this table.

TABLE 7 TO SUBPART SSSSS TO PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITS—Continued

For . . .	For the following emission limit . . .	You must demonstrate continuous compliance by . . .
3. Each affected process unit that is equipped with a thermal or catalytic oxidizer.	a. The average THC concentration must not exceed 20 ppmvd, corrected to 18 percent oxygen; OR the average THC percentage reduction must equal or exceed 95 percent.	i. Collecting the applicable data measured by the control device temperature monitoring system, as specified in items 5, 6, 8, and 9 of Table 8 to this subpart; and ii. Reducing the applicable data measured by the control device temperature monitoring system, as specified in items 5, 6, 8, and 9 of Table 8 to this subpart; and iii. Maintaining the average control device operating temperature for the applicable averaging period specified in items 5, 6, 8, and 9 of Table 2 to this subpart at or above the minimum allowable operating temperature established during the most recent performance test.
4. Each affected process unit that is equipped with a control device other than a thermal or catalytic oxidizer.	The average THC concentration must not exceed 20 ppmvd, corrected to 18 percent oxygen; OR the average THC performance reduction must equal or exceed 95 percent.	Operating and maintaining a THC CEMS at the outlet of the control device or in the stack of the affected source, according to the requirements of Procedure 1 of 40 CFR part 60, appendix F.
5. Each affected process unit that uses process changes to meet the applicable emission limit.	The average THC concentration must not exceed 20 ppmvd, corrected to 18 percent oxygen.	Operating and maintaining a THC CEMS at the outlet of the control device or in the stack of the affected source, according to the requirements of Procedure 1 of 40 CFR part 60, appendix F.
6. Each affected continuous process unit	The average THC concentration must not exceed 20 ppmvd, corrected to 18 percent oxygen; OR the average THC percentage reduction must equal or exceed 95 percent.	Recording the organic HAP processing rate (pounds per hour) and the operating temperature of the affected source, as specified in items 3.b. and 3.c. of Table 4 to this subpart.
7. Each affected batch process unit	The average THC concentration must not exceed 20 ppmvd, corrected to 18 percent oxygen; OR the average THC percentage reduction must equal or exceed 95 percent.	Recording the organic HAP processing rate (pounds per batch); and process cycle time for each batch cycle; and hourly average operating temperature of the affected source, as specified in items 8.b. through 8.d. of Table 4 to this subpart.
8. Each kiln that is used to process clay refractory products.	As specified in items 9 through 11 of this table.	Satisfying the applicable requirements specified in items 9 through 11 of this table.
9. Each affected kiln that is equipped with a DLA.	a. The average HF emissions must not exceed 0.019 kg/Mg (0.038 lb/ton) of uncalcined clay processed, OR the average uncontrolled HF emissions must be reduced by at least 90 percent; and b. The average HCl emissions must not exceed 0.091 kg/Mg (0.18 lb/ton) of uncalcined clay processed, or the average uncontrolled HCl emissions must be reduced by at least 30 percent.	i. Maintaining the pressure drop across the DLA at or above the minimum levels established during the most recent performance test; and ii. Verifying that the limestone hopper contains an adequate amount of free-flowing limestone by performing a daily visual check of the limestone in the feed hopper; and iii. Recording the limestone feeder setting daily to verify that the feeder setting is at or above the level established during the most recent performance test; and iv. Using the same grade of limestone as was used during the most recent performance test and maintaining records of the source and grade of limestone.
10. Each affected kiln that is equipped with a DIFF or DLS/FF.	a. The average HF emissions must not exceed 0.019 kg/Mg (0.038 lb/ton) of uncalcined clay processed; OR the average uncontrolled HF emissions must be reduced by at least 90 percent; and b. The average HCl emissions must not exceed 0.091 kg/Mg (0.18 lb/ton) of uncalcined clay processed; OR the average uncontrolled HCl emissions must be reduced by at least 30 percent.	i. Verifying at least once each 8-hour shift that lime is free-flowing by means of a visual check, checking the output of a load cell, carrier gas/lime flow indicator, or carrier gas pressure drop measurement system; and ii. Recording feeder setting daily to verify that the feeder setting is at or above the level established during the most recent performance test; and

TABLE 7 TO SUBPART SSSSS TO PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITS—Continued

For . . .	For the following emission limit . . .	You must demonstrate continuous compliance by . . .
		iii. Initiating corrective action within 1 hour of a bag leak detection system alarm AND completing corrective actions in accordance with the OM&M plan, AND operating and maintaining the fabric filter such that the alarm does not engage for more than 5 percent of the total operating time in a 6-month block reporting period.
11. Each affected kiln that is equipped with a wet scrubber.	a. The average HF emissions must not exceed 0.019 kg/Mg (0.038 lb/ton) of uncalcined clay processed; OR the average uncontrolled HF emissions must be reduced by at least 90 percent; and b. The average HCl emissions must not exceed 0.091 kg/Mg (0.18 lb/ton) of uncalcined clay processed; OR the average uncontrolled HCl emissions must be reduced by at least 30 percent.	i. Maintaining the pressure drop across the scrubber, liquid pH, and liquid flow rate at or above the minimum levels established during the most recent performance test; and ii. If chemicals are added to the scrubber liquid, maintaining the average chemical feed rate at or above the minimum chemical feed rate established during the most recent performance test.

As stated in § 63.9810, you must show continuous compliance with the operating limits for affected sources according to the following table:

TABLE 8 TO SUBPART SSSSS OF PART 63.—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS

For . . .	For the following operating limit . . .	You must demonstrate continuous compliance by . . .
1. Each affected source listed in Table 2 to this subpart.	a. Each applicable operating limit listed in Table 2 to this subpart.	i. Maintaining all applicable process and control device operating parameters within the limits established during the most recent performance test; and ii. Conducting annually an inspection of all duct work, vents, and capture devices to verify that no leaks exist and that the capture device is operating such that all emissions are properly vented to the control device in accordance with the OM&M plan.
2. Each affected continuous kiln that is equipped with a control device.	a. The operating limits specified in items 2.a. through 2.c. of Table 2 to this subpart.	i. Operating the control device on the affected kiln during all times except during periods of approved scheduled maintenance, as specified in § 63.9792(e); and ii. Minimizing HAP emissions from the affected kiln during all periods of scheduled maintenance of the kiln control device when the kiln is operating and the control device is out of service; and iii. Minimizing the duration of all periods of scheduled maintenance of the kiln control device when the kiln is operating and the control device is out of service.
3. Each new or existing curing oven, shape dryer, and kiln that is used to process refractory products that use organic HAP; each new or existing coking oven and defumer that is used to produce pitch-impregnated refractory products; each new shape preheater that is used to produce pitch-impregnated refractory products; AND each new or existing process unit that is exhausted to a thermal or catalytic oxidizer that also controls emissions from an affected shape preheater or pitch working tank.	As specified in items 4 through 9 of this table.	Satisfying the applicable requirements specified in items 4 through 9 of this table.

TABLE 8 TO SUBPART SSSSS OF PART 63.—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS—Continued

For . . .	For the following operating limit . . .	You must demonstrate continuous compliance by . . .
4. Each affected continuous process unit	Maintain process operating parameters within the limits established during the most recent performance test.	i. Recording the organic HAP processing rate (pounds per hour); and ii. Recording the operating temperature of the affected source at least hourly; and iii. Maintaining the 3-hour block average organic HAP processing rate at or below the maximum organic HAP processing rate established during the most recent performance test.
5. Continuous process units that are equipped with a thermal oxidizer.	Maintain the 3-hour block average operating temperature in the thermal oxidizer combustion chamber at or above the minimum allowable operating temperature established during the most recent performance test.	i. Measuring and recording the thermal oxidizer combustion chamber temperature at least every 15 minutes; and ii. Calculating the hourly average thermal oxidizer combustion chamber temperature; and iii. Maintaining the 3-hour block average thermal oxidizer combustion chamber temperature at or above the minimum allowable operating temperature established during the most recent performance test; and iv. Reporting, in accordance with §63.9814(e), any 3-hour block average operating temperature measurements below the minimum allowable thermal oxidizer combustion chamber operating temperature established during the most recent performance test.
6. Continuous process units that are equipped with a catalytic oxidizer.	a. Maintain the 3-hour block average temperature at the inlet of the catalyst bed at or above the minimum allowable catalyst bed inlet temperature established during the most recent performance test.	i. Measuring and recording the temperature at the inlet of the catalyst bed at least every 15 minutes; and ii. Calculating the hourly average temperature at the inlet of the catalyst bed; and iii. Maintaining the 3-hour block average temperature at the inlet of the catalyst bed at or above the minimum allowable catalyst bed inlet temperature established during the most recent performance test; and iv. Reporting, in accordance with §63.9814(e), any 3-hour block average catalyst bed inlet temperature measurements below the minimum allowable catalyst bed inlet temperature established during the most recent performance; and v. Checking the activity level of the catalyst at least every 12 months and taking any necessary corrective action, such as replacing the catalyst, to ensure that the catalyst is performing as designed.
7. Each affected batch process unit	Maintain process operating parameters within the limits established during the most recent performance test.	i. Recording the organic HAP processing rate (pounds per batch); and ii. Recording the hourly average operating temperature of the affected source; and iii. Recording the process cycle time for each batch cycle; and iv. Maintaining the organic HAP processing rate at or below the maximum organic HAP processing rate established during the most recent performance test.

TABLE 8 TO SUBPART SSSSS OF PART 63.—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS—Continued

For . . .	For the following operating limit . . .	You must demonstrate continuous compliance by . . .
8. Batch process units that are equipped with a thermal oxidizer.	Maintain the hourly average temperature in the thermal oxidizer combustion chamber at or above the hourly average temperature established for the corresponding 1-hour period of the cycle during the most recent performance test.	i. Measuring and recording the thermal oxidizer combustion chamber temperature at least every 15 minutes; and ii. Calculating the hourly average thermal oxidizer combustion chamber temperature; and iii. From the start of each batch cycle until 3 hours have passed since the process unit reached maximum temperature, maintaining the hourly average operating temperature in the thermal oxidizer combustion chamber at or above the minimum allowable operating temperature established for the corresponding period during the most recent performance test, as determined according to item 11 of Table 4 to this subpart; and iv. For each subsequent hour of the batch cycle, maintaining the hourly average operating temperature in the thermal oxidizer combustion chamber at or above the minimum allowable operating temperature established for the corresponding hour during the most recent performance test, as specified in item 13 of Table 4 to this subpart; and v. Reporting, in accordance with § 63.9814(e), any temperature measurements below the minimum allowable thermal oxidizer combustion chamber temperature measured during the most recent performance test.
9. Batch process units that are equipped with a catalytic oxidizer.	Maintain the hourly average temperature at the inlet of the catalyst bed at or above the corresponding hourly average temperature established for the corresponding 1-hour period of the cycle during the most recent performance test.	i. Measuring and recording temperatures at the inlet of the catalyst bed at least every 15 minutes; and ii. Calculating the hourly average temperature at the inlet of the catalyst bed; and iii. From the start of each batch cycle until 3 hours have passed since the process unit reached maximum temperature, maintaining the hourly average operating temperature at the inlet of the catalyst bed at or above the minimum allowable bed inlet temperature established for the corresponding period during the most recent performance test, as determined according to item 12 of Table 4 to this subpart; and iv. For each subsequent hour of the batch cycle, maintaining the hourly average operating temperature at the inlet of the catalyst bed at or above the minimum allowable bed inlet temperature established for the corresponding hour during the most recent performance test, as specified in item 13 of Table 4 to this subpart; and v. Reporting, in accordance with § 63.9814(e), any catalyst bed inlet temperature measurements below the minimum allowable bed inlet temperature measured during the most recent performance test; and vi. Checking the activity level of the catalyst at least every 12 months and taking any necessary corrective action, such as replacing the catalyst, to ensure that the catalyst is performing as designed.
10. Each new kiln that is used to process clay refractory products.	As specified in items 11 through 13 of this table.	Satisfying the applicable requirements specified in items 11 through 13 of this table.
11. Each new kiln that is equipped a DLA	a. Maintain the average pressure drop across the DLA for each 3-hour block period at or above the minimum pressure drop established during the most recent performance test.	i. Collecting the DLA pressure drop data, as specified in item 18.a. of Table 4 to this subpart; and ii. Reducing the DLA pressure drop data to 1-hour and 3-hour block averages; and

TABLE 8 TO SUBPART SSSSS OF PART 63.—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS—Continued

For . . .	For the following operating limit . . .	You must demonstrate continuous compliance by . . .
		iii. Maintaining the 3-hour block average pressure drop across the DLA at or above the minimum pressure drop established during the most recent performance test.
	b. Maintain free-flowing limestone in the feed hopper, silo, and DLA.	Verifying that the limestone hopper has an adequate amount of free-flowing limestone by performing a daily visual check of the limestone hopper.
	c. Maintain the limestone feeder setting at or above the level established during the most recent performance test.	Recording the limestone feeder setting at least daily to verify that the feeder setting is being maintained at or above the level established during the most recent performance test.
	d. Use the same grade of limestone from the same source as was used during the most recent performance test.	Using the same grade of limestone as was used during the most recent performance test and maintaining records of the source and grade of limestone.
12. Each new kiln that is equipped with a DIFF or DLS/FF.	a. Initiate corrective action within 1 hour of a bag leak detection system alarm and complete corrective actions in accordance with the OM&M plan; AND operate and maintain the fabric filter such that the alarm does not engage for more than 5 percent of the total operating time in a 6-month block reporting period.	i. Initiating corrective action within 1 hour of a bag leak detection system alarm and completing corrective actions in accordance with the OM&M plan; and ii. Operating and maintaining the fabric filter such that the alarm does not engage for more than 5 percent of the total operating time in a 6-month block reporting period; in calculating this operating time fraction, if inspection of the fabric filter demonstrates that no corrective action is required, no alarm time is counted; if corrective action is required, each alarm shall be counted as a minimum of 1 hour; if you take longer than 1 hour to initiate corrective action, the alarm time shall be counted as the actual amount of time taken by you to initiate corrective action.
	b. Maintain free-flowing lime in the feed hopper or silo at all times for continuous injection systems; AND maintain feeder setting at or above the level established during the most recent performance test for continuous injection systems.	i. Verifying at least once each 8-hour shift that lime is free-flowing via a load cell, carrier gas/lime flow indicator, carrier gas pressure drop measurement system, or other system; recording all monitor or sensor output, and if lime is found not to be free flowing, promptly initiating and completing corrective actions; and ii. Recording the feeder setting once each day of operation to verify that the feeder setting is being maintained at or above the level established during the most recent performance test.
13. Each new kiln that is used to process clay refractory products and is equipped with a wet scrubber.	a. Maintain the average pressure drop across the scrubber for each 3-hour block period at or above the minimum pressure drop established during the most recent performance test.	i. Collecting the scrubber pressure drop data, as specified in item 20.a. of Table 4 to this subpart; and ii. Reducing the scrubber pressure drop data to 1-hour and 3-hour block averages; and iii. Maintaining the 3-hour block average scrubber pressure drop at or above the minimum pressure drop established during the most recent performance test.
	b. Maintain the average scrubber liquid pH for each 3-hour block period at or above the minimum scrubber liquid pH established during the most recent performance test.	i. Collecting the scrubber liquid pH data, as specified in item 20.b. of Table 4 to this subpart; and ii. Reducing the scrubber liquid pH data to 1-hour and 3-hour block averages; and iii. Maintaining the 3-hour block average scrubber liquid pH at or above the minimum scrubber liquid pH established during the most recent performance test.

TABLE 8 TO SUBPART SSSSS OF PART 63.—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS—Continued

For . . .	For the following operating limit . . .	You must demonstrate continuous compliance by . . .
	c. Maintain the average scrubber liquid flow rate for each 3-hour block period at or above the minimum scrubber liquid flow rate established during the most recent performance test.	i. Collecting the scrubber liquid flow rate data, as specified in item 20.c. of Table 4 to this subpart; and ii. Reducing the scrubber liquid flow rate data to 1-hour and 3-hour block averages; and iii. Maintaining the 3-hour block average scrubber liquid flow rate at or above the minimum scrubber liquid flow rate established during the most recent performance test.
	d. If chemicals are added to the scrubber liquid, maintain the average scrubber chemical feed rate for each 3-hour block period at or above the minimum scrubber chemical feed rate established during the most recent performance test.	i. Collecting the scrubber chemical feed rate data, as specified in item 20.d. of Table 4 to this subpart; and ii. Reducing the scrubber chemical feed rate data to 1-hour and 3-hour block averages; and iii. Maintaining the 3-hour block average scrubber chemical feed rate at or above the minimum scrubber chemical feed rate established during the most recent performance test.

As stated in § 63.9810, you must show continuous compliance with the work practice standards for affected sources according to the following table:

TABLE 9 TO SUBPART SSSSS OF PART 63.—CONTINUOUS COMPLIANCE WITH WORK PRACTICE STANDARDS

For . . .	For the following work practice standard . . .	You must demonstrate continuous compliance by . . .
1. Each affected source listed in Table 3 to this subpart.	Each applicable work practice requirement listed in Table 3 to this subpart.	i. Performing each applicable work practice standard listed in Table 3 to this subpart; and ii. Maintaining records that document the method and frequency for complying with each applicable work practice standard listed in Table 3 to this subpart, as required by §§ 63.10(b) and 63.9816(c)(2).
2. Each basket or container that is used for holding fired refractory shapes in an existing shape preheater and autoclave during the pitch impregnation process.	Control POM emissions from any affected shape preheater.	i. Controlling emissions from the volatilization of residual pitch by implementing one of the work practice standards listed in item 1 of Table 3 to this subpart; and ii. Recording the date and cleaning method each time you clean an affected basket or container.
3. Each new or existing pitch working tank	Control POM emissions	Capturing and venting emissions from the affected pitch working tank to the control device that is used to control emissions from an affected defumer or coking oven, or to a thermal or catalytic oxidizer that is comparable to the control device used on an affected defumer or coking oven.
4. Each new or existing chromium refractory products kiln.	Minimize fuel-based HAP emissions	i. Using natural gas, or equivalent, as the kiln fuel at all times except during periods of natural gas curtailment or supply interruption; and ii. If you intend to use an alternative fuel, submitting a notification of alternative fuel use within 48 hours of the declaration of a period of natural gas curtailment or supply interruption, as defined in § 63.9824; and iii. Submitting a report of alternative fuel use within 10 working days after terminating the use of the alternative fuel, as specified in § 63.9814(g).
5. Each existing clay refractory products kiln	Minimize fuel-based HAP emissions	i. Using natural gas, or equivalent, as the kiln fuel at all times except during periods of natural gas curtailment or supply interruption; and

TABLE 9 TO SUBPART SSSSS OF PART 63.—CONTINUOUS COMPLIANCE WITH WORK PRACTICE STANDARDS—Continued

For . . .	For the following work practice standard . . .	You must demonstrate continuous compliance by . . .
		ii. If you intend to use an alternative fuel, submitting a notification of alternative fuel use within 48 hours of the declaration of a period of natural gas curtailment or supply interruption, as defined in § 63.9824; and iii. Submitting a report of alternative fuel use within 10 working days after terminating the use of the alternative fuel, as specified in § 63.9814(g).

As stated in § 63.9814, you must comply with the requirements for reports in the following table:

TABLE 10 TO SUBPART SSSSS OF PART 63.—REQUIREMENTS FOR REPORTS

You must submit a(n) . . .	The report must contain . . .	You must submit the report . . .
1. Compliance report	The information in § 63.9814(c) through (f)	Semiannually according to the requirements in § 63.9814(a) through (f).
2. Immediate startup, shutdown, and malfunction report if you had a startup, shutdown, or malfunction during the reporting period that is not consistent with your SSMP.	a. Actions taken for the event	By fax or telephone within 2 working days after starting actions inconsistent with the plan.
	b. The information in § 63.10(d)(5)(ii)	By letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority.
3. Report of alternative fuel use	The information in § 63.9814(g) and items 4 and 5 of Table 9 to this subpart.	If you are subject to the work practice standard specified in item 3 or 4 of Table 3 to this subpart, and you use an alternative fuel in the affected kiln, by letter within 10 working days after terminating the use of the alternative fuel.

As stated in § 63.9820, you must comply with the applicable General Provisions requirements according to the following table:

TABLE 11 TO SUBPART SSSSS OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART SSSSS

Citation	Subject	Brief description	Applies to subpart SSSSS
§ 63.1	Applicability		Yes.
§ 63.2	Definitions		Yes.
§ 63.3	Units and Abbreviations		Yes.
§ 63.4	Prohibited Activities	Compliance date; circumvention, severability	Yes.
§ 63.5	Construction/Reconstruction	Applicability; applications; approvals	Yes.
§ 63.6(a)	Applicability	General Provisions (GP) apply unless compliance extension; GP apply to area sources that become major.	Yes.
§ 63.6(b)(1)–(4)	Compliance Dates for New and Reconstructed Sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for section 112(f).	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.	Area sources that become major must comply with major source standards immediately upon becoming major, regardless of whether required to comply when they were area sources.	Yes.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources	Comply according to date in subpart, which must be no later than 3 years after effective date; for section 112(f) standards, comply within 90 days of effective date unless compliance extension.	Yes.
§ 63.6(c)(3)–(4)	[Reserved]		
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources That Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (for example, 3 years).	Yes.

TABLE 11 TO SUBPART SSSSS OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART SSSSS—Continued

Citation	Subject	Brief description	Applies to subpart SSSSS
§ 63.6(d)	[Reserved]		
§ 63.6(e)(1)–(2)	Operation & Maintenance	Operate to minimize emissions at all times; correct malfunctions as soon as practicable; requirements independently enforceable; information Administrator will use to determine if operation and maintenance requirements were met.	Yes.
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction Plan (SSMP).		Yes.
§ 63.6(f)(1)	Compliance Except During SSM	You must comply with emission standards at all times except during SSM.	Yes.
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes.
§ 63.6(g)(1)–(3)	Alternative Standard	Procedures for getting an alternative standard.	Yes.
§ 63.6(h)(1)–(9)	Opacity/Visible Emission (VE) Standards		Not applicable.
§ 63.6(i)(1)–(14)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes.
§ 63.6(j)	Presidential Compliance Exemption	President may exempt source category	Yes.
§ 63.7(a)(1)–(2)	Performance Test Dates	Dates for conducting initial performance testing and other compliance demonstrations; must conduct 180 days after first subject to rule.	Yes.
§ 63.7(a)(3)	Section 114 Authority	Administrator may require a performance test under CAA section 114 at any time.	Yes.
§ 63.7(b)(1)	Notification of Performance Test	Must notify Administrator 60 days before the test.	Yes.
§ 63.7(b)(2)	Notification of Rescheduling	Must notify Administrator 5 days before scheduled date and provide rescheduled date.	Yes.
§ 63.7(c)	Quality Assurance/Test Plan	Requirements; test plan approval procedures; performance audit requirements; internal and external QA procedures for testing.	Yes.
§ 63.7(d)	Testing Facilities		Yes.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests	Performance tests must be conducted under representative conditions; cannot conduct performance tests during SSM; not a violation to exceed standard during SSM.	No, § 63.9800 specifies requirements; Yes; Yes.
§ 63.7(e)(2)	Conditions for Conducting Performance Tests	Must conduct according to subpart and EPA test methods unless Administrator approves alternative.	Yes.
§ 63.7(e)(3)	Test Run Duration	Must have three test runs of at least 1 hour each; compliance is based on arithmetic mean of three runs; conditions when data from an additional test run can be used.	Yes; Yes, except where specified in § 63.9800 for batch process sources; Yes.
§ 63.7(f)	Alternative Test Method		Yes.
§ 63.7(g)	Performance Test Data Analysis		Yes.
§ 63.7(h)	Waiver of Test		Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements		Yes.
§ 63.8(a)(2)	Performance Specifications	Performance Specifications in appendix B of 40 CFR part 60 apply.	Yes.
§ 63.8(a)(3)	[Reserved]		
§ 63.8(a)(4)	Monitoring with Flares		Not applicable.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes.
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing and reporting on monitoring systems.	Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance	Maintenance consistent with good air pollution control practices.	Yes.
§ 63.8(c)(1)(i)	Routine and Predictable SSM	Reporting requirements for SSM when action is described in SSMP.	Yes.
§ 63.8(c)(1)(ii)	SSM not in SSMP	Reporting requirements for SSM when action is not described in SSMP.	Yes.
§ 63.8(c)(1)(iii)	Compliance with Operation and Maintenance Requirements.	How Administrator determines if source is complying with operation and maintenance requirements.	Yes.
§ 63.8(c)(2)–(3)	Monitoring System Installation	Must install to get representative emission and parameter measurements.	Yes.
§ 63.8(c)(4)	CMS Requirements		No, § 63.9808 specifies requirements.
§ 63.8(c)(5)	COMS Minimum Procedures		Not applicable.

TABLE 11 TO SUBPART SSSSS OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART SSSSS—Continued

Citation	Subject	Brief description	Applies to subpart SSSSS
§ 63.8(c)(6)	CMS Requirements		Applies only to sources required to install and operate a THC CEMS.
§ 63.8(c)(7)(i)(A)	CMS Requirements		Applies only to sources required to install and operate a THC CEMS.
§ 63.8(c)(7)(i)(B)	CMS Requirements		Applies only to sources required to install and operate a THC CEMS.
§ 63.8(c)(7)(i)(C)	CMS Requirements		Not applicable.
§ 63.8(c)(7)(ii)	CMS Requirements	Corrective action required when CMS is out of control.	Yes.
§ 63.8(c)(8)	CMS Requirements		Yes.
§ 63.8(d)	CMS Quality Control		Applies only to sources required to install and operate a THC CEMS.
§ 63.8(e)	CMS Performance Evaluation		Applies only to sources required to install and operate a THC CEMS.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method		Yes.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test		Yes.
§ 63.8(g)	Data Reduction		Applies only to sources required to install and operate a THC CEMS.
§ 63.9(a)	Notification Requirements		Yes.
§ 63.9(b)(1)–(5)	Initial Notifications		Yes.
§ 63.9(c)	Request for Compliance Extension		Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.		Yes.
§ 63.9(e)	Notification of Performance Test	Notify Administrator 60 days prior	Yes.
§ 63.9(f)	Notification of VE/Opacity Test		Not applicable.
§ 63.9(g)	Additional Notifications When Using CMS		Applies only to sources required to install and operate a THC CEMS.
§ 63.9(h)	Notification of Compliance Status		Yes.
§ 63.9(i)	Adjustment of Submittal Deadlines		Yes.
§ 63.9(j)	Change in Previous Information		Yes.
§ 63.10(a)	Recordkeeping/Reporting		Yes.
§ 63.10(b)(1)	Recordkeeping/Reporting		Yes.
§ 63.10(b)(2)(i)–(v)	Records Related to Startup, Shutdown, and Malfunction.		Yes.
§ 63.10(b)(2)(vi) and (x–xi).	CMS Records		Yes.
§ 63.10(b)(2)(vii)–(ix).	Records	Measurements to demonstrate compliance with emission limitations; performance test, performance evaluation, and visible emission observation results; measurements to determine conditions of performance tests and performance evaluations.	Yes.
§ 63.10(b)(2)(xii)	Records	Records when under waiver	Yes.
§ 63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test.	Not applicable.
§ 63.10(b)(2)(xiv)	Records	All documentation supporting Initial Notification and Notification of Compliance Status.	Yes.
§ 63.10(b)(3)	Records	Applicability Determinations	Yes.
§ 63.10(c)(1)–(6), (9)–(15).	Records	Additional Records for CMS	Not applicable.
§ 63.10(c)(7)–(8)	Records	Records of excess emissions and parameter monitoring exceedances for CMS.	No, § 63.9816 specifies requirements.
§ 63.10(d)(1)	General Reporting Requirements	Requirements for reporting	Yes.
§ 63.10(d)(2)	Report of Performance Test Results	When to submit to Federal or State authority	Yes.
§ 63.10(d)(3)	Reporting Opacity or VE Observations		Not applicable.

TABLE 11 TO SUBPART SSSSS OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART SSSSS—Continued

Citation	Subject	Brief description	Applies to subpart SSSSS
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes.
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports	Contents and submission	Yes.
§ 63.10(e)(1)–(2)	Additional CMS Reports		Applies only to sources required to install and operate a THC CEMS.
§ 63.10(e)(3)	Reports		No, § 63.9814 specifies requirements.
§ 63.10(e)(4)	Reporting COMS data		Not applicable.
§ 63.10(f)	Waiver for Recordkeeping/Reporting		Yes.
§ 63.11	Flares		Not applicable.
§ 63.12	Delegation		Yes.
§ 63.13	Addresses		Yes.
§ 63.14	Incorporation by Reference		Yes.
§ 63.15	Availability of Information		Yes.

[FR Doc. 03–5622 Filed 4–15–03; 8:45 am]

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Federal Register

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April 17, 2003

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0057; FRL–7460–1]

RIN 2060–AH75

National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes national emission standards for hazardous air pollutants (NESHAP) for hydrochloric acid (HCl) production facilities, including HCl production at fume silica facilities. The EPA has identified hydrochloric acid production facilities as major sources of hazardous air pollutant (HAP) emissions. These standards will implement section 112(d) of the Clean Air Act (CAA) by requiring all such major sources to meet HAP emission standards and implement work practice standards that reflect the application of maximum achievable control technology (MACT). The primary HAP that will be controlled with this action is hydrochloric acid. This HAP is associated with a variety of adverse health effects including chronic health disorders (for example, effects on the central nervous system, blood, and heart) and acute health disorders (for example, irritation of eyes, throat, and mucous membranes and damage to the liver and kidneys).

EFFECTIVE DATE: The final rule is effective April 17, 2003.

ADDRESSES: *Docket.* All information considered by the EPA in developing the final rule, including public comments on the proposed rule and other information developed by the EPA in addressing those comments since proposal, is located in Public Docket No. OAR–2002–0057 at the following address: Air and Radiation Docket and Information Center, U.S. EPA, 1301 Constitution Avenue, NW., Washington, DC 20460. The docket is located at the above address in Room B102, and may be inspected from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For information concerning applicability and rule determinations, contact your State or local regulatory agency representative or the appropriate EPA Regional Office representative. For information concerning analyses performed in developing the final rule, contact Mr. William Maxwell, Combustion Group, Emission Standards Division (C439–01), U.S. EPA, Research Triangle Park, North Carolina, 27711; telephone number (919) 541–5430; fax number (919) 541–5450; electronic mail address: *maxwell.bill@epa.gov.*

SUPPLEMENTARY INFORMATION:

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

Category	SIC[a]	NAICS[b]	Regulated Entities
Industry	2819 2821 2869	325188 325211 325199	Hydrochloric Acid Production.

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

This list 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 § 63.8985 of the final rule. If you have questions regarding the applicability of this action to a particular entity, consult your State or local agency (or EPA Regional Office) described in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Docket. The EPA has established an official public docket for this action under Docket ID No. OAR–2002–0057. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center 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 Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

Electronic Access. You may access the **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/.* An electronic copy of the final rule will also be available on the worldwide web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of the final rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules *http://www.epa.gov/ttn/oarpg.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified above. Once in the system, select "search," then key in the appropriate docket identification number.

Judicial Review. Under CAA section 307(b), judicial review of the final NESHAP is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit on or before June 16, 2003. Only those objections to the NESHAP which were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2)of the CAA, the requirements established by today's final action may not be challenged separately in any civil or criminal proceeding we bring to enforce these requirements.

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

I. Background
  A. What Is the Source of Authority for Development of NESHAP?
  B. What Criteria Are Used in the Development of NESHAP?
  C. How Did the Public Participate in Developing the Final Rule?
II. Summary of the Final Rule

A. Who Is Subject to the Final Rule?
B. What Are the Primary Sources of Emissions, and What Are the Emissions?
C. What Is the Affected Source?
D. What Are the Emission Limitations and Work Practice Standards?
E. What Are the Performance Testing, Initial Compliance, and Continuous Compliance Requirements?
F. What Are the Notification, Recordkeeping, and Reporting Requirements?
III. Significant Comments and Changes Since Proposal
A. What Sources Are Subject to MACT?
B. How Did the EPA Determine MACT?
C. What Are the Performance Testing and Other Compliance Provisions?
IV. Summary of the Environmental, Energy, Cost, and Economic Impacts
A. What Are the Air Quality Impacts?
B. What Are the Non-Air Health, Environmental, and Energy Impacts?
C. What Are the Cost and Economic Impacts?
V. Administrative Requirements
A. Executive Order 12866, Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132, Federalism
F. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045, Protection of Children From Environmental Health and Safety Risks
H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Congressional Review Act

I. Background

A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. Hydrochloric acid production and fume silica production were listed as source categories under the production of inorganic chemicals group on EPA's initial list of major source categories published in the **Federal Register** on July 16, 1992 (57 FR 31576).[1] On September 18, 2001, we combined these two source categories for regulatory purposes under the production of inorganic chemicals group and renamed the source category as HCl production (66 FR 48174). The next revision to the source category list will reflect this change. Major sources of HAP are those that have the potential to emit greater than 9 megagrams per year (Mg/yr) (10 tons per year (tpy)) of any one HAP or 23 Mg/yr (25 tpy) of any combination of HAP.

B. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory for which the Administrator has emissions information (or the best-performing five sources for which the Administrator has or could reasonably obtain emissions information for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

C. How Did the Public Participate in Developing the Final Rule?

Prior to proposal, we met with industry representatives once to discuss the data and information used to develop the proposed standards. In addition, these and other potential stakeholders, including equipment vendors, environmental groups, and the general public, had opportunity to comment on the proposed standards.

The proposed rule was published in the **Federal Register** on September 18, 2001 (66 FR 48174). The preamble to the proposed rule discussed the availability of technical support documents, which described in detail the information gathered during the standards development process. Public comments were solicited at proposal.

We received 22 public comment letters on the proposed rule. The commenters represent the following affiliations: HCl producers, industrial trade associations, and one group of citizens. In the post-proposal period, we met with industry representatives to discuss their concerns. Meeting records are found in Docket ID No. OAR–2002–0057. All of the comments have been carefully considered, and, where appropriate, changes have been made for the final rule.

II. Summary of the Final Rule

A. Who Is Subject to the Final Rule?

The final rule covers HCl production located at plant sites that are major sources of HAP emissions. The HCl production facility is the basic unit defined in the final rule. Specifically, the final rule defines an HCl production facility as the collection of unit operations and equipment associated with the production of liquid HCl product. Therefore, a plant site could have several separate and distinct HCl production facilities. However, as discussed more in subsection C of this section, the affected source includes all HCl production facilities at the same site.

There are several characteristics that define an HCl production facility and make the facility subject to the final rule that require explanation. First, the facility must produce a liquid HCl product with a concentration of 30 weight percent or greater during its normal operations. Facilities that produce only low concentration acid, and facilities that produce low concentration acid and only occasionally produce 30 weight percent acid, are not subject. Second, the liquid HCl must be produced by absorbing gaseous HCl into either water or an aqueous HCl solution. Production of an anhydrous HCl product is not covered by the final rule. Also, production of a liquid HCl product by a chemical reaction that occurs in the liquid phase, or any other process that does not involve the absorption of gaseous HCl into water or aqueous HCl, is not covered.

There are numerous types of processes that produce a gaseous stream containing HCl that is the starting point for an HCl facility (including fume silica production). However, the final rule is blind to the type of process that generates the HCl, as an HCl production facility begins at the point where the

[1] Later listing notices (*e.g.*, 66 FR 8220) refer to the source category as "fumed" silica.

stream containing HCl enters the absorber. Accordingly, it does not matter if the gaseous stream containing HCl is a by-product or even a waste-product. If the gaseous stream is used to produce 30 weight percent or greater liquid HCl product, it is a facility that is subject to the final rule.

The final rule clearly defines the boundaries of an HCl production facility. As noted above, an HCl production facility begins at the point where a gaseous stream containing HCl enters the absorber. The HCl production facility includes all HCl storage tanks that contain a liquid HCl product that is produced in the HCl production unit. The HCl production facility also includes all HCl transfer operations that load the HCl product produced in the HCl production unit into a tank truck, rail car, ship, or barge, and for which loading liquid HCl is the predominant use. The predominant use of a transfer rack is the material that is loaded by the transfer rack in the greatest amount. The HCl production facility also includes the piping and other equipment in HCl service used to transfer the liquid HCl product from the HCl production unit to the HCl storage tanks and/or HCl transfer operations. The HCl production facility ends at the point where the liquid HCl product produced in the HCl production unit is loaded into a tank truck, rail car, ship, or barge, at the point the HCl product enters another process on the plant site, or at the point the HCl product leaves the plant site via pipeline.

Please note that what happens to the liquid HCl product after it is produced is not relevant in determining the applicability of the final rule. While there are emission limitations for storage tanks and transfer operations, these operations do not have to be present for an HCl production facility to be subject to the final rule. Whether the HCl produced is used onsite, piped offsite, or loaded into railcars, tank trucks, ships, or barges has no bearing on whether the HCl production facility is subject.

The final rule does exclude HCl production facilities under certain circumstances. First, an HCl production facility is not subject to the final rule if all of the gaseous streams containing HCl and chlorine (Cl_2) from HCl process vents, HCl storage tanks, and HCl transfer operations are recycled or routed to another process prior to being discharged to the atmosphere. Also, an HCl production facility is not subject to the final rule if it produces HCl through the direct synthesis of Cl_2 and hydrogen and is part of a chlor-alkali plant; or if it is a research and development facility.

In addition, the final rule excludes certain HCl production facilities that are part of other source categories where the emissions are subject to one of the following federal standards: Pulp and Paper Industry NESHAP (40 CFR part 63, subpart S), Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants NESHAP (40 CFR part 63, subpart CCC), Pesticide Active Ingredient Production NESHAP (40 CFR part 63, subpart MMM), Hazardous Waste Combustors NESHAP (40 CFR part 63, subpart EEE), Hazardous Waste Treatment, Storage, and Disposal Facilities (40 CFR part 264, subpart O—Incinerators, section 264.343(b)), and Hazardous Waste Management Facilities (40 CFR part 266, subpart H—Boilers and Industrial Furnaces, section 266.107).

Regulatory overlap between the final rule and the Hazardous Organic NESHAP (HON) is slightly more complicated. In general, the HON only covers emissions of organic HAP, which obviously excludes HCl and Cl_2. The exception to this is if a halogenated stream (which is defined as a stream with a mass emission rate of halogen atoms contained in organic compounds of 0.45 kilograms per hour or greater) is routed to an incinerator or other combustion device to control the organic HAP, the halogens leaving the incinerator are required to be reduced by 99 percent. Therefore, if in a HON unit, a chlorinated organic compound is sent to an incinerator and the outlet stream (which would contain HCl) is then routed through an absorber to produce liquid HCl, the resulting HCl emissions from the absorber would be subject to 40 CFR 63.113(c) of the HON, which requires a 99 percent reduction in HCl emissions. These HCl production units are exempted from the HCl Production NESHAP, since the emissions are subject to the HON.

However, HCl gas is often produced as a by-product of an organic chemical in a unit that is subject to the HON. In this situation, the HCl emissions are not covered by the HON because they are not formed in an incinerator burning a halogenated stream. If this vent stream containing HCl is routed to an absorber and liquid HCl is produced, then it is an HCl production facility and is subject to the final rule if it meets the other applicability requirements. Therefore, in this situation the result could be that the same equipment, and even the same emission stream, is subject to two MACT standards (the organic HAP subject to the HON and the HCl and Cl_2 subject to the HCl NESHAP). In other words, where a liquid HCl product is produced as a by-product in a HON unit, the HCl Production NESHAP reaches into the HON unit to require control of the HCl and Cl_2 emissions.

B. What Are the Primary Sources of Emissions, and What Are the Emissions?

The primary HAP known to be released from HCl production is HCl. Chlorine may also be emitted from HCl production. These potential emission sources include process vents, storage tanks, transfer operations, equipment leaks, and wastewater.

1. Types of Emission Sources

Most HCl production processes begin with a gaseous stream containing HCl. The stream can be a by-product stream from another process, an outlet stream from a combustion device that is treating chlorinated organic compounds, or a stream from a direct synthesis reaction furnace where hydrogen and Cl_2 are burned. No matter the origin of the stream containing HCl, the process from that point forward is basically the same. The gaseous stream containing HCl is routed to an HCl recovery absorption column, where the HCl is absorbed into either water or dilute HCl. The liquid leaving this column contains concentrated HCl.

The gaseous stream leaving the absorption column contains HCl that was not absorbed into the liquid in the tower and any Cl_2 present in the inlet stream. This outlet stream may be routed (or recycled) to another process, in which case it is no longer part of the HCl production affected source. However, if the outlet stream is directly discharged to the atmosphere or if it is routed through other recovery/control devices before being discharged to the atmosphere, it is considered an HCl process vent from an HCl production facility.

If the liquid HCl leaving the absorption tower is routed to an HCl storage tank, there is the potential for HCl emissions from the tank. The storage tanks are typically atmospheric storage tanks, and working loss emissions will occur as the tank is filled and emptied. While less significant, there are also breathing losses from atmospheric temperature and pressure changes. There is also the potential for emissions when HCl is loaded from a storage tank to a tank truck, rail car, ship, or barge. Plants often reduce HCl emissions from HCl storage tanks and HCl transfer operations by using a scrubber.

Another potential source of HCl emissions is fugitive losses from equipment leaks. Owners and operators of HCl production processes presumably have an incentive to identify and repair

equipment leaks of HCl and Cl_2 because of their highly corrosive nature. The leaks can be easily identified, as the presence of ambient moisture (humidity) results in rapid corrosion on or around leaking equipment components.

The bottoms from scrubbers used to reduce HCl and Cl_2 emissions from HCl process vents, HCl storage vessels, and HCl transfer operations are typically routed to wastewater treatment systems. In most cases, the HCl or Cl_2 has been chemically converted in the scrubber to sodium hypochlorite (bleach). Any residual Cl_2 or HCl would be quite small. We estimate that wastewater emissions represent less than 1 percent of total emissions from the source category. Therefore, we believe that wastewater streams do not represent a significant potential source of emissions.

2. Estimated Emissions

We have calculated the nationwide baseline emissions for each of the HCl production facility emission sources. Hydrochloric acid process vents emit a total of 2,240 Mg/yr (2,470 tpy) of combined HCl (1,600 Mg/yr; 1,770 tpy) and Cl_2 (640 Mg/yr; 700 tpy) emissions. Hydrochloric acid storage tanks emit 230 Mg/yr (260 tpy) of HCl, HCl transfer operations emit 27 Mg/yr (30 tpy) of HCl, leaking equipment emits 410 Mg/yr (450 tpy) of HCl, and wastewater emits 9 Mg/yr (10 tpy) HCl. Total baseline HAP emissions from the industry are 2,910 Mg/yr (3,220 tpy).

C. What Is the Affected Source?

The final rule defines the affected source as the group of one or more HCl production facilities at a plant site that are subject to the final rule, and all associated wastewater operations. The affected source contains emission streams from the following: HCl process vents, HCl storage tanks, HCl transfer operations, leaks from equipment in HCl/Cl_2 service, and HCl wastewater operations. However, there are no emission limitations or other requirements for HCl wastewater operations in the final rule.

D. What Are the Emission Limitations and Work Practice Standards?

Existing affected sources must reduce HCl and Cl_2 emissions from each HCl process vent by 99 percent or to outlet concentrations of 20 parts per million by volume (ppmv) HCl and 100 ppmv Cl_2, determined using EPA Test Method 26A of 40 CFR part 60, appendix A. New sources must reduce HCl and Cl_2 emissions from each HCl process vent by 99.4 and 99.8 percent, respectively, or to outlet concentrations of 12 ppmv HCl and 20 ppmv Cl_2. The final rule also requires that owners or operators establish site-specific operating limits for each control device, based on monitored parameters and levels established during the performance test. For example, if you use a caustic scrubber to meet the emission limits, you must maintain the daily average scrubber inlet liquid flow rate above the minimum value established during the performance test. You also must maintain the daily average scrubber effluent pH within the operating range value established during the performance test.

For each storage tank and transfer operation at an existing affected source, HCl emissions must be reduced by 99 percent or to an outlet concentration of 120 ppmv; the operating limits are the same as for process vents. There are no Cl_2 emissions from these sources. For each storage tank at a new affected source, HCl emissions must be reduced by 99.9 percent or to an outlet concentration of 12 ppmv. For each transfer operation at a new affected source, HCl emissions must be reduced by 99 percent or to an outlet concentration of 120 ppmv. Emission streams from the following types of storage tanks and transfer operations are exempt from these emission limitations: (1) Storage tanks that never store liquid HCl product with a concentration of 30 weight percent or greater, and (2) transfer operations that never load liquid HCl product with a concentration of 30 weight percent or greater.

For leaking equipment, the final rule includes a work practice standard. We require you to prepare, and at all times operate according to, an equipment leak detection and repair (LDAR) plan that describes in detail the measures that will be put in place to control leaking equipment emissions at the facility. You are required to submit the LDAR plan to the Administrator. You are also required to certify in your Notification of Compliance Status that you have developed and implemented the LDAR plan and submitted the plan to the Administrator.

There are no emission limitations or work practice standards for HCl wastewater operations.

E. What Are the Performance Testing, Initial Compliance, and Continuous Compliance Requirements?

For HCl process vents at new and existing affected sources, you are required to demonstrate initial compliance by conducting a performance test that demonstrates that the emission limitations are being met. You are required to conduct subsequent performance tests on the earlier of your title V operating permit renewal or within 5 years of issuance of your title V permit.

You must also establish site-specific operating limits based on control device parameters. These operating limits will be established for each parameter based on monitoring conducted during the performance test. Specifically for water or caustic scrubbers, which we believe will be the most commonly used control device, the final rule requires that you establish operating limits for pH of the scrubber effluent and the scrubber liquid inlet flow rate. For any other type of control device, you are required to establish the operating limits based on a site-specific monitoring plan that identifies appropriate parameters. Continuous compliance will be demonstrated by these monitored parameters staying within the operating limits.

For HCl storage tanks and HCl transfer operations at new and existing affected sources, you are required to demonstrate initial compliance by conducting a performance test that demonstrates that the emission limitations are being met. Alternatively, in lieu of conducting initial or subsequent performance tests for HCl storage tanks and HCl transfer operations that are not routed to a control device that also controls HCl process vent emissions or any other continuous vent stream, you may conduct a design evaluation which demonstrates that the control technology being used achieves the required control efficiency when a liquid HCl product with a concentration of 30 weight percent or greater is being loaded into the storage tank, or a tank truck, rail car, ship, or barge. The schedule for subsequent performance tests and the operating limits for new and existing HCl storage tanks and HCl transfer operations are the same as those for HCl process vents.

F. What Are the Notification, Recordkeeping, and Reporting Requirements?

The final rule requires owners or operators of affected sources to submit the following notifications and reports:

- Initial Notification.
- Notification of Intent to Conduct a Performance Test.
- Notification of Compliance Status (NOCS).
- Compliance Reports.
- Startup, Shutdown, and Malfunction (SSM) Reports.

The final rule requires that each owner or operator maintain records of reported

information and other information necessary to document compliance (for example, records related to malfunctions, records that show continuous compliance with emission limits) for 5 years.

For the Initial Notification, the final rule requires that each owner or operator notify us that his or her facility is subject to the HCl Production NESHAP and that he or she provide specified basic information about their facility. For new or reconstructed sources, this notification (or an application for construction or reconstruction) would be required to be submitted no later than 120 calendar days after the facility becomes subject to this subpart. For existing sources that are operating at this time, the Initial Notification would be due August 15, 2003.

For the Notification of Intent report, the final rule requires that each owner or operator notify us in writing of the intent to conduct a performance test at least 60 days before the performance test is scheduled to begin.

For each new or existing HCl process vent, HCl storage tank, and HCl transfer operation at an affected source, the final rule requires a performance test to demonstrate compliance with the HCl concentration limit. This test must be conducted within 180 days of the compliance date for new and existing sources. The final rule requires that the NOCS report be submitted within 60 days of completion of the performance test. A certified notification of compliance that states the compliance status of the facility, along with supporting information (*e.g.*, performance test methods and results, description of air pollution control equipment, and operating parameter values and ranges), must be submitted as part of the NOCS.

For the Compliance Report, the final rule requires that facilities subject to control requirements under the final rule report on continued compliance with the emission limits and operating limits semi-annually. Specifically, the compliance report must contain the following information:

- Company name and address.
- Statement certifying the truth, accuracy, and completeness of the content of the report.
- Date of report and beginning and ending dates of the reporting period.
- Information on actions taken for any startups, shutdowns, or malfunctions that were consistent with your SSM plan.
- If there are no deviations from any emission limitations that apply to you, a statement that there were no deviations from the emission limitations during the reporting period.
- If there were no periods during which the continuous monitoring system (CMS) was out-of-control, as specified in the monitoring plan, a statement that there were no periods during which the CMS was out-of-control during the reporting period.

You will demonstrate initial compliance with the work practice standards for leaking equipment by certifying that you have developed and implemented a LDAR plan and submitted the plan to the Administrator. Your semiannual compliance report will verify your continued use of the plan and contain information on instances where you deviated from the plan and the corrective actions taken.

Finally, you must submit an immediate SSM report if you have taken an action that is not consistent with the facility's SSM plan. This report must describe actions taken for the event and contain the information in 40 CFR 63.10(d)(5)(ii).

III. Significant Comments and Changes Since Proposal

This section includes discussion of significant comments on the proposed rule, particularly where we have made changes to address those comments in the final rule. These changes may be separated into three basic categories: applicability, the MACT determination, and performance testing and compliance. This section is organized according to these three topic areas. For a complete summary of all the comments received on the proposed rule and our responses to them, refer to the "National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Hydrochloric Acid Production Industry: Summary of Public Comments and Responses" in Docket ID No. OAR–2002–0057. The docket also contains the actual comment letters and supporting documentation developed for the final rule.

A. What Sources are Subject to MACT?

The proposed rule indicated that HCl production facilities at major sources were subject to the final rule. An HCl production facility was defined as the "collection of equipment used to produce, store, and transfer for shipping liquid HCl product at a concentration of 10 percent by weight or greater."

There were numerous comments provided on these applicability provisions. First, several commenters were confused by the apparent contradiction between the definition of an HCl production facility in the proposed rule and the description in the preamble. The proposed rule language stated that a facility must produce, store, AND transfer HCl in order to be considered an HCl production facility, while the preamble indicated that production of HCl is the only required element for a collection of equipment be considered an HCl production facility. A few commenters argued that all three elements should be necessary for a process to be an HCl production facility, but most only requested clarification. Our intent was that described in the proposed preamble—that is, a facility only needs to produce liquid HCl product to be considered an HCl production facility. The language in the final rule is clear that processes that produce liquid HCl product are HCl production facilities and subject to the final rule (provided that criteria related to the concentration of HCl in the liquid product and the level of production are met), whether or not they store and transfer the liquid HCl.

As discussed at length in the proposed preamble, it was our intent to separate commercial-level HCl production, which we believe should be subject to the final rule, from incidental production, which we do not believe should be subject. Several comments were received that helped us make this distinction. First, numerous commenters requested that the EPA raise the minimum HCl concentration for an HCl production facility from 10 weight percent to a level that better represents commercial production of HCl. The commenters stated that liquid HCl is commonly produced for commerce at 20° to 22° Baume (Bé) acid strength (31.45 to 35.2 weight percent). However, one commenter's HCl production facility occasionally produces liquid HCl product less that 20 weight percent. Additionally, the commenters made the argument that emissions resulting from a 10 percent HCl product were less, even without controls, than the proposed emission limitations. Specifically, they pointed out that the equilibrium HCl vapor concentration for a 10 weight percent HCl liquid (10.7 ppmv at 25°C) is lower than the proposed emission limitation for process vents, storage tanks, and transfer operations (12 ppmv).

Upon consideration of these comments and the supporting information, we changed the minimum HCl concentration to 30 weight percent. The final rule states that an HCl production facility that produces a liquid HCl product at a concentration of 30 weight percent or greater is subject to the final rule. That means that this unit is subject at all times, even those times when a liquid HCl product of a

lower concentration is being produced. Therefore, the final rule will cover facilities like the one pointed out by the commenter that occasionally produce liquid HCl product at concentrations less than 30 percent, even when those lower concentration products are being produced.

However, we wanted to ensure that facilities that primarily produce lower concentration liquid HCl products not be subject to the final rule. Therefore, we added a statement in 40 CFR 63.8985(a) that the final rule does not cover HCl production facilities that only occasionally produce liquid HCl products at a concentration of 30 weight percent or greater. We did not, however, include a specific definition of what constitutes occasional production. If a facility produces liquid HCl with a concentration of 30 weight percent or greater during its normal operations, this would not be considered occasional production.

Commenters also suggested facility-wide exemptions based on *de minimis* annual emissions. Commenters provided several exemption levels based on emissions, from 1.8 kilograms per hour to 10 Mg per year. Other commenters believed that an exemption based on production was the appropriate method to eliminate burdensome compliance requirements for facilities with very low HAP emissions. The recommended exemption production levels ranged from 1 Mg per year to 1 gigagram per year.

We believe that, with the 30 weight percent criteria, the final rule should not cover incidental production of HCl. Consequently, we have not added either an emissions-based exemption or a production-based exemption to the final rule.

Commenters also requested that the we clearly delineate where the HCl production facility ends and HCl consumption begins so as not to include equipment unrelated to the production of HCl. While the proposed rule was not specific as to the beginning of an HCl production facility, the proposed preamble did indicate that an HCl production facility begins at the point where the gaseous stream containing HCl enters the absorber. The commenters agreed with this concept and asked that we directly incorporate it into the final rule, which we did.

Most of the problems cited by commenters related to the end of the HCl production facility were remote storage tanks that are dedicated to another process or to wastewater treatment. There was also concern expressed about whether off-site HCl storage tanks storing HCl produced in a subject unit would be subject to the final rule. One suggestion was that the HCl production facility include only those tanks and transfer operations on the site that are directly connected to the production unit. Another suggestion was to only include the first storage tank after the absorber production unit and the first transfer rack. Other commenters pointed out that the proposed rule would also cover HCl storage tanks and transfer operations that handled purchased HCl that was not even produced in the on-site HCl production facility.

In general, we agree with the commenters on this topic. We believe it is practical that only the primary storage tanks and transfer operations that are storing and loading HCl produced at the site should be subject to the final rule. However, we did not totally agree with either of the suggestions provided by the commenters. In the final rule, we specify that the HCl production facility includes the production unit and all storage tanks that contain liquid HCl product that is produced in the HCl production unit, along with all transfer operations that load HCl product produced in the HCl production unit. Further, it also specifies that the piping and other equipment used to transfer liquid HCl product from the HCl production unit to the storage tanks and/or transfer operations is included in the HCl production facility. The final rule clarifies that the HCl production facility ends at the point that the liquid HCl product produced in the HCl production unit either leaves the plant site via a tank truck, rail car, ship, barge, or pipeline, or enters another process on the plant site. However, we recognized that this still was not totally clear regarding remote storage tanks, so we specifically added exemptions for HCl storage tanks that are dedicated feedstock tanks for other processes and storage tanks which store HCl dedicated for use in wastewater treatment.

Commenters also pointed out that the proposed preamble was clear that the type of process covered by the final rule was one that routes a gaseous stream that contains HCl to an absorber. They asked that this language, which was not included in the proposed rule, be added to the final rule. The commenters acknowledged that there are other methods of producing liquid HCl product, but believe that they should not be covered by the final rule because they were not considered in the final rule development. We agreed and made changes in accordance. These changes include the addition of a definition of HCl production unit that only includes an absorber or other vessel in which a liquid HCl product is manufactured by absorbing gaseous HCl into either water or an aqueous HCl solution and the change cited above related to the beginning of an HCl production facility.

Commenters requested that facilities that produce liquid HCl only for on-site usage be exempted. We certainly support the recycling and re-use of potential waste materials, including HCl. Further, we are aware that much of the HCl produced is used by other processes on the plant site. However, we do not see a distinction between these processes and other processes where the HCl product is truly sold. We believe an exemption for on-site use would unfairly favor large integrated facilities. Consider two similar HCl processes with similar equipment, similar production capacities, and similar emissions potential. We do not believe that distinguishing between these processes based on where the HCl is consumed is warranted.

Even with the extensive discussions in the proposed preamble related to how the applicability is blind to the type of process that generates the anhydrous HCl stream that forms the feed stream for the HCl production facility, some commenters still called for exemptions for processes where HCl is not the primary product. The primary product concept is not relevant to the final rule, as the only processes that are subject to the final rule are those that intentionally manufacture liquid HCl product. There are a variety of types of processes that generate HCl-containing gas streams that provide the feed to the HCl production unit, and we recognized that this gaseous HCl is often a by-product. However, at the point an owner or operator takes this stream and manufactures a commercial level (*i.e.*, 30 weight percent or greater) liquid HCl product, we maintain that HCl is the intended product for that unit. Therefore, the process that creates the anhydrous HCl stream feeding the HCl production facility is not relevant in most situations.

The only time that the up-stream process is relevant is when it is subject to a Federal regulation that also regulates the HCl and Cl_2 emissions from the downstream HCl production facility. At proposal, we identified several of these situations and specifically exempted the HCl production facilities subject to these other standards. While all commenters applauded this concept, they did not feel that we had gone far enough with these exemptions. Some commenters cited other specific regulations that should be listed, while others requested

that we broaden the exemption to include facilities subject to any other NESHAP, whether it is already promulgated or yet to be promulgated, along with any facility that is subject to any federally enforceable permit that requires 95 percent reduction or greater.

Just like the commenters, we are interested in avoiding overlapping situations where a process that produces HCl might be subject to more than one Federal regulation. Based on the comments received, we have added exemptions for processes subject to the Pharmaceutical MACT (40 CFR 63, subpart GGG) and 40 CFR 63.994 of subpart SS. We have also expanded the exemption to include any process required by another rule to comply with 40 CFR 63.113(c) of the HON. In addition, according to our proposed decision not to regulate Cl_2 and HCl emissions from chlorine production (67 FR 44713; July 3, 2002), we consider direct synthesis HCl production units directly associated with chlor-alkali facilities to be part of the chlor-alkali facilities. Therefore, an exemption has been added in the final rule to exempt direct synthesis HCl production processes that are part of chlor-alkali facilities; this exemption does not extend to HCl production facilities that are co-located with chlor-alkali facilities but are not direct synthesis units directly associated with chlor-alkali facilities. So, we exempted all the specific situations raised by commenters. However, we cannot include a generic exemption for any other NESHAP or any federally enforceable permit. The statutory requirements in CAA section 112(d) are prescriptive regarding the level of control required by MACT standards, and we could not be assured that these other requirements would meet the minimum requirements for this source category. We will consider such situations on a case by case (*i.e.*, on a source-specific) basis under a request for an alternative non-opacity emission standard submitted in accordance with 40 CFR 63.6(g).

As part of our consideration of overlapping requirements, we reviewed the situation with the HON. The proposed rule exempted HCl production units located after an incinerator of a HON unit where the HCl and Cl_2 emissions are subject to 40 CFR 63.113(c). However, we did not exempt situations where gaseous HCl is produced as a by-product in a HON unit and then routed to an absorber to produce liquid HCl. In these by-product situations, the HCl and Cl_2 emissions are not covered by the HON. While we agree that the situation where the same equipment and the same emission stream could be subject to both the HON and the HCl Production NESHAP is not ideal, we believe that these inorganic emissions should be addressed under the final rule in the same manner that comparable non-HON units are addressed. Therefore, the final rule continues to reach into the HON to cover those inorganic emissions from liquid HCl production.

Several commenters requested that the EPA exempt storage tanks that are smaller than a certain capacity. The commenters pointed out that the potential emissions from small storage tanks are low while the control costs are very high. Commenters suggestions for a minimum capacity ranged from 15,000 to 20,000 gallons. One commenter further requested an exemption for all portable storage containers (*e.g.*, drums, tank trucks, railcars). Another commenter suggested that tank capacity and HCl vapor pressure be used together to determine which storage tanks should be exempt.

We understand the commenters' concern about the cost of controlling emissions from small storage tanks. However, we believe that small storage tanks are not likely to be covered by the final rule given the other changes that we have made which were based on comments received. We have exempted storage tanks that never store liquid HCl product with a concentration of 30 weight percent or greater. We have also defined the HCl production facility such that storage tanks that store HCl for use in wastewater treatment or as feedstock for another process are not part of the HCl production facility. Therefore, we have not added an exemption for small storage tanks.

B. How Did the EPA Determine MACT?

1. Data Used To Determine MACT

Many commenters stated that the EPA did not use data that was truly representative of the sources in the source category when determining the MACT emission limitations. The commenters believed that the database used to prepare the proposed rule contained facilities that potentially would not be subject to the final rule and did not contain many facilities that potentially would be subject to the final rule. This criticism included the estimate of the number of facilities potentially subject to the final rule, but was more focused on the data used to establish MACT.

Commenters stated the number of sources subject to the final rule would likely be much greater than the 64 plant sites that we identified as potentially subject at proposal. One commenter estimated that the number of plant sites could be as high as 300.

The commenters were especially concerned with the representativeness of the data set used to establish the MACT emission limits. They maintained that the lack of representativeness of the source category resulted in proposed emission limitations that were not adequately justified for the HCl production source category, and that the use of more representative data could change the MACT determination. A few of the commenters specifically requested that we gather data from a more representative group of potentially affected facilities and re-calculate the MACT floor. One commenter even went so far as to state that we should withdraw the proposed rule and re-propose it after properly surveying the industry and re-calculating the MACT floor based on accurate data.

First, we will briefly review the process used to obtain the information for the HCl production source category, followed by responses to the specific issues raised by the commenters.

In creating our list of sources in the HCl production source category, we consulted reliable and well-respected sources of information on the chemical industry. We removed plant sites from the original list that we believed would be subject to other MACT standards or Federal regulations. There were also a few plants that we were aware of through contacts with State agencies that were not on the original list, so they were added. That resulted in the 64 plants identified at proposal. We recognized the special difficulty in identifying all HCl production facilities, since HCl is often produced from by-product streams only for internal uses, and considered that our list may not have been comprehensive. Therefore, during a meeting held on February 28, 2001 with the primary trade organization for the HCl production industry, we specifically requested assistance in improving our initial list of potentially subject plant sites. However, no additional information resulted from this request for assistance.

While commenters claim that there could be potentially two or three times more plant sites subject to the HCl Production NESHAP than we originally estimated, there was little actual information provided to support this claim. Where commenters provided specific plant names and locations, we adjusted the list of plant sites. We also identified a few inconsistencies and overlaps from our original list. The result was that the revised list of

potentially subject facilities contains 65 plant sites.

As was documented in several items in the docket, our information gathering approach for this source category was to obtain available information from State/local agencies in States where HCl production facilities are located. That resulted in data for 24 HCl production facilities at 19 plant sites in 5 States. In addition, we had information from site visits to 6 additional HCl production facilities at 5 more plant sites, meaning that the MACT database relied upon for the proposed rule contained information representing 30 HCl production facilities at 24 plant sites in 9 States. We believe that this was a reasonable approach to obtain information for this industry.

Some commenters requested that we distribute a questionnaire under our CAA section 114 authority to accurately reflect the source category. However, the commenters did not provide a list of plants to whom this questionnaire should be sent to ensure that the data were more representative than the data set we obtained from State agency files. Some commenters, however, did offer to provide additional information for their HCl production facilities, which could have resulted in data for a few additional processes. However, we concluded that the original data set was adequate to determine MACT and did not feel it was necessary to burden the industry with a data collection request.

Commenters also complained that many of the plants considered in the MACT floor analysis were actually plants that are not in the source category. These commenters are correct, in part, in that we did utilize data from two plants that we had removed from the original list because we presumed that these HCl production processes were, or would be, subject to another MACT standard. To eliminate this inconsistency, we have removed these two facilities from the MACT analysis. We also adjusted the data set based on all specific comments received. Therefore, the revised MACT floor analysis is based on facilities that, to the best of our knowledge, are in the source category. For example, we have removed from the MACT floor analysis all HCl production facilities that produce HCl via direct synthesis at chlor-alkali facilities, and we have kept in the MACT floor those HCl production facilities that are co-located with chlor-alkali facilities but are not part of a chlor-alkali facility and produce HCl through some other process.

We would point out that while we did not agree with the commenters regarding the representativeness and adequacy of our MACT database, and we did not undertake an additional data gathering effort after proposal, we did revise our MACT analysis to address many of the other issues raised by commenters regarding the determination of the emission limitations. These are discussed in the next sections.

2. MACT Floor Determination

There were a few issues raised related to the MACT floor analysis. First, commenters believed that the floor should have been based on the top 12 percent of the facilities instead of the top 5 facilities, since there are more than 30 facilities in the category. Commenters also believed that the floor should have been calculated based on the mean and not the median. In addition, commenters objected to how we handled control efficiencies reported as >99 percent (in the floor analysis, units that reported >99 percent efficiency were excluded from the floor calculation and the remaining facilities in the top 5 of the reporting facilities were used to determine the floor) and they pointed out that we were inconsistent in this approach (we did consider these >99 reported efficiencies for the floor for transfer operations).

As noted above, we currently estimate that there are 65 facilities in the source category. Therefore, if data were available for all facilities, the MACT floor would be based on the best-performing 12 percent, or 8 facilities. In our re-analysis of the MACT floor, we considered the control achieved by the best-performing eight facilities in our database. We disagree with the opinion regarding use of the average rather than the median. As was stated in the preamble for the proposed rule, we have determined that average means any measure of central tendency, whether it be the arithmetic mean, median, or mode, or some other measure based on the central tendency of a data set. We continue to believe that this determination, which we originally published over 8 years ago (59 FR 29196; June 6, 1994), is sound. For the MACT determination for this source category, which was in the format of a percent emission reduction, we determined that selection of the median value was most appropriate. This ensured that a control efficiency actually being achieved was selected, rather than the mean of values, which would not likely have represented the actual performance of an actual control device.

The commenters were correct in that we were inconsistent in how we considered facilities that reported control efficiencies as >99 percent. For process vents and storage tanks, we did not include data points reported as >99 percent when calculating the MACT floor for the proposed rule, whereas for transfer operations we did include data points reported as >99 percent when calculating the MACT floor because we had only three data points, two of which reported >99 percent. In evaluating this issue, we determined that it was inappropriate to have not considered some of the most effective controls in the source category for process vents and storage tanks simply because their efficiencies were reported as greater than a particular number. Therefore, in our re-analysis of the MACT floor, we assigned a numerical value of 99 percent emission reduction to each control device that reported an efficiency of >99 percent or ≥99 percent. The data points reported as >99 percent or ≥99 percent were obtained from permit applications, and we had no data that indicated more specific control efficiencies in these cases. We believe that rounding these data points down to 99 percent represents the closest actual control efficiency that we are sure these sources could meet consistently.

Due to the comments raised regarding the MACT floor approach and the data used, it was necessary to re-evaluate the MACT floor. As a reminder, the MACT floor addressed HCl emissions from process vents, storage tanks, and transfer operations, and Cl_2 emissions from process vents. Further, the proposed format of the MACT floor for all emission sources was a percent reduction. We determined the MACT floor for existing sources as the median value of the top eight facilities in the data set for each type of emission source.

The revised MACT floors for existing sources are 99 percent emission reduction for HCl emissions from process vents and transfer operations, 99 percent for Cl_2 emissions from process vents, and 98.5 percent for HCl emissions from storage tanks. For consistency, we believe it is appropriate to round the storage tank value to 99 percent. The revised MACT floors for new sources are 99.4 percent emission reduction for HCl emissions from process vents, 99.8 percent emission reduction for Cl_2 emissions from process vents, 99.9 percent emission reduction for HCl emissions from storage tanks, and 99 percent emission reduction for HCl emissions from transfer operations. These new source MACT floors are based on the level of control achieved by the best-controlled source in the category.

3. Emission Limitations and Work Practice Standards

The proposed emission limitations were in the format of an outlet concentration. As outlined in the proposed preamble, we selected this format primarily due to concerns in distinguishing an HCl control device from an HCl production process. There were numerous comments received regarding this format and the data used to establish the emission limit. These proposed limits were developed by applying the MACT floor percent reduction efficiencies to the highest uncontrolled concentrations in the data set. Specifically, these highest uncontrolled concentrations were 2,044 ppmv for HCl and 9,650 ppmv for Cl_2. Commenters stated that we established the concentration equivalents to the MACT floor based on data that do not accurately reflect the variability of sources in the source category. The commenters noted that facilities in the source category often have emission points (with only one exception, all examples raised by the commenters were for storage tanks and transfer operations) that emit much higher concentrations of HCl and Cl_2 or emit at much higher air flow rates than the facilities included in the our database. The commenters stated that emission points with high concentrations would need removal efficiencies greater than the MACT floor levels in order to meet the proposed concentration limits, which we proposed as being equivalent to the MACT floor percent removal efficiencies. Therefore, the commenters maintained that the proposed emission limits were far beyond the MACT floor and not justified.

Alternatively, one commenter stated that the proposed emission limits were not as stringent as they should be. The commenter stated that the MACT floor control efficiencies are appropriate, but that they were inappropriately converted to equivalent concentration limits. The commenter stated that we chose as equivalent to the MACT floor control efficiency the highest concentration from the range of concentrations that are already being achieved and noted that recent court decisions reiterate that we must set the MACT floor at the average already being achieved by the best performing 12 percent of the sources, not at a level at which all sources can easily meet. The commenter urged us to establish emission limits that are appropriately stringent based on the MACT floor control efficiencies.Commenters offered three basic suggestions on how to deal with this perceived problem. Several commenters requested that we collect and examine inlet concentration data from a variety of additional process vents, storage tanks, and transfer operations, and develop emission limits that are more appropriate to the actual inlet concentrations observed in the source category.

In the absence of more data, commenters encouraged us to establish a tiered control efficiency based on flow rate. That would avoid the situation in which already well-controlled scrubbers with high air flow rates incur a high additional cost to achieve the proposed concentration limit. The final suggestion by several commenters was that we allow compliance with either a control efficiency or an emission limit, whichever is less stringent. The commenters stated that such an alternative would relieve the situation where control devices have high removal efficiencies but cannot meet the proposed concentration limits because they have high inlet concentrations.

First, we reject the commenter's opinion that additional data are needed to establish these concentration equivalents. As discussed above, we believe that our data gathering approach was sound and are not convinced that additional data gathering would necessarily result in data that better characterizes the industry.

However, we recognize that none of the data used to establish the concentration equivalents were from storage tanks or transfer operations. We agree that uncontrolled concentrations from storage tanks and transfer operations are likely to be much higher than those for the process vents in our data set because HCl remains in storage tanks and transfer operations long enough for the concentration in the vapor to reach equilibrium with the concentration in the liquid, whereas HCl passes through HCl production units quickly. We would expect that, in many cases, the vapor space in storage tanks and transfer operations will be saturated. As discussed above, we have revised the HCl production facility definition to include production of liquid HCl at a concentration of 30 weight percent or greater. At saturation, the HCl vapor concentration above a 30 weight percent HCl liquid would be around 12,000 ppmv. Applying the existing source MACT floor reduction efficiencies (99 percent for storage tanks and for transfer operations) to this concentration results in an outlet concentration of 120 ppmv. Applying the new source MACT floor reduction efficiencies (99.9 percent for storage vessels and 99 percent for transfer operations) to this concentration results in an outlet concentration of 12 ppmv for storage tanks and 120 ppmv for transfer operations. These are the emission limitations for storage tanks and transfer operations in the final rule.

With one exception, the comments did not indicate that the uncontrolled concentrations used to determine the emission limitations for process vents (2,044 ppmv for HCl and 9,650 ppmv for Cl_2) were inappropriate. Therefore, we applied the revised existing source MACT floor control efficiencies (99 percent for both HCl and Cl_2 emissions from process vents) to these concentrations to obtain 20 ppmv HCl and approximately 100 ppmv Cl_2. Applying the new source MACT floor reduction efficiencies (99.4 percent for HCl emissions from process vents and 99.8 percent for Cl_2 emissions from process vents) to this concentration results in outlet concentrations of 12 ppmv HCl and 20 ppmv Cl_2 (rounded up from 19 ppmv). These are the emission limitations for process vents in the final rule. We believe instances cited by one commenter regarding inlet Cl_2 concentrations in process vents would be addressed by the alternative format in the final rule, which is discussed below.

We disagree with the commenter who believed that the emission limitations were not as stringent as they should be. The percent reduction limits represent the average control level of the best-controlled sources, in accordance with CAA section 112(d)(3). The alternative concentration limits were determined using the appropriate percent reduction limits (which were based on the average of the best-controlled sources) and the available data on control device inlet concentrations. In determining the concentration limits, we made assumptions about these inlet concentrations for each type of emission source (for example, we chose the highest concentration) to consider the variability that will be encountered by the best-performing sources. We strongly disagree that all sources can easily meet these limits, and we believe that significant control measures will be required for facilities to meet the limits.

We do not believe that a tiered control efficiency based on flow rate is appropriate based on the available information, and we did not incorporate such a concept into the final rule. We do recognize, nevertheless, that situations could exist where sources could achieve the MACT floor reduction efficiency but fail to meet the applicable outlet concentration emission limitations. Further, the commenters alleviated our concerns at proposal regarding a percent reduction emission

limit. We were concerned that it would be difficult to determine how and where to measure a control efficiency but commenters alleviated this concern by stating that the HCl production unit is distinguishable from the control device, which makes it clear where to measure the control device inlet and outlet in order to calculate a control efficiency over the control device. Therefore, we have incorporated the third suggestion of the commenters (compliance with either a control efficiency or a concentration limit) into the final rule. Owners or operators will have the option of complying with a percent reduction efficiency instead of the outlet concentration limitation. For storage tanks and transfer operations, the percent reduction and concentration limit are equivalent assuming that a 30 weight percent liquid HCl product is stored in the tanks or used in the transfer operations. For process vents, the percent reduction and concentration limits are equivalent assuming process vent outlet concentrations of approximately 2,000 ppmv HCl and 10,000 ppmv Cl_2. These outlet concentrations were assumed in order to take into account the variability of outlet concentrations from HCl process vents. The percent reduction will be measured across the control device, or series of control devices, that follow the absorber production unit, storage tank, or transfer rack. We have added definitions of HCl production unit and control device to ensure that there is no confusion regarding where the percent reduction must be measured.

Comments were received on whether transfer operations and wastewater operations should have emission limitations. We were asked to reconsider the need to set emission limitations for transfer operations because emissions from transfer operations contribute less than one percent of the total emissions from HCl production facilities and because most transfer operations at HCl production facilities are already controlled. There was complete agreement, however, that our decision not to establish emission limits or work practice standards for wastewater treatment operations was appropriate.

We are obligated to set emission limitations at least as stringent as the MACT floor, which we are required to establish based on the average emission limitation achieved by the best-performing existing sources, regardless of the percentage of total emissions attributable to the specific equipment or process. This principle was applied for both transfer operations and wastewater. For transfer operations, the available information is consistent with the commenter's statement that "most transfer operations are already controlled." Therefore, we are required to establish limits requiring control based on the best performing sources. We did not identify any controls for emissions from wastewater, or any process modifications or other pollution prevention type measures that reduce HCl emissions from wastewater. For the reasons discussed in the preamble to the proposed rule, we determined that the new and existing source MACT floors for wastewater were no emissions reductions (66 FR 48181–48182; September 18, 2001). Therefore, the final rule does not require any controls or other measures even though wastewater operations are part of the affected source.

Similarly, in developing the proposed rule, we determined that the MACT floor for leaking equipment is a general plan to detect and repair leaks of HCl because most HCl production facilities are already performing LDAR activities. The response received on these proposed requirements varied.

Several commenters agreed with our basic proposed approach to require the development and implementation of a site-specific plan, rather than to include more formal requirements in the final rule. However, there was great concern regarding the proposed requirement to submit the plan to a permitting authority for review and approval. The commenters stated that they are not aware of any NESHAP that requires LDAR plans to be submitted for approval, and that requiring these plans to be submitted for approval effectively makes them part of a facility's title V operating permit and, consequently, implementation of the initial plan and any changes to the plan would require a formal permit amendment. They claimed that this would be very time consuming and an unnecessary burden. The commenters noted that the proposed rule did not address how the plan is to be approved, and requested that, if the requirement to submit the plan is not eliminated, the EPA provide criteria for permitting authorities to use in reviewing LDAR plans. The commenters asserted that eliminating the requirement to submit LDAR plans alleviates the burdens associated with title V permits and also allows informal or routine maintenance programs to constitute the LDAR plan.

One commenter proposed that we include very simplified requirements in the final rule (*e.g.*, if you detect a leak, repair it within 15 days). Others argued that the EPA should eliminate any and all references to an LDAR plan from the final rule.

First, in light of the fact that most, if not all, HCl production facilities already have programs to reduce emissions from equipment leaks at HCl production facilities, we cannot eliminate the requirement to establish a floor and control emissions from equipment leaks. We also believe it is important that LDAR plans be submitted to the Administrator to facilitate enforcement of the final rule and public access to non-confidential plan requirements, and the final rule retains the proposed requirement for submittal. However, in response to the commenters' concerns, we have eliminated the proposed requirement that LDAR plans be affirmatively approved. Instead, we have clarified that any deficiencies in LDAR plans must be promptly corrected upon request by the Administrator, in order to allow the Administrator to review and approve LDAR plans if the Administrator so chooses.

Moreover, we do not intend that the contents of a LDAR plan itself must be included in a facility's title V permit. Rather, like other requirements of the final rule, the requirements to develop, implement, and submit a LDAR plan to control emissions from equipment leaks—but not the contents of the plan—are applicable requirements under title V and must be reflected in a facility's title V operating permit. We have clarified that you may incorporate by reference into your LDAR plan existing manuals that describe LDAR activities required under other federally enforceable rules, provided that copies of all manuals that are incorporated by reference are submitted to the Administrator. We are also requiring that a current copy of the plan be maintained on site, and that previous versions be maintained on site for a period of 5 years after any revision of the plan.

C. What Are the Performance Testing and Other Compliance Provisions?

Several changes were made in the final rule related to the performance testing and other compliance provisions. First, commenters objected to the proposed annual performance testing requirement. They stated that the initial performance test is sufficient to demonstrate initial compliance and establish operating parameter ranges and that monitoring of those parameters is sufficient to demonstrate continuous compliance. The commenters further stated that performance tests are expensive and provide no additional environmental benefit, and that the cost of annual performance tests was not

accounted for in the cost impact analysis. We agree with the commenters that it is reasonable to perform subsequent performance tests less frequently than annually and have decided to change the requirement for subsequent performance testing from annually to every 5 years or each time a facility's title V permit is renewed, whichever is more frequent.

There was also objection to the proposed requirement that performance testing be conducted and the NOCS submitted before the compliance date, especially since the General Provisions set deadlines for these activities after the compliance date. We have changed the final rule to conform with the General Provisions. The final rule requires the performance test to be completed within 180 days after the compliance date. The final rule does not change the requirement to submit the NOCS within 60 days after completion of the performance test, because this requirement was already consistent with the General Provisions.

Commenters also said that the performance test requirements in the proposed rule are not appropriate for storage tanks and transfer operations, primarily because storage tanks and transfer operations are batch operations that do not operate for long enough time periods to conduct three one-hour sampling runs, which were required by the proposed rule. Further, they cited the relatively high expense of such testing, when compared with the small emissions from those sources. Upon review of these comments and the additional information provided, we decided to allow design evaluations as an alternate means of demonstrating both initial and subsequent compliance for storage tanks and transfer operations that are independently controlled (*e.g.*, not routed to a control device that also controls HCl process vent emissions or any other continuous vent stream). The final rule requires that the design evaluation include documentation demonstrating that the control technique being used achieves the required control efficiency when a liquid HCl product with a concentration of 30 weight percent or greater is being loaded into the storage tank, or a tank truck, rail car, ship, or barge.

For process vents, there were proposed limits for both HCl and Cl_2 emissions. Therefore, there were testing requirements for both pollutants. Several commenters disagreed with the proposed requirement that all affected HCl production facilities must conduct performance tests for Cl_2 from process vents. They maintained that we did not have adequate support to require testing for Cl_2 and that only facilities that burn Cl_2 to produce HCl would have Cl_2 emissions.

First, the docket for the final rule does include numerous supporting references for our assertion that Cl can be emitted from HCl production process vents. Of the 21 facilities for which we had emissions data for HCl production process vents, 16 reported emissions of Cl_2. In fact, 15 of these 16 facilities do not produce HCl in a direct synthesis process. However, we acknowledge that there are a variety of processes that produce HCl, not all of which have the potential to emit Cl_2. Therefore, we have added a provision to the final rule allowing facilities to use process knowledge and previous performance test results to demonstrate that Cl_2 is not likely to be present in a process vent emission stream. That provision allows facilities to be exempted from the requirement to test process vents for Cl_2 provided that the appropriate documentation is submitted with the site-specific test plan.

In response to a request that facilities be allowed to use existing performance test data to demonstrate initial compliance in lieu of conducting an initial performance test, we included an allowance in the final rule allowing facilities to use existing performance test data to demonstrate initial compliance for the emission point on which the test was conducted provided that a three conditions are met. These are: (1) The performance test was conducted within the previous 5-year period; (2) the performance test was conducted using the same test methods required by the final rule; and (3) no modifications have been made to the process or emission point since the previous performance test was conducted or the owner or operator can demonstrate that the results of the performance test, with or without adjustments, reliably demonstrate compliance despite process changes.

Several commenters disagreed with the proposed requirement to submit the site-specific monitoring plan for approval, primarily because, the commenters alleged, requiring submission of the plan would result in the details of the plan being included in a facility's title V permit and, the commenters further alleged, would cause a delay in implementation and modification of the plan because of the lengthy time period typical for approval of elements of a title V permit. It was never our intent that the substantive provisions of a site-specific monitoring plan would become part of a facility's title V operating permit. We have changed the final rule to require the site-specific monitoring plan to be developed, implemented, and submitted to the Administrator, but not subject to the Administrator's approval. We also have clarified that any deficiencies in site-specific monitoring plans must be promptly corrected upon request of the Administrator, in order to allow the Administrator to review and approve site-specific monitoring plans if the Administrator chooses to do so. A facility's title V permit must contain the final rule's requirement to develop and implement the plan, which is an applicable requirement under title V, but need not incorporate the substantive provisions of the plan itself, even if the Administrator requests the plan to be submitted. We have also added a requirement that a current copy of the plan be maintained on site, and that previous versions be maintained on site for a period of 5 years after the revision of the plan.

Several commenters stated that the detailed operation, inspection, and maintenance requirements for monitoring devices are unnecessary because the final rule requires facilities to develop their own site-specific monitoring plans and requested that we delete the detailed requirements. We had intended for facilities that monitor pH and liquid flow rate to simply incorporate into their site-specific monitoring plans the specific procedures that we included in the proposed rule rather than develop their own procedures. We included specific procedures in the proposed rule because no performance specification had yet been promulgated for pH or liquid flow monitoring devices. However, we are currently developing performance specifications for continuous monitoring systems that must be followed by owners and operators of all sources subject to standards under 40 CFR part 63. Therefore, we have decided to remove the detailed requirements from 40 CFR 63.9025(b) and (c) of the final rule and wait for the rule that would propose performance specifications for all of 40 CFR part 63. We decided it would be premature to promulgate performance specifications for the final rule when the specifications that would ultimately be promulgated for all of 40 CFR part 63 may be different as a result of possible public comments received on that rulemaking. We did add language in the final rule to require that "all monitoring equipment shall be installed, calibrated, maintained, and operated according to manufacturer's specifications or other written procedures that provide adequate assurance that the equipment

would reasonably be expected to monitor accurately." Therefore, owners and operators will be required by the final rule to follow written performance specifications, but not necessarily the ones that we proposed. In addition, the requirement to develop a site-specific monitoring plan, which must include performance specifications, is retained in the final rule as the mechanism for formalizing the performance specifications.

IV. Summary of the Environmental, Energy, Cost, and Economic Impacts

A. What Are the Air Quality Impacts?

Nationwide baseline emissions are approximately 2,270 Mg/yr (2,520 tpy) of HCl and 640 Mg/yr (700 tpy) of Cl_2. The total annual emissions reductions resulting from the final rule are estimated to be approximately 1,050 Mg/yr (1,155 tpy) of HCl and 390 Mg/yr (430 tpy) of Cl_2.

B. What Are the Non-Air Health, Environmental, and Energy Impacts?

We do not expect that there will be any significant adverse non-air health, environmental, or energy impacts associated with the final standards for HCl production plants. The final rule will result in the generation of additional wastewater from scrubbers. We have calculated this amount to be approximately 103,000 gallons per year per process vent scrubber and 500 gallons per year per storage tank/transfer operation scrubber. We estimate that there are 16 facilities that will install new process vent scrubbers and 32 facilities that will install new storage tank or transfer operation scrubbers.

C. What Are the Cost and Economic Impacts?

The total estimated capital cost of the final rule for HCl production is approximately $23.2 million in the fifth year for new and existing sources. The total estimated annual cost of the final rule is around $8.1 million in the fifth year for new and existing sources, which includes the annualized costs of control and monitoring equipment, other operation and maintenance, and the annual labor to comply with the reporting and recordkeeping requirements of the final rule once the sources are in compliance.

The economic impact analysis, which is a comparison of compliance costs for the affected parent firms with their revenues, shows that the estimated costs associated with the final rule are no more than 1.0 percent of the revenues for any of the 32 affected firms. It is likely that the expected reduction in affected HCl output is no more than 0.01 percent or less from that industry. It should be noted that these results are based on the application of costs from a subset of the affected facilities to the remaining facilities. This is necessary due to incomplete facility-level cost data. Therefore, it is likely that there is no adverse impact expected to HCl producers as a result of implementation of the final rule.

V. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735; October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that the final rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is, therefore, not subject to OMB review.

B. Paperwork Reduction Act

The information collection requirements in the final rule have been submitted for approval to OMB under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 2032.2), and a copy may be obtained from Susan Auby by mail at the U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded off the internet at *http://www.epa.gov/icr*. The information requirements are not effective until OMB approves them.

The final information requirements are based on notifications, records, and reports required by the General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized under CAA section 114 (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made will be safeguarded according to Agency policies in 40 CFR part 2, subpart B, Confidentiality of Business Information.

According to the ICR, the total 3-year monitoring, reporting, and recordkeeping burden for this collection is 150,156 labor hours, and the annual average burden is 50,052 labor hours. The labor cost over the 3-year period is $6,950,959, or $2,316,986 per year. The annualized capital cost for monitoring equipment is $25,869. Annual operation and maintenance costs are $664,622 over 3 years, averaging $221,541 per year. This estimate includes a one-time plan for demonstrating compliance, annual compliance certification reports, notifications, and recordkeeping.

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 purpose of collecting, validating, and verifying information; process and maintain information and disclose and provide information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing 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 are listed in 40 CFR part 9 and 48 CFR chapter 15. The OMB control number(s) for the information collection requirements in the final rule will be listed in an amendment to 40 CFR part 9 or 48 CFR chapter 15 in a subsequent **Federal Register** document after OMB approves the ICR.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*, 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 final 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 on small entities, small entity is defined as: (1) A small business whose parent company has a maximum of 1,000 employees according to Small Business Administration (SBA) size standards (NAICS 325181, Alkalies and Chlorine Manufacturing, and NAICS 325188, All Other Basic Inorganic Chemical Manufacturing); (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 that is independently owned and operated and is not dominant in its field.

After considering the economic impact of today's final rule on small entities, I certify that the final rule will not have a significant impact on a substantial number of small entities. In accordance with the RFA, as amended by the SBREFA, 5 U.S.C. 601, *et seq.*, we conducted an assessment of the final rule on small businesses within the industries affected by the final rule. Based on SBA size definitions for the affected industries and reported sales and employment data, we identified 4 affected small businesses out of 32 affected parent businesses (or 13 percent of the total number). In order to estimate impacts to affected small businesses, we conducted a screening analysis that consists of estimates of the annual compliance costs these businesses are expected to occur as compared to their revenues. Since the data are such that costs can only be estimated for a subset of the affected facilities, the available data were used to determine the costs to the facilities outside of this subset. The results of this screening analysis show that all but one of the small businesses are expected to have annual compliance costs of 1 percent or less. For more information, consult the docket for this project.

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, we generally must prepare a written statement, including 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 final 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 with other than the least costly, most cost-effective, or least burdensome alternative if we publish 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 our regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that the final rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annual cost of the final rule for any year has been estimated to be approximately $6.2 million. Thus, today's final rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, we have determined that the final rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no regulatory requirements that apply to such governments or impose obligations upon them. Therefore, the final rule is not subject to the requirements of section 203 of the UMRA.

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."

The 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. The standards apply only to HCl producers and do not pre-exempt States from adopting more stringent standards or otherwise regulate State or local governments. Thus, Executive Order 13132 does not apply to the final rule.

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." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

The final rule does not have tribal implications. 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, as specified in Executive Order 13175. 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 (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 rule is preferable to other potentially effective and reasonably feasible alternatives that we considered.

The final rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866. In addition, EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health and safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. The 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 That Significantly Affect Energy Supply, Distribution, or Use

The final rule is not subject to Executive Order 13211 (66 FR 28355; May 22, 2001) because it is 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 (NTTAA) of 1995, Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs us to use voluntary consensus standards (VCS) in our 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, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs us to provide Congress, through annual reports to OMB, with explanations when we do not use available and applicable VCS.

The final rule involves technical standards. We are citing the following methods in the final rule: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 4, and 26A of 40 CFR part 60, appendix A. Consistent with the NTTAA, the EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods. No applicable voluntary consensus standards were identified for EPA Methods 1A, 2A, 2D, 2F, and 2G. The search and review results have been documented and are placed in Docket ID No. OAR–2002–0057 for the final rule.

This search for emission measurement procedures identified eight voluntary consensus standards potentially applicable to the final rule. The EPA determined that six of these eight standards were impractical alternatives to EPA test methods for the purposes of the final rule. Therefore, the final rule does not adopt these standards today. The reasons for this determination for the six methods are discussed below.

The standard ISO 10780:1994, "Stationary Source Emissions—Measurement of Velocity and Volume Flowrate of Gas Streams in Ducts," is impractical as an alternative to EPA Method 2 in the final rule. This standard, ISO 10780:1994, recommends the use of L-shaped pitots, which historically have not been recommended by EPA because the S-type design has large openings which are less likely to plug up with dust.

The standard ASTM D3464–96 (2001), "Standard Test Method Average Velocity in a Duct Using a Thermal Anemometer," is impractical as an alternative to EPA Method 2 for the purposes of the final rule primarily because applicability specifications are not clearly defined (*e.g.*, range of gas composition, temperature limits). Also, the lack of supporting quality assurance data for the calibration procedures and specifications, and certain variability issues that are not adequately addressed by the standard limit EPA's ability to make a definitive comparison of the method in these areas.

The European standard EN 1911–1,2,3 (1998), "Stationary Source Emissions—Manual Method of Determination of HCl—Part 1: Sampling of Gases Ratified European Text—Part 2: Gaseous Compounds Absorption Ratified European Text—Part 3: Adsorption Solutions Analysis and Calculation Ratified European Text," is impractical as an alternative to EPA Method 26A. Part 3 of this standard cannot be considered equivalent to EPA Method 26 or 26A because the sample absorbing solution (water) would be expected to capture both HCl and Cl_2 gas, if present, without the ability to distinguish between the two. The EPA Methods 26 and 26A use an acidified absorbing solution to first separate HCl and Cl_2 gas so that they can be selectively absorbed, analyzed, and reported separately. In addition, in EN 1911 the absorption efficiency for Cl_2 gas would be expected to vary as the pH of the water changed during sampling.

Three of the six voluntary consensus standards are impractical alternatives to EPA test methods for the purposes of the final rule because they are too general, too broad, or not sufficiently detailed to assure compliance with EPA regulatory requirements: ASTM D3154–00, "Standard Method for Average Velocity in a Duct (Pitot Tube Method)," for EPA Methods 1, 2, 2C, and 4; ASTM 3796–90 (1998), "Standard Practice for Calibration of Type S Pitot Tubes," for EPA Method 2; and ASTM E337–84 (1996), "Standard Test Method for Measuring Humidity with a Psychrometer (the Measurement of Wet- and Dry-Bulb Temperatures)," for EPA Method 4.

The following two of the eight voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of the final rule because they are under development by a voluntary consensus body: ASME/BSR MFC 12M, "Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters," for EPA Method 2; and ASME/BSR MFC 13M, "Flow Measurement by Velocity Traverse," for EPA Method 1 (and possibly 2).

Section 63.9020 to subpart NNNNN lists the EPA testing methods included in the final rule. Under 40 CFR 63.8 of subpart A, a source may apply to EPA for permission to use alternative monitoring in place of any of the EPA testing methods.

J. 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 final rule must submit a rule report, which includes a copy of the final rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing the 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 final rule in the **Federal Register**. The final rule is not a "major rule" as defined by 5 U.S.C. 804(2). The final rule will be effective on April 17, 2003.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Recordkeeping and reporting requirements.

Dated: February 28, 2003.

Christine Todd Whitman,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63, of the Code of the 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.*

■ 2. Part 63 is amended by adding subpart NNNNN to read as follows:

Subpart NNNNN—National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production

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What This Subpart Covers

63.8980 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) and work practice standards for hazardous air pollutants (HAP) emitted from hydrochloric acid (HCl) production. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations and work practice standards.

§ 63.8985 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate an HCl production facility that produces a liquid HCl product at a concentration of 30 weight percent or greater during its normal operations and is located at, or is part of, a major source of HAP. This does not include HCl production facilities that only produce occasionally liquid HCl product at a concentration of 30 weight percent or greater.

(1) An HCl production facility is the collection of unit operations and equipment associated with the production of liquid HCl product. The HCl production facility begins at the point where a gaseous stream containing HCl enters the HCl production unit. The HCl production facility includes all HCl storage tanks that contain liquid HCl product that is produced in the HCl production unit, with the exceptions noted in paragraph (a)(2) of this section. The HCl production facility also includes all HCl transfer operations that load HCl product produced in the HCl production unit into a tank truck, rail car, ship, or barge, along with the piping and other equipment in HCl service used to transfer liquid HCl product from the HCl production unit to the HCl storage tanks and/or HCl transfer operations. The HCl production facility ends at the point that the liquid HCl product produced in the HCl production unit is loaded into a tank truck, rail car, ship, or barge, at the point the HCl product enters another process on the plant site, or at the point the HCl product leaves the plant site via pipeline.

(2) Storage tanks that are dedicated feedstock tanks for another process and storage tanks that store HCl dedicated for use in wastewater treatment are not considered part of an HCl production facility.

(3) A major source of HAP emissions is any stationary source or group of stationary sources within a contiguous area under common control that emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (10 tons) or more per year or any combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year.

(b) An HCl production facility is not subject to this subpart if it is also subject to NESHAP under one of the subparts listed in paragraphs (b)(1) through (5) of this section.

(1) 40 CFR part 63, subpart S, National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.

(2) 40 CFR part 63, subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants.

(3) 40 CFR part 63, subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.

(4) 40 CFR part 63, subpart EEE, National Emission Standards for Hazardous Air Pollutants for Hazardous Waste Combustors.

(5) 40 CFR part 63, subpart GGG, National Emission Standards for Pharmaceuticals Production.

(c) An HCl production facility is not subject to this subpart if it is located following the incineration of chlorinated waste gas streams, waste liquids, or solid wastes, and the emissions from the HCl production facility are subject to one of the requirements listed in paragraphs (c)(1) through (3) of this section.

(1) Section 63.113(c), subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical

Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.

(2) Section 264.343(b), Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (subpart O, Incinerators).

(3) Section 266.107, subpart H, Burning of Hazardous Waste in Boilers and Industrial Furnaces.

(d) An HCl production facility is not subject to this subpart if it produces HCl through the direct synthesis of hydrogen and chlorine and is part of a chlor-alkali facility.

(e) An HCl production facility is not subject to this subpart if it is a research and development facility.

(f) An HCl production facility is not subject to this subpart if all of the gaseous streams containing HCl and chlorine (Cl_2) from HCl process vents, HCl storage tanks, and HCl transfer operations are recycled or routed to another process prior to being discharged to the atmosphere.

§ 63.8990 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, or existing affected source at an HCl production facility.

(b) The affected source is the group of one or more HCl production facilities at a plant site that are subject to this subpart, and all associated wastewater operations, which contain the collection of emission streams listed in paragraphs (b)(1) through (5) of this section.

(1) Each emission stream from an HCl process vent.

(2) Each emission stream from an HCl storage tank.

(3) Each emission stream from an HCl transfer operation.

(4) Each emission stream resulting from leaks from equipment in HCl/Cl_2 service.

(5) Each emission stream from HCl wastewater operations. There are no emission limitations or other requirements in this subpart that apply to HCl wastewater operations.

(c) An affected source is a new affected source if you commenced construction of the affected source after September 18, 2001 and you met the applicability criteria of § 63.8985 at the time you commenced construction.

(d) An affected source is reconstructed if you meet the criteria as defined in § 63.2.

(e) An affected source is existing if it is not new or reconstructed.

§ 63.8995 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, you must comply with this subpart according to paragraphs (a)(1) or (2) of this section.

(1) If you start up your affected source before April 17, 2003, you must comply with the emission limitations and work practice standards in this subpart no later than April 17, 2003.

(2) If you start up your affected source after April 17, 2003, you must comply with the emission limitations and work practice standards in this subpart upon startup of your affected source.

(b) If you have an existing affected source, you must comply with the emission limitations and work practice standards no later than 3 years after April 17, 2003.

(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, the provisions in paragraphs (c)(1) and (2) of this section apply.

(1) Any portion of the existing facility that is a new affected source or a new reconstructed source must be in compliance with this subpart upon startup.

(2) All other parts of the source must be in compliance with this subpart no later than the date 3 years after the area source becomes a major source.

(d) You must meet the notification requirements in § 63.9045 according to the schedule in § 63.9045 and in subpart A of this part. Some of the notifications must be submitted before you are required to comply with the emission limitations in this subpart.

Emission Limitations and Work Practice Standards

§ 63.9000 What emission limitations and work practice standards must I meet?

(a) With the exceptions noted in paragraph (c) of this section, you must meet the applicable emission limit and work practice standard in Table 1 to this subpart for each emission stream listed under § 63.8990(b)(1) through (4) that is part of your affected source.

(b) With the exceptions noted in paragraph (c) of this section, you must meet the applicable operating limit in Table 2 to this subpart for each emission stream listed under § 63.8990(b)(1) through (3) that is part of your affected source.

(c) The emission streams listed in paragraphs (c)(1) through (3) of this section are exempt from the emission limitations, work practice standards, and all other requirements of this subpart.

(1) Emission streams from HCl storage tanks that never store liquid HCl product with a concentration of 30 weight percent or greater.

(2) Emission streams from HCl transfer operations that never load liquid HCl product with a concentration of 30 weight percent or greater.

(3) Emission streams from HCl wastewater operations.

General Compliance Requirements

§ 63.9005 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations and work practice standards in this subpart at all times, except during periods of startup, shutdown, and malfunction.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) You must develop and implement a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

(d) All monitoring equipment shall be installed, calibrated, maintained, and operated according to manufacturer's specifications or other written procedures that provide adequate assurance that the equipment would reasonably be expected to monitor accurately. For each monitoring system required in this section, you must develop, implement, and submit to the Administrator a site-specific monitoring plan that addresses the installation requirements in paragraphs (d)(1) through (3) of this section, the ongoing procedures in paragraphs (d)(4) through (6) of this section, and the requirements in § 63.9025, as applicable. You must submit the plan with your Notification of Compliance Status. Upon request of the Administrator, you must promptly correct any deficiencies in a site-specific monitoring plan and submit the revised plan.

(1) Installation of the continuous monitoring system (CMS) sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (*e.g.*, on or downstream of the last control device).

(2) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system.

(3) Performance evaluation procedures and acceptance criteria (*e.g.*, calibrations).

(4) Ongoing operation and maintenance (O&M) procedures in accordance with the general requirements of §§ 63.8(c)(1), (3), (4)(ii), (7), and (8), and 63.9025.

(5) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d).

(6) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c) and (e)(1) and (2)(i).

Testing and Initial Compliance Requirements

§ 63.9010 By what date must I conduct performance tests?

(a) If you have a new or reconstructed affected source, you must conduct performance tests within 180 calendar days after the compliance date that is specified for your source in § 63.8995(a) and according to the provisions in § 63.7(a)(2).

(b) If you have an existing affected source, you must conduct performance tests within 180 calendar days after the compliance date that is specified for your existing affected source in § 63.8995(b) and according to the provisions in § 63.7(a)(2).

(c) If you commenced construction or reconstruction between September 18, 2001 and April 17, 2003, you must demonstrate initial compliance with either the proposed emission limitation or the promulgated emission limitation no later than 180 calendar days after April 17, 2003 or within 180 calendar days after startup of the source, whichever is later, according to § 63.7(a)(2)(ix).

§ 63.9015 When must I conduct subsequent performance tests?

(a) You must conduct all applicable performance tests according to the procedures in § 63.9020 on the earlier of your title V operating permit renewal or within 5 years of issuance of your title V permit.

(b) You must report the results of subsequent performance tests within 60 days after the completion of the test. This report should also verify that the operating limits for your affected source have not changed or provide documentation of revised operating limits established as specified in Table 2 to this subpart. The reports for all subsequent performance tests should include all applicable information required in § 63.9050.

§ 63.9020 What performance tests and other procedures must I use?

(a) You must conduct each performance test in Table 3 to this subpart that applies to you as directed in paragraphs (a)(1) through (4) of this section, except as noted in paragraphs (b) and (c) of this section.

(1) You must develop a site-specific test plan according to § 63.7(c)(2) and conduct each performance test according to the site-specific test plan.

(2) You must conduct each performance test under representative conditions according to the requirements in § 63.7(e)(1) and under the specific conditions that this subpart specifies in Table 3.

(3) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(4) You must conduct at least three separate test runs for each performance test required in this section, as specified in § 63.7(e)(3). Each test run must last at least 1 hour.

(b) If you are complying with a percent reduction emission limitation, you must determine the percent reduction in accordance with paragraphs (b)(1) and (2) of this section.

$$E_i = K_2(C_i M_i)Q_i \quad \text{Equation 1}$$

$$E_o = K_2(C_o M_o)Q_o \quad \text{Equation 2}$$

(1) Calculate the mass rate of either HCl or chlorine using Equations 1 and 2 of this section:

where:

C_i, C_o = Concentration of HCl or Cl_2 in the gas stream at the inlet and outlet of the control device(s), respectively, dry basis, parts per million by volume.

E_i, E_o = Mass rate of HCl or Cl_2 at the inlet and outlet of the control device(s), respectively, dry basis, kilogram per hour.

M_i, M_o = Molecular weight of HCl or Cl_2 at the inlet and outlet of the control device(s), respectively, gram/gram-mole.

Q_i, Q_o = Flow rate of gas stream at the inlet and outlet of the control device(s), respectively, dry standard cubic meter per minute.

K_2 = Constant, 2.494×10^{-6} (parts per million)$^{-1}$ (gram-mole per standard cubic meter) (kilogram/gram) (minute/hour), where standard temperature (gram-mole per standard cubic meter) is 20°C.

(2) Calculate the percent reduction of HCl or Cl_2 using Equation 3 of this section:

$$R = \frac{E_i - E_o}{E_i}(100) \quad \text{Equation 3}$$

where:

R = Control efficiency of control device(s).

E_i = Mass rate of HCl or Cl_2 to the inlet to the control device(s), kilograms per hour.

E_o = Mass rate of HCl or Cl_2 at the outlet of the control device(s), kilograms per hour.

(c) You may prepare a design evaluation in lieu of conducting a performance test for HCl storage tanks and HCl transfer operations that are not routed to a control device that also controls HCl process vent emissions or any other continuous vent stream. The design evaluation shall include documentation demonstrating that the control technique being used achieves the required control efficiency when a liquid HCl product with a concentration of 30 weight percent or greater is being loaded into the storage tank, or a tank truck, rail car, ship, or barge.

(1) If you use a caustic scrubber control device or a water scrubber control device, the design evaluation shall address the vent stream composition, constituent concentrations, liquid-to-vapor ratio, scrubbing liquid flow rate and concentration, temperature, and the reaction kinetics of the constituents with the scrubbing liquid. The design evaluation shall establish the design exhaust vent concentration level and shall include the additional information in paragraphs (c)(1)(i) and (ii) of this section for trays and a packed column scrubber.

(i) Type and total number of theoretical and actual trays.

(ii) Type and total surface area of packing for entire column and for individual packed sections, if the column contains more than one packed section.

(2) If you use any other control device, the design evaluation shall address the composition and HAP concentration of the vent stream immediately preceding the control device, as well as other parameters necessary to demonstrate that the control technique being used achieves the required control efficiency when a liquid HCl product with a concentration of 30 weight percent or greater is being loaded into the storage tank, or a tank truck, rail car, ship, or barge.

(d) You are not required to conduct a performance test for an emission point for which a performance test was conducted within the previous 5-year period, using the same test methods specified in this section and for which either no deliberate process changes have been made since the test, or the owner or operator can demonstrate that the results of the performance test, with or without adjustments, reliably demonstrate compliance despite process changes. The operating limits reported under the previous performance test shall be sufficient to meet the monitoring requirements in this subpart.

(e) You must establish all operating limits with which you will demonstrate

continuous compliance with the applicable emission limits in Table 1 to this subpart as described in paragraphs (e)(1) through (3) of this section.

(1) If you use a caustic scrubber control device or water scrubber control device and you conduct a performance test, you must establish operating limits according to paragraphs (e)(1)(i) and (ii) of this section. If a series of control devices are used, you must establish separate operating limits for each device.

(i) You must establish the minimum value as the operating limit for scrubber inlet liquid or recirculating liquid flow rate, as appropriate. The minimum value shall be based on the scrubber inlet liquid or recirculating liquid flow rate, as appropriate, values measured during the performance test.

(ii) You must establish the minimum and maximum values as the operating limits for scrubber effluent pH. The minimum and maximum values shall be based on the scrubber effluent pH values measured during the performance test.

(2) If you use any other control device and you conduct a performance test, you must establish operating limits according to your site-specific test plan submitted in accordance with § 63.7(c)(2)(i). The operating limits shall be based on the operating parameter values measured during the performance test. If a series of control devices are used, you must establish separate operating limits for each device.

(3) If you do not conduct a performance test for a HCl storage tank or HCl transfer operation, you must use engineering assessments and/or manufacturer's recommendations to establish the operating limits specified in paragraphs (e)(1)(i) and (ii), or (e)(2), of this section.

(4) As needed in applicability determinations, you must use ASTM E224 to determine the HCl concentration in liquid products.

§ 63.9025 What are my monitoring installation, operation, and maintenance requirements?

(a) For each operating parameter that you are required by § 63.9020(d) to monitor, you must install, operate, and maintain each CMS according to the requirements in paragraphs (a)(1) through (6) of this section.

(1) You must operate your CMS and collect data at all times the process is operating.

(2) You must collect data from at least four equally spaced periods each hour.

(3) For at least 75 percent of the operating hours in a 24-hour period, you must have valid data (as defined in your site-specific monitoring plan) for at least 4 equally spaced periods each hour.

(4) For each hour that you have valid data from at least four equally spaced periods, you must calculate the hourly average value using all valid data or, where data are collected from an automated CMS, using at least one measured value per minute if measured more frequently than once per minute.

(5) You must calculate the daily average using all of the hourly averages calculated according to paragraph (a)(4) of this section for the 24-hour period.

(6) You must record the results for each inspection, calibration, and validation check as specified in your site-specific monitoring plan.

(b) For scrubber control devices, you may request approval, in accordance with § 63.8(f), to monitor parameters other than those specified in § 63.9020(e). In accordance with § 63.8(f), you must submit a monitoring plan to the Administrator and the plan must meet the requirements in paragraphs (a) and (b)(1) through (3) of this section. You must conduct monitoring in accordance with the plan submitted to the Administrator unless comments received from the Administrator require an alternate monitoring scheme.

(1) Identify the operating parameter to be monitored to ensure that the control or capture efficiency measured during the initial compliance test is maintained.

(2) Discuss why this parameter is appropriate for demonstrating ongoing compliance.

(3) Identify the specific monitoring procedures.

(c) For any other control device, you must ensure that the CMS is operated according to a monitoring plan submitted to the Administrator as required by § 63.8(f). The monitoring plan must meet the requirements in paragraphs (a) and (c)(1) through (3) of this section. You must conduct monitoring in accordance with the plan submitted to the Administrator, as amended, unless comments received from the Administrator require an alternate monitoring scheme.

(1) Identify the operating parameter to be monitored to ensure that the control or capture efficiency measured during the initial compliance test is maintained.

(2) Discuss why this parameter is appropriate for demonstrating ongoing compliance.

(3) Identify the specific monitoring procedures.

§ 63.9030 How do I demonstrate initial compliance with the emission limitations and work practice standards?

(a) You must demonstrate initial compliance with each emission limit and work practice standard that applies to you according to Table 4 to this subpart.

(b) You must establish each site-specific operating limit in Table 2 to this subpart that applies to you according to the requirements in § 63.9020 and Table 3 to this subpart.

(c) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.9045(e).

Continuous Compliance Requirements

§ 63.9035 How do I monitor and collect data to demonstrate continuous compliance?

(a) You must monitor and collect data according to this section.

(b) If you use a caustic scrubber or a water scrubber/absorber to meet the emission limits in Table 1 to this subpart, you must keep the records specified in paragraphs (b)(1) and (2) of this section to support your compliance demonstration.

(1) Records of daily average scrubber inlet liquid or recirculating liquid flow rate, as appropriate.

(2) Records of the daily average scrubber effluent pH.

(c) If you use any other control device to meet the emission limits in Table 1 to this subpart, you must keep records of the operating parameter values identified in your monitoring plan in § 63.9025(c) to support your compliance demonstration.

(d) Except for monitor malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating. This includes periods of startup, shutdown, or malfunction when the affected source is operating. A monitoring malfunction includes, but is not limited to, any sudden, infrequent, not reasonably preventable failure of the monitoring equipment to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(e) You may not use data recorded during monitoring malfunctions, associated repairs, and required quality assurance or control activities in data averages and calculations used to report emission or operating levels, nor may

such data be used in fulfilling a minimum data availability requirement, if applicable. You must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

§ 63.9040 How do I demonstrate continuous compliance with the emission limitations and work practice standards?

(a) You must demonstrate continuous compliance with each emission limit and work practice standard in Table 1 to this subpart that applies to you according to Table 4 to this subpart.

(b) You must demonstrate continuous compliance with each operating limit in Table 2 of this subpart that applies to you according to Tables 4 and 5 to this subpart.

(c) You must report each instance in which you did not meet an emission limit, work practice standard or operating limit in Table 1 or 2 to this subpart, respectively, that applies to you. This includes periods of startup, shutdown, and malfunction. These instances are deviations from the emission limitations in this subpart. These deviations must be reported according to the requirements in § 63.9050.

(d) During periods of startup, shutdown, or malfunction, you must operate in accordance with the startup, shutdown, and malfunction plan.

(e) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the startup, shutdown, and malfunction plan. The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

Notifications, Reports, and Records

§ 63.9045 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.7(b) and (c), 63.8(f)(4) and (6), and 63.9 (b) through (h) that apply to you by the dates specified.

(b) As specified in § 63.9(b)(2), if you start up your affected source before April 17, 2003, you must submit an Initial Notification not later than 120 calendar days after April 17, 2003.

(c) As specified in § 63.9(b)(4), if you start up your new or reconstructed affected source on or after April 17, 2003, you must submit the application for construction or reconstruction required by § 63.9(b)(1)(iii) in lieu of the initial notification.

(d) You must submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin, as required in § 63.7(b)(1).

(e) When you conduct a performance test as specified in Table 3 to this subpart, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii).

(f) You must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2).

(g) The Notification of Compliance Status must also include the information in paragraphs (g)(1) through (2) of this section that applies to you.

(1) Each operating parameter value averaged over the full period of the performance test (for example, average pH).

(2) Each operating parameter range within which HAP emissions are reduced to the level corresponding to meeting the applicable emission limits in Table 1 to this subpart.

§ 63.9050 What reports must I submit and when?

(a) You must submit each report in Table 6 to this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report according to paragraphs (b)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.8995 and ending on June 30 or December 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in § 63.8995.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date that is specified for your affected source in § 63.8995.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6 (a)(3)(iii)(A) or 71.6 (a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section.

(c) The compliance report must contain the following information in paragraphs (c)(1) through (7) of this section.

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).

(5) If there are no deviations from any emission limitations that apply to you, a statement that there were no deviations from the emission limitations during the reporting period.

(6) If there were no periods during which the CMS was out-of-control in accordance with the monitoring plan, a statement that there were no periods during which the CMS was out-of-control during the reporting period.

(7) Verification that you continue to use the equipment LDAR plan and information that explains any periods when the procedures in the plan were not followed and the corrective actions were not taken.

(d) For each deviation from an emission limitation occurring at an affected source where you are using a CMS to comply with the emission limitation in this subpart, you must include the information in paragraphs (c)(1) through (6) of this section and the following information in paragraphs (d)(1) through (9) of this section. This includes periods of startup, shutdown, and malfunction.

(1) The date and time that each malfunction started and stopped.

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

(3) The date, time, and duration that each CMS was out-of-control, including the information in § 63.8(c)(8).

(4) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(5) A summary of the total duration of the deviation during the reporting period and the total duration as a percent of the total source operating time during that reporting period.

(6) A breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(7) A summary of the total duration of CMS downtime during the reporting period, and the total duration of CMS downtime as a percent of the total source operating time during that reporting period.

(8) A brief description of the process units.

(9) A description of any changes in CMS, processes, or controls since the last reporting period.

(e) Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A). If an affected source submits a compliance report pursuant to Table 6 to this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A), and the compliance report includes all required information concerning deviations from any emission limitation in this subpart, submission of the compliance report shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permit authority.

(f) For each startup, shutdown, or malfunction during the reporting period that is not consistent with your startup, shutdown, and malfunction plan you must submit an immediate startup, shutdown and malfunction report. Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report according to paragraphs (f)(1) and (2) of this section.

(1) An initial report containing a description of the actions taken for the event must be submitted by fax or telephone within 2 working days after starting actions inconsistent with the plan.

(2) A follow-up report containing the information listed in § 63.10(d)(5)(ii) must be submitted within 7 working days after the end of the event unless you have made alternative reporting arrangements with the permitting authority.

§ 63.9055 What records must I keep?

(a) You must keep a copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, as required in § 63.10(b)(2)(xiv).

(b) You must also keep the following records specified in paragraphs (b)(1) through (5) of this section.

(1) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(2) Records of performance tests as required in § 63.10(b)(2)(viii).

(3) Records of operating parameter values that are consistent with your monitoring plan.

(4) Records of the date and time that each deviation started and stopped and whether the deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(5) Copies of the current versions of the site-specific monitoring plan and the equipment LDAR plan. You also must submit copies of these plans and any revisions or updates to the Administrator for comment only (not for approval).

§ 63.9060 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious inspection and review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site, or readily accessible from on site through a computer or other means, for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records off site for the remaining 3 years. Records may be maintained in hard copy or computer-readable format including, but not limited to, on paper, microfilm, hard disk drive, floppy disk, compact disk, magnetic tape, or microfiche.

(d) You must keep each previous (*i.e.*, superseded) version of the site-specific monitoring plan and the LDAR plan for a period of 5 years after revision of the plan. If, at any time after adoption of a site-specific monitoring plan or an LDAR plan, your affected source ceases operation or is otherwise no longer subject to the provisions of this subpart, you must retain a copy of the most recent plan for 5 years from the date your source ceases operation or is no longer subject to this subpart.

Other Requirements and Information

§ 63.9065 What parts of the General Provisions apply to me?

(a) Table 7 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

§ 63.9070 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. EPA, or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency, as well as U.S. EPA, has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under section 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities in paragraphs (c)(1) through (4) of this section that cannot be delegated to State, local, or tribal agencies are as follows.

(1) Approval of alternatives to requirements in §§ 63.8980, 63.8985, 63.8990, 63.8995, and 63.9000.

(2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.9075 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act in 40 CFR 63.2 and in this section as follows:

Caustic scrubber control device means any add-on device that mixes an aqueous stream or slurry containing a caustic substance with the exhaust gases from an HCl process vent, HCl storage

tank, or HCl transfer operation to control emissions of HCl and/or Cl_2.

Chlor-alkali facility means a facility where chlorine and sodium or potassium hydroxide are produced as co-products and hydrogen is produced as a by-product in an electrolytic process using either mercury cells, diaphragm cells, or membrane cells.

Continuous monitoring system, for purposes of the final rule, means liquid flow monitoring devices that meet the performance specifications given in § 63.9025(a); or pH monitoring devices that meet the performance specifications given in § 63.9025(a); or other control devices as mentioned in 63.9025(a) and (b) or § 63.9025(a) and (c).

Control device means an add-on device used to reduce HCl and/or Cl_2 emissions from an HCl process vent, HCl storage tank, or HCl transfer operation at an HCl production facility. An HCl production unit is not a control device.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limitation or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Emission limitation means any emission limit or operating limit.

Emission stream means a gaseous stream from an HCl process vent, an HCl storage tank, an HCl transfer operation, leaking equipment in HCl service, or HCl wastewater operations that is discharged to the atmosphere. Gaseous streams from HCl process vents, HCl storage tanks, and HCl transfer operations that are routed to another process or recycled for reaction or other use (*i.e.*, for pH control) of the HCl and/or Cl_2 are not emission streams. Gaseous streams from HCl transfer operations that are vapor balanced to an HCl storage tank subject to this subpart are not emission streams.

Equipment in HCl service means each pump, compressor, agitator, pressure relief device, sampling connection system, open-ended valve or line, valve, connector, and instrumentation system that contains 30 weight percent or greater of liquid HCl or 5 weight percent or greater of gaseous HCl at any time.

HCl process vent means the point of discharge to the atmosphere, or point of entry into a control device, of a gaseous stream that originates from an HCl production unit. The following points of discharge are not HCl process vents:

(1) A leak from equipment in HCl service subject to this subpart.

(2) An exit from a control device used to comply with this subpart.

(3) An HCl storage tank vent or HCl transfer operation vent subject to this subpart.

(4) A HCl wastewater operation vent subject to this subpart.

(5) A point of discharge from a relief valve.

(6) A point of discharge from an analyzer.

HCl production facility is defined in § 63.8985(a)(i).

HCl production unit means an absorber or other vessel in which a liquid HCl product is manufactured by absorbing gaseous HCl into either water or an aqueous HCl solution.

HCl storage tank means a tank or other vessel that is used to store liquid HCl product. Tanks or vessels permanently attached to motor vehicles (such as trucks, railcars, barges, or ships) are not HCl storage tanks.

HCl transfer operation means the loading, into a tank truck, railcar, ship, or barge, of liquid HCl from a transfer (or loading) rack (as defined in this section) for which the predominant use is liquid HCl. The predominant use of a transfer (or loading) rack is the material that is loaded by the transfer (or loading) rack in the greatest amount.

HCl wastewater operation means an operation that handles and processes water containing HCl that is discarded from an HCl production facility.

Plant site means all contiguous or adjoining property that is under common control, including properties that are separated only by a road or other public right-of-way. Common control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, or any combination thereof.

Research and development facility means laboratory and pilot plant operations whose primary purpose is to conduct research and development into new processes and products, where the operations are under close supervision of technically trained personnel, and the operations are not engaged in the manufacture of products for commercial sale, except in a *de minimis* manner.

Responsible official means responsible official as defined in 40 CFR 70.2 of this chapter.

Transfer (or loading) rack means the collection of loading arms and loading hoses, at a single loading rack, that are used to fill tank trucks, railcars, ships, and/or barges. Transfer rack includes the associated pumps, meters, shutoff valves, relief valves, and other piping and valves.

Vapor balanced means connected to a piping system that is designed to collect vapors displaced from tank trucks, rail cars, ships, or barges during loading, and to route the collected vapors to the storage vessel from which the liquid being loaded originated, or to another storage vessel connected by a common header.

Vent means the point of discharge to the atmosphere or to a control device from either an HCl process vent, an HCl storage tank, or an HCl transfer operation.

Water scrubber control device means any add-on device that mixes an aqueous stream not containing a caustic substance with the exhaust gases from an HCl process vent, HCl storage tank, or HCl transfer operation to control emissions of HCl and/or Cl_2.

Tables to Subpart NNNNN of Part 63

As stated in § 63.9000(a), you must comply with the following emission limits and work practice standards for each emission stream that is part of an affected source:

TABLE 1 TO SUBPART NNNNN OF PART 63.—EMISSION LIMITS AND WORK PRACTICE STANDARDS

For each. . .	You must meet the following emission limit and work practice standard.
1. Emission stream from an HCl process vent at an existing source.	a. Reduce HCl emissions by 99 percent or greater or to an outlet concentration of 20 ppm by volume or less; and

TABLE 1 TO SUBPART NNNNN OF PART 63.—EMISSION LIMITS AND WORK PRACTICE STANDARDS—Continued

For each. . .	You must meet the following emission limit and work practice standard.
	b. Reduce Cl_2 emissions by 99 percent or greater or to an outlet concentration of 100 ppm by volume or less.
2. Emission stream from an HCl storage tank at an existing source.	Reduce HCl emissions by 99 percent or greater or to an outlet concentration of 120 ppm by volume or less.
3. Emission stream from an HCl transfer operation at an existing source.	Reduce HCl emissions by 99 percent or greater or to an outlet concentration of 120 ppm by volume or less.
4. Emission stream from leaking equipment in HCl/Cl_2 service at existing sources.	a. Prepare and operate at all times according to an equipment LDAR plan that describes in detail the measures that will be put in place to detect leaks and repair them in a timely fashion; and b. Submit the plan to the Administrator *for comment only* with your notification of Compliance Status; and c. You may incorporate by reference in such plan existing manuals that describe the measures in place to control leaking equipment emissions required as part of other federally enforceable requirements, provided that all manuals that are incorporated by reference are submitted to the Administrator.
5. Emission stream from an HCl process vent at a new source.	a. Reduce HCl emissions by 99.4 percent or greater or to an outlet concentration of 12 ppm by volume or less; and b. Reduce Cl_2 emissions by 99.8 percent or greater or to an outlet concentration of 20 ppm by volume or less.
6. Emission stream from an HCl storage tank at a new source.	Reduce HCl emissions by 99.9 percent or greater or to an outlet concentration of 12 ppm by volume or less.
7. Emission stream from an HCl transfer operation at a new source.	Reduce HCl emissions by 99 percent or greater or to an outlet concentration of 120 ppm by volume or less.

As stated in § 63.9000(b), you must comply with the following operating limits for each emission stream that is part of an affected source that is vented to a control device:

TABLE 2 TO SUBPART NNNNN OF PART 63.—OPERATING LIMITS

For each . . .	You must . . .
1. Caustic scrubber or water scrubber/absorber	a. Maintain the daily average scrubber inlet liquid or recirculating liquid flow rate, as appropriate, above the operating limit; and b. Maintain the daily average scrubber effluent pH within the operating limits; or c. Instead of a. and b., maintain your operating parameter(s) within the operating limits established according to your monitoring plan established under § 63.8(f).
2. Other type of control device to which HCl emissions are ducted.	Maintain your operating parameter(s) within the limits established during the performance test and according to your monitoring plan.

As stated in § 63.9020, you must comply with the following requirements for performance tests for HCl production for each affected source:

TABLE 3 TO SUBPART NNNNN OF PART 63.—PERFORMANCE TEST REQUIREMENTS FOR HCL PRODUCTION AFFECTED SOURCES

For each HCl process vent and each HCl storage tank and HCl transfer operation for which you are conducting a performance test, you must . . .	Using . . .	Additional Information . . .
1. Select sampling port location(s) and the number of traverse points.	a. Method 1 or 1A in appendix A to 40 CFR part 60 of this chapter.	i. If complying with a percent reduction emission limitation, sampling sites must be located at the inlet and outlet of the control device prior to any releases to the atmosphere (or, if a series of control devices are used, at the inlet of the first control device and at the outlet of the final control device prior to any releases to the atmosphere); or ii. If complying with an outlet concentration emission limitation, the sampling site must be located at the outlet of the final control device and prior to any releases to the atmosphere.

TABLE 3 TO SUBPART NNNNN OF PART 63.—PERFORMANCE TEST REQUIREMENTS FOR HCL PRODUCTION AFFECTED SOURCES—Continued

For each HCl process vent and each HCl storage tank and HCl transfer operation for which you are conducting a performance test, you must . . .	Using . . .	Additional Information . . .
2. Determine velocity and volumetric flow rate ..	Method 2, 2A, 2C, 2D, 2F, or 2G in appendix A to 40 CFR part 60 of this chapter.	
3. Determine gas molecular weight	a. Not applicable	i. Assume a molecular weight of 29 (after moisture correction) for calculation purposes.
4. Measure moisture content of the stack gas ...	Method 4 in appendix A to 40 CFR part 60 of this chapter.	
5. Measure HCl concentration and Cl_2 concentration from HCl process vents.	a. Method 26A in Appendix A to 40 CFR part 60 of this chapter.	i. An owner or operator may be exempted from measuring the Cl_2 concentration from an HCl process vent provided that a demonstration that Cl_2 is not likely to be present in the stream is submitted as part of the site-specific test plan required by §63.9020(a)(2). This demonstration may be based on process knowledge, engineering judgement, or previous test results.
6. Establish operating limits with which you will demonstrate continuous compliance with the emission limits in Table 1 to this subpart, in accordance with §63.9020(e)(1) or (2).		

As stated in §63.9030, you must comply with the following requirements to demonstrate initial compliance with the applicable emission limits for each affected source vented to a control device and each work practice standard:

TABLE 4 TO SUBPART NNNNN OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS AND WORK PRACTICE STANDARDS

For each . . .	For the following emission limit or work practice standard . . .	You have demonstrated initial compliance if . . .
1. HCl process vent and each HCl storage tank and HCl transfer operation for which you are conducting a performance test.	a. In Table 1 to this subpart	i. The average percent reduction of HCl and Cl_2 (if applicable), measured over the period of the performance test conducted according to Table 3 of this subpart and determined in accordance with §63.9020(b), is greater than or equal to the applicable percent reduction emission limitation specified in Table 1 of this subpart; or ii. The average HCl and Cl_2 (if applicable) concentration, measured over the period of the performance test conducted according to Table 3 of this subpart, is less than or equal to the applicable concentration emission limitation specified in Table 1 of this subpart.
2. HCl storage tank and HCl transfer operation for which you are preparing a design evaluation in lieu of conducting a performance test.	a. In Table 1 to this subpart	i. The percent reduction of HCl, demonstrated by a design evaluation prepared in accordance with §63.9020(c), is greater than or equal to the applicable percent reduction emission limitation specified in Table 1 of this subpart; or ii. The HCl concentration, demonstrated by a design evaluation prepared in accordance with §63.9020(c), is less than or equal to the applicable concentration emission limitation specified in Table 1 of this subpart.
3. Leaking equipment	a. In Table 1 to this subpart	i. You certify in your Notification of Compliance Status that you have developed and implemented your LDAR plan and submitted it to the Administrator **for comment only.**

As stated in § 63.9040, you must comply with the following requirements to demonstrate continuous compliance with the applicable emission limitations for each affected source vented to a control device and each work practice standard:

TABLE 5 TO SUBPART NNNNN OF PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS AND WORK PRACTICE STANDARDS

For each . . .	For the following emission limitation and work practice standard . . .	You must demonstrate continuous compliance by . . .
1. Affected source using a caustic scrubber or water scrubber/absorber.	a. In Tables 1 and 2 to this subpart	i. Collecting the scrubber inlet liquid or recirculating liquid flow rate, as appropriate, and effluent pH monitoring data according to § 63.9025, consistent with your monitoring plan; and ii. Reducing the data to 1-hour and daily block averages according to the requirements in § 63.9025; and iii. Maintaining the daily average scrubber inlet liquid or recirculating liquid flow rate, as appropriate, above the operating limit; and iv. Maintaining the daily average scrubber effluent pH within the operating limits.
2. Affected source using any other control device.	a. In Tables 1 and 2 to this subpart	i. Conducting monitoring according to your monitoring plan established under § 63.8(f) in accordance with § 63.9025(c); and ii. Collecting the parameter data according to your monitoring plan established under § 63.8(f); and iii. Reducing the data to 1-hour and daily block averages according to the requirements in § 63.9025; and iv. Maintaining the daily average parameter values within the operating limits established according to your monitoring plan established under § 63.8(f).
3. Leaking equipment affected source	a. In Table 1 to this subpart	i. Verifying that you continue to use a LDAR plan; and ii. Reporting any instances where you deviated from the plan and the corrective actions taken.

As stated in § 63.9050(a), you must submit a compliance report that includes the information in § 63.9050(c) through (e) as well as the information in the following table. You must also submit startup, shutdown, and malfunction (SSM) reports according to the requirements in § 63.9050(f) and the following:

TABLE 6 TO SUBPART NNNNN OF PART 63.—REQUIREMENTS FOR REPORTS

If...	Then you must submit a report or statement that:
1. There are no deviations from any emission limitations that apply to you.	There were no deviations from any emission limitations that apply to you during the reporting period.
2. There were no periods during which the operating parameter monitoring systems were out-of-control in accordance with the monitoring plan.	There were no periods during which the CMS were out-of-control during the reporting period.
3. There was a deviation from any emission limitation during the reporting period.	Contains the information in § 63.9050(d).
4. There were periods during which the operating parameter monitoring systems were out-of-control in accordance with the monitoring plan.	Contains the information in § 63.9050(d).
5. There was a SSM during the reporting period that is not consistent with your SSM plan.	Contains the information in § 63.9050(f).
6. There were periods when the procedures in the LDAR plan were not followed.	Contains the information in § 63.9050(c)(7).

As stated in § 63.9065, you must comply with the applicable General Provisions requirements according to the following:

TABLE 7 TO SUBPART NNNNN OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNNN

Citation	Requirement	Applies to Subpart NNNNN	Explanation
§ 63.1	Initial applicability determination; applicability after standard established; permit requirements; extensions; notifications.	Yes.	
§ 63.2	Definitions	Yes	Additional definitions are found in § 63.9075.
§ 63.3	Units and abbreviations	Yes.	
§ 63.4	Prohibited activities; compliance date; circumvention, severability.	Yes.	
§ 63.5	Construction/reconstruction applicability; applications; approvals.	Yes.	
§ 63.6(a)	Compliance with standards and maintenance requirements—applicability.	Yes.	
§ 63.6(b)(1)–(4)	Compliance dates for new or reconstructed sources.	Yes	§ 63.8995 specifies compliance dates.
§ 63.6(b)(5)	Notification if commenced construction or reconstruction after proposal.	Yes.	
§ 63.6(b)(6)	[Reserved]	Yes.	
§ 63.6(b)(7)	Compliance dates for new or reconstructed area sources that become major.	Yes.	§ 63.8995 specifies compliance dates.
§ 63.6(c)(1)–(2)	Compliance dates for existing sources	Yes	§ 63.8995 specifies compliance dates.
§ 63.6(c)(3)–(4)	[Reserved]	Yes.	
§ 63.6(c)(5)	Compliance dates for existing area sources that become major.	Yes	§ 63.8995 specifies compliance dates.
§ 63.6(d)	[Reserved]	Yes.	
§ 63.6(e)(1)–(2)	Operation and maintenance requirements.	Yes.	
§ 63.6(e)(3)	SSM plans	Yes.	
§ 63.6(f)(1)	Compliance except during SSM	Yes.	
§ 63.6(f)(2)–(3)	Methods for determining compliance	Yes.	
§ 63.6(g)	Use of an alternative nonopacity emission standard.	Yes.	
§ 63.6(h)	Compliance with opacity/visible emission standards.	No	Subpart NNNNN does not specify opacity or visible emission standards.
§ 63.6(i)	Extension of compliance with emission standards.	Yes.	
§ 63.6(j)	Presidential compliance exemption	Yes.	
§ 63.7(a)(1)–(2)	Performance test dates	Yes	Except for existing affected sources as specified in § 63.9010(b).
§ 63.7(a)(3)	Administrator's Clean Air Act section 114 authority to require a performance test.	Yes.	
§ 63.7(b)	Notification of performance test and rescheduling.	Yes.	

TABLE 7 TO SUBPART NNNNN OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNNN—Continued

Citation	Requirement	Applies to Subpart NNNNN	Explanation
§ 63.7(c)	Quality assurance program and site-specific test plans.	Yes.	
§ 63.7(d)	Performance testing facilities	Yes.	
§ 63.7(e)(1)	Conditions for conducting performance tests.	Yes.	
§ 63.7(f)	Use of an alternative test method	Yes.	
§ 63.7(g)	Performance test data analysis, recordkeeping, and reporting.	Yes.	
§ 63.7(h)	Waiver ofperformance tests	Yes.	
§ 63.8(a)(1)–(3)	Applicability of monitoring requirements.	Yes	Additional monitoring requirements are found in § 63.9005(d) and 63.9035.
§ 63.8(a)(4)	Monitoring with flares	No	Subpart NNNNN does not refer directly or indirectly to § 63.11.
§ 63.8(b)	Conduct of monitoring and procedures when there are multiple effluents and multiple monitoring systems.	Yes.	
§ 63.8(c)(1)–(3)	Continuous monitoring system O&M	Yes	Applies as modified by § 63.9005(d).
§ 63.8(c)(4)	Continuous monitoring system requirements during breakdown, out-of-control, repair, maintenance, and high-level calibration drifts.	Yes	Applies as modified by § 63.9005(d).
§ 63.8(c)(5)	Continuous opacity monitoring system (COMS) minimum procedures.	No	Subpart NNNNN does not have opacity or visible emmission standards.
§ 63.8(c)(6)	Zero and high level calibration checks	Yes	Applies as modified by § 63.9005(d).
§ 63.8(c)(7)(8)	Out-of-control periods, including reporting.	Yes.	
§ 63.8(d)–(e)	Quality control program and CMS performance evaluation.	No	Applies as modified by § 63.9005(d).
§ 63.8(f)(1)–(5)	Use of an alternative monitoring method.	Yes.	
§ 63.8(f)(6)	Alternative to relative accuracy test	No	Only applies to sources that use continuous emissions monitoring systems (CEMS).
§ 63.8(g)	Data reduction	Yes	Applies as modified by § 63.9005(d).
§ 63.9(a)	Notification requirements—applicability	Yes.	
§ 63.9(b)	Initial notifications	Yes	Except § 63.9045(c) requires new or reconstructed affected sources to submit the application for construction or reconstruction required by § 63.9(b)(1) (iii) in lieu of the initial notification.
§ 63.9(c)	Request for compliance extension	Yes.	
§ 63.9(d)	Notification that a new source is subject to special compliance requirements.	Yes.	
§ 63.9(e)	Notification of performance test	Yes.	

TABLE 7 TO SUBPART NNNNN OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNNN—Continued

Citation	Requirement	Applies to Subpart NNNNN	Explanation
§ 63.9(f)	Notification of visible emissions/opacity test.	No	Subpart NNNNN does not have opacity or visible emission standards.
§ 63.9(g)(1)	Additional CMS notifications—date of CMS performance evaluation.	Yes.	
§ 63.9(g)(2)	Use of COMS data	No	Subpart NNNNN does not require the use of COMS.
§ 63.9(g)(3)	Alternative to relative accuracy testing	No	Applies only to sources with CEMS.
§ 63.9(h)	Notification of compliance status	Yes.	
§ 63.9(i)	Adjustment of submittal deadlines	Yes.	
§ 63.9(j)	Change in previous information	Yes.	
§ 63.10(a)	Recordkeeping/reporting applicability	Yes.	
§ 63.10(b)(1)	General recordkeeping requirements	Yes	§§ 63.9055 and 63.9060 specify additional recordkeeping requirements.
§ 63.10(b)(2)(i)–(xi)	Records related to SSM periods and CMS.	Yes.	
§ 63.10(b)(2)(xii)	Records when under waiver	Yes.	
§ 63.10(b)(2)(xiii)	Records when using alternative to relative accuracy test.	No	Applies only to sources with CEMS.
§ 63.10(b)(2)(xiv)	All documentation supporting initial notification and notification of compliance status.	Yes.	
§ 63.10(b)(3)	Recordkeeping requirements for applicability determinations.	Yes.	
§ 63.10(c)	Additional recordkeeping requirements for sources with CMS.	Yes	Applies as modified by § 63.9005(d).
§ 63.10(d)(1)	General reporting requirements	Yes	§ 63.9050 specifies additional reporting requirements.
§ 63.10(d)(2)	Performance test results	Yes.	
§ 63.10(d)(3)	Opacity or visible emissions observations.	No	Subpart NNNNN does not specify opacity or visible emission standards.
§ 63.10(d)(4)	Progress reports for sources with compliance extensions.	Yes.	
§ 63.10(d)(5)	SSM reports	Yes.	
§ 63.10(e)(1)	Additional CMS reports—general	Yes	Applies as modified by § 63.9005(d).
§ 63.10(e)(2)(i)	Results of CMS performance evaluations.	Yes	Applies as modified by § 63.9005(d).
§ 63.10(e)(2)(ii)	Results of COMS performance evaluations.	No	Subpart NNNNN does not require the use of COMS.
§ 63.10(e)(3)	Excess emissions/CMS performance reports.	Yes.	
§ 63.10(e)(4)	Continuous opacity monitoring system data reports.	No	Subpart NNNNN does not require the use of COMS.
§ 63.10(f)	Recordkeeping/reporting waiver	Yes.	

TABLE 7 TO SUBPART NNNNN OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNNN—Continued

Citation	Requirement	Applies to Subpart NNNNN	Explanation
§ 63.11	Control device requirements—applicability.	No	Facilities subject to subpart NNNNN do not use flares as control devices.
§ 63.12	State authority and delegations	Yes	§ 63.9070 lists those sections of subparts NNNNN and A that are not delegated.
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by reference	Yes	Subpart NNNNN does not incorporate any material by reference.
§ 63.15	Availability of information/confidentiality.	Yes.	

[FR Doc. 03–5517 Filed 4–16–03; 8:45 am]
BILLING CODE 6560–50–P

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 20, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (*See* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 10, 2003.

Richard E. Greene,

Regional Administrator, Region 6.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart T—Louisiana

■ 2. Section 52.975 is amended by adding paragraph (g) to read as follows:

§ 52.975 Redesignations and maintenance plans; ozone.

* * * * *

(g) Approval.—The Louisiana Department of Environmental Quality (LDEQ) submitted to the EPA a request on December 4, 2000, to revise the Louisiana SIP for Beauregard, St. Mary, Lafayette, and Grant Parishes and the New Orleans Consolidated Metropolitan Statistical Area ozone maintenance area. The revision involves changes to the approved contingency plans. The contingency measures and the schedule for implementation satisfy the requirements of section 175A(d) of the Act. The EPA therefore approved this request on June 20, 2003.

[FR Doc. 03–9619 Filed 4–18–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2003–0003; FRL–7461–7]

RIN 2060–AE79

National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emissions standards for hazardous air pollutants (NESHAP) for new and existing reinforced plastic composites production facilities. The NESHAP regulate production and ancillary processes used to manufacture products with thermoset resins and gel coats. Reinforced plastic composites production facilities emit hazardous air pollutants (HAP), such as styrene, methyl methacrylate (MMA), and methylene chloride (dichloromethane). These HAP have adverse health effects including headache, fatigue, depression, irritation of skin, eyes, and mucous membranes. Methylene chloride has been classified as a probable human carcinogen. The NESHAP will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources in this category to meet HAP emissions standards reflecting the application of the maximum achievable control technology (MACT). We estimate the final NESHAP will reduce nationwide emissions of HAP from these facilities by approximately 7,682 tons per year (tpy) (43 percent).

EFFECTIVE DATE: April 21, 2003.

ADDRESSES: *Docket.* Docket ID No. OAR–2003–0003 (formerly Docket No. A–94–52) contains supporting information used in developing the standards. The docket is available for public viewing at the Office of Air and Radiation Docket and Information Center (Air Docket) in the EPA Docket Center, EPA West, Room B108, 1301 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For further information concerning applicability and rule determinations, contact the appropriate State or local agency representative. For information concerning the analyses performed in developing the NESHAP, contact Keith Barnett, U.S. EPA, Emission Standards Division, Minerals and Inorganic Chemicals Group, C504–05, Research Triangle Park, North Carolina 27711, (919) 541–5605, *barnett.keith@epa.gov.*

SUPPLEMENTARY INFORMATION: *Docket.* We have established an official public docket for this action under Docket ID No. OAR–2003–0003 (formerly Docket No. A–94–52). The docket is an organized and complete file of the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket, excluding interagency review materials, will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 566–1742. A reasonable fee may be charged for copying docket materials.

Electronic Docket Access. You may access the final rule electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility in the above paragraph entitled "Docket." Once in the system, select "search," then key in the appropriate docket identification number.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's final NESHAP will also be available on the WWW through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the NESHAP will be posted 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. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

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

Category	NAICS code	SIC code	Examples of regulated entities
Industry	325211 326122 325991 326191 327991 327993 332998 33312 33651 335311 335313 335312 33422 336211 336112 336211 33651 33653 336399 33612 336213 336413 336214	2821 3084 3087 3088 3089 3281 3296 3431 3531 3531 3612 3613 3621 3663 3711 3711 3713 3714 3714 3716 3728 3743 3792 3999	Reinforced plastic composites production facilities that manufacture intermediate and/or final products using styrene containing thermoset resins and gel coats.
Federal Government	.....	.....	Federally owned facilities that manufacture intermediate and/or final products using styrene containing thermoset resins and gel coats.

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 §§ 63.5785 and 63.5787 of the final NESHAP. 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.

Judicial Review. The NESHAP for Reinforced Plastic Composites Manufacturing were proposed on August 2, 2001 (66 FR 40324). This action announces EPA's final decisions on the NESHAP. Under section 307(b)(1) of the CAA, judicial review of the final NESHAP is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by June 20, 2003. Under section 307(d)(7)(B) of the CAA, only an objection to a rule or procedure 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 the final rule may not be challenged separately in any civil or criminal proceeding brought to enforce these requirements.

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

I. Introduction
A. What is the purpose of NESHAP?
B. What is the source of authority for development of NESHAP?
C. What processes and operations are included in the Reinforced Plastic Composites Production source category?
II. Summary of the Final NESHAP
A. What source categories and subcategories are affected by the final NESHAP?
B. What are the primary sources of HAP emissions and what are the emissions?
C. What is the affected source?
D. What are the HAP emissions limits, operating limits, and other standards?
E. What are the HAP emissions factor equations in Table 1 to subpart WWWW of part 63, and how are they used in the final NESHAP?
F. When would I need to comply with the final NESHAP?
G. What are the options for demonstrating compliance?
H. What are the testing and initial compliance requirements?
I. What are the continuous compliance requirements?
J. What are the notification, reporting, and recordkeeping requirements?
III. Summary of Environmental, Energy, and Economic Impacts
A. What facilities are affected by the final NESHAP?
B. What are the air quality impacts?
C. What are the water quality impacts?
D. What are the solid and hazardous waste impacts?
E. What are the energy impacts?
F. What are the cost impacts?
G. What are the economic impacts?
IV. Summary of Changes Since Proposal
A. Above-the-Floor Capture and Control Requirements for Existing Sources
B. Replacing the Point Value Equations with HAP Emissions Factor Equations Based on the Unified Emissions Factors, and Changes to Centrifugal Casting HAP Emissions Factors
C. MACT Floors for Existing Sources
D. Cleaning
E. Compression/Injection Molding
F. Averaging Provisions
G. Pultrusion Compliance Options
H. Applicability
I. Potential Overlap with the Boat Manufacturing NESHAP (40 CFR Part 63, Subpart VVVV)
J. Determination of Resin and Gel Coat HAP Content
K. New Source MACT Floors
V. Summary of Responses to Major Comments
VI. Relationship of the Final NESHAP to Other NESHAP and the CAA Operating Permits Program
A. National Emissions Standards for Closed Vent Systems, Control Devices, Recovery Devices, and Routing to a Fuel Gas System of a Process (40 CFR Part 63, Subpart SS)
B. NESHAP for Boat Manufacturing (40 CFR Part 63, Subpart VVVV)
C. NESHAP for Plastic Parts and Products (Surface Coating)
D. Operating Permit Program
VII. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Analysis
D. Unfunded Mandates Reform Act
E. Executive Order 13132, Federalism
F. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
H. Executive Order 13211, Actions that Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Congressional Review Act

I. Introduction

A. What Is the Purpose of NESHAP?

The purpose of the final NESHAP is to protect the public health by reducing emissions of HAP from Reinforced Plastic Composite Manufacturing facilities.

B. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. Reinforced Plastic Composites Production was included on the initial list of source categories published on July 16, 1992 (57 FR 31576). Major sources of HAP are those that have the potential to emit 10 tpy or more of any one HAP or 25 tpy or more of any combination of HAP.

The CAA requires NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT.

The MACT floor is the minimum control level allowed for NESHAP. This concept appears in section 112(d)(3) of the CAA. For new sources, the MACT floor cannot be less stringent than the HAP emissions control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average HAP emissions limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost of achieving the HAP emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

C. What Processes and Operations Are Included in the Reinforced Plastic Composites Production Source Category?

The Reinforced Plastic Composites Production source category involves the production of plastic products from cross-linking resins, usually in combination with reinforcing materials and inorganic fillers. These products may have an outer surface produced with a styrene-containing gel coat. The production of products that do not contain reinforcing materials is also included in this category, as well as the production of intermediate compounds that are later used to make the final plastic products. These non-reinforced products were included because they are produced using the same types of resins, have similar HAP emissions characteristics, and would use similar HAP emissions controls. This source category is limited to those resins and gel coats which contain styrene, either by itself or with a combination of other monomers or solvents.

There are a wide variety of operations that use styrene-containing resins to make thermoset plastics. Such manufacturing operations include manual resin application, mechanical resin application, filament application, gel coat application, compression/injection molding, resin transfer molding, centrifugal casting, continuous lamination/casting, polymer casting, pultrusion, bulk molding compound (BMC) manufacturing, and sheet molding compound (SMC) manufacturing. There are also ancillary operations such as cleaning, mixing, repair, and HAP-containing materials storage, that occur in conjunction with these manufacturing operations. Many facilities will use multiple operations in manufacturing their products.

This source category also includes some repair operations that take place at a manufacturing facility, such as repairs of parts or products that are manufactured at the same facility that must be repaired due to defects or damage that occur during manufacturing, or repairs of parts that were originally manufactured at that location and have been returned for repair due to defects in the original manufacture or damage in shipment. No other types of repair operations are included in this source category. Facilities that perform non-routine manufacture of reinforced plastic composites parts solely to replace parts of a reinforced plastic composite product that has been in use are not considered to be manufacturing facilities, and repair operations at these types of facilities are not part of this source category. See § 63.5935 of the final rule for the definition of non-routine manufacture. We believe that repair operations that are collocated with manufacturing operations that originally produce the reinforced plastic composites being repaired use the same materials as the manufacturing processes. Repair operations that are not collocated may use different materials and application techniques.

II. Summary of the Final NESHAP

A. What Source Categories and Subcategories Are Affected by the Final NESHAP?

Today's final rule applies to the Reinforced Plastic Composites Production source category. We developed subcategories based on size (*i.e.*, tpy of HAP emitted) in defining the new source MACT floors. These subcategories are sources that emit 100 tpy or more from open molding, pultrusion, centrifugal casting, continuous lamination/casting, SMC and BMC manufacturing, and mixing operations; and all other new sources. The new source MACT floors incorporate add-on controls for sources in the first subcategory, except for facilities producing large parts, and pollution prevention for other new sources.

The floors for existing sources are mainly based on pollution prevention, not add-on controls. Where floors are based mainly on pollution-prevention control techniques, we did not subcategorize by size. However, we did segregate existing sources by resin application technique, resin type, and final products, and developed separate floors for each process/product grouping.

B. What Are the Primary Sources of HAP Emissions and What Are the Emissions?

The primary source of HAP emissions from the Reinforced Plastic Composites Production source category is the evaporation of styrene and other organic liquid HAP contained in the resin during the application and/or curing of the resin. Since styrene participates in the curing reaction, not all of it is emitted. Organic HAP emissions also occur during ancillary operations such as cleaning, mixing, repair, and HAP containing materials storage. Although some gel coats or resins may contain inorganic HAP, such as lead, in resin solids or pigments, we have no data to

indicate the inorganic HAP are emitted from the production process. Therefore, only organic HAP are addressed by the final NESHAP.

Total baseline HAP emissions from the Reinforced Plastic Composites Production source category are approximately 18,000 tpy. The HAP emissions from spray lay-up and gel coating constitute approximately 52 percent and 23 percent of the total baseline HAP emissions, respectively. The remaining HAP emissions are primarily from hand lay-up/bucket and tool application, compression molding/injection molding, filament application, SMC manufacturing, and centrifugal casting.

C. What Is the Affected Source?

The affected source is the combination of all operations regulated under these standards at a reinforced plastic composites production facility. The following regulated operations are typically performed at reinforced plastic composites production facilities and are part of the affected source: open molding, closed molding, centrifugal casting, continuous lamination/casting, polymer casting, pultrusion, SMC manufacturing, equipment cleaning, mixing, BMC manufacturing, repair, and storage of HAP-containing materials. Repair operations are also included as part of the affected source if the repair is made to a part manufactured at that location.

D. What Are the HAP Emissions Limits, Operating Limits, and Other Standards?

We are promulgating the requirements of the final NESHAP in the form of HAP emissions limits (*i.e.*, HAP emissions factors, mass rate, or percent reduction), operating limits, and work practice standards. Work practice standards include design, equipment, work practices, and operational standards.

The final NESHAP contain a HAP emissions threshold that distinguishes between sources that typically can meet the HAP emissions limits using pollution prevention, and those that must use add-on controls. This threshold is called the "100 tpy threshold." For existing sources, you determine if you are below, above, or equal to the 100 tpy threshold by summing all HAP emissions from centrifugal casting and continuous lamination/casting operations at the source. In determining HAP emissions from centrifugal casting operations, only HAP emissions from venting of the centrifugal casting mold during spinning and/or curing are considered. The HAP emissions that occur from application of resin or gel coat to an open centrifugal casting mold are considered to be open molding HAP emissions. The HAP emissions from other operations or processes are not included because the 100 tpy threshold does not apply to other operations or processes.

For new sources, you determine if you are below, above, or equal to the 100 tpy threshold by summing all HAP emissions from open molding, pultrusion, SMC and BMC manufacturing, centrifugal casting, continuous lamination/casting, and mixing operations at the source. The HAP emissions from closed molding, cleaning, repair and HAP-containing materials storage are not used in threshold determinations. In determining HAP emissions from centrifugal casting operations, only HAP emissions from venting of the centrifugal casting mold are included. The HAP emissions that occur from application of resin or gel coat to an open centrifugal casting mold are considered to be open molding HAP emissions.

The requirements for new and existing sources that are below the 100 tpy threshold are based on the MACT floor level of control. These requirements are summarized in the following table:

TABLE 1.—SUMMARY FOR EXISTING SOURCES, AND NEW SOURCES BELOW THE 100 TPY HAP EMISSIONS THRESHOLD

If your operation type is . . .	And you use . . .	MACT for existing facilities and new facilities that are below the 100 tpy threshold is . . .
1. Open molding—corrosion-resistant and/or high strength (CR/HS).	a. mechanical resin application	112 lb/ton.
	b. filament application	171 lb/ton.
	c. manual resin application	123 lb/ton.
2. Open molding—non-CR/HS	a. mechanical resin application	87 lb/ton.
	b. filament application	188 lb/ton.
	c. manual resin application	87 lb/ton.
3. Open molding—tooling	a. mechanical resin application	254 lb/ton.
	b. manual resin application	157 lb/ton.
4. Open molding—low-flame spread/low-smoke products.	a. mechanical resin application	497 lb/ton.
	b. filament application	270 lb/ton.
	c. manual resin application	238 lb/ton.
5. Open molding—shrinkage controlled resin	a. mechanical resin application	354 lb/ton.
	b. filament application	215 lb/ton.
	c. manual resin application	180 lb/ton.
6. Open molding—gel coat[b]	a. tooling gel coating	437 lb/ton.
	b. white/off white pigmented gel coating	267 lb/ton.
	c. all other pigmented gel coating	377 lb/ton.
	d. CR/HS or high performance gel coat	605 lb/ton.
	e. fire retardant gel coat	854 lb/ton.
	f. clear production gel coat	522 lb/ton.
7. Centrifugal casting—CR/HS[c]	N/A	25 lb/ton.
8. Centrifugal casting—non-CR/HS[c]	N/A	20 lb/ton.
9. Pultrusion[d]	N/A	Reduce total HAP emissions by at least 60 weight percent.
10. Continuous lamination/casting	N/A	Reduce total HAP emissions by at least 58.5 weight percent or not exceed a HAP emissions limit of 15.7 lbs of HAP per ton of neat resin plus and neat gel coat plus.

TABLE 1.—SUMMARY FOR EXISTING SOURCES, AND NEW SOURCES BELOW THE 100 TPY HAP EMISSIONS THRESHOLD—Continued

If your operation type is . . .	And you use . . .	MACT for existing facilities and new facilities that are below the 100 tpy threshold is . . .
11. A closed molding operation using compression/injection molding.		Uncover, unwrap or expose only one charge per mold cycle per compression/injection molding machine. For machines with multiple molds, one charge means sufficient material to fill all molds for one cycle. For machines with robotic loaders, no more than one charge may be exposed prior to the loader. For machines fed by hoppers, sufficient material may be uncovered to fill the hopper. Hoppers must be closed when not adding materials. Materials may be uncovered to feed to slitting machines. Materials must be recovered after slitting.
12. A cleaning operation		Do not use cleaning solvents that contain HAP, except that HAP containing materials may be used in closed systems, and to clean cured resin from application equipment. Application equipment includes any equipment that directly contacts resin between storage and applying resin to the mold or reinforcement.
13. A HAP-containing materials storage operation.		Keep containers that store HAP-containing materials closed or covered except during the addition or removal of materials. Bulk HAP-containing materials storage tanks may be vented as necessary for safety.
14. A SMC manufacturing operation		Close or cover the resin delivery system to the doctor box on each SMC manufacturing machine. The doctor box itself may be open.
15. A SMC manufacturing operation		Use a nylon containing film or a film with an equal or lower permeability to styrene compared to a nylon containing film to enclose SMC.
16. A mixing or BMC manufacturing operation[d]		Use mixer covers with no visible gaps present in the mixer covers. Gaps of up to 1 inch are permissible around mixer shafts and any required instrumentation.
17. A mixing or BMC manufacturing operation[e]		Do not actively vent mixers to the atmosphere while the mixing agitator is turning.
18. A mixing or BMC manufacturing operation[e]		Keep the mixer covers closed during mixing except when adding materials to the mixing vessels.
19. A new or existing pultrusion operation manufacturing parts with 1000 or more reinforcements and a cross section area of 60 square inches or more that is not subject to the 95 percent HAP emissions requirement.		i. not allow vents from the building ventilation system, or local or portable fans to blow directly on or across the wet-out area(s). ii. not permit point suction of ambient air in the wet-out area(s) unless that air is directed to a control device. iii. use devices such as deflectors, baffles, and curtains when practical to reduce air flow velocity across the wet-out area(s). iv. direct any compressed air exhausts away from resin and wet-out area(s). v. convey resin collected from drip-off pans or other devices to reservoirs, tanks, or sumps via covered troughs, pipes, or other covered conveyance that shields the resin from the ambient air. vi. cover all reservoirs, tanks, sumps, or HAP-containing materials storage vessels except when they are being charged or filled. vii. cover or shield from ambient air resin delivery systems to the wet-out area(s) from reservoirs, tanks, or sumps where practical.

[a] HAP emissions limits for open molding and centrifugal casting expressed as lb/ton are calculated using the equations shown in Table 1 to subpart WWWW of part 63. You must be at or below these values based on a 12-month rolling average.

[b] These limits are for spray application of gel coat. Manual gel coat application may be included as part of spray gel coat application for compliance purposes using the same HAP emissions factor equation and HAP emissions limit.

[c] Centrifugal casting operations where the resin is injected into the mold and the mold is completely closed during spinning and curing may be treated as closed molding operations.

[d] Pultrusion machines that produce parts with 1000 or more reinforcements and a cross sectional area of 60 inches or more are not subject to this requirement. Their requirement is the work practice of air flow management reduction.

[e] Containers of 5 gallons or less may be open when active mixing is taking place, or during periods when they are in process (*i.e.*, they are actively being used to apply resin). For polymer casting mixing operations, containers with a surface area of 500 square inches or less may be open while active mixing is taking place.

For existing sources that are equal to or above the 100 tpy HAP emissions threshold, centrifugal casting and continuous lamination/casting operations meet an above-the-floor requirement based on 95 percent control of HAP emissions.

The requirements for new sources that are equal to or above the 100 tpy HAP emissions threshold are also based on the floor level of control. The floor level of control for these sources is a 95 percent reduction of HAP emissions for open molding, pultrusion, SMC and BMC manufacturing, centrifugal casting, continuous lamination/casting, and mixing operations with one exception. For open molding and pultrusion operations at new sources that produce large parts, the floor level of control is the same as existing sources shown in the previous table. All other operations meet the requirements shown in the previous table.

In developing final requirements for reinforced plastic composites affected sources, we have provided an alternative format where possible. For example, a facility meeting a 95 percent HAP emissions reduction requirement for open molding processes can alternatively meet a HAP emissions limit. We have also provided alternatives for meeting the limits for continuous lamination/casting and SMC manufacturing operations.

E. What Are the HAP Emissions Factor Equations in Table 1 to Subpart WWWW of Part 63, and How Are They Used in the Final NESHAP?

Table 1 to subpart WWWW of part 63 presents a series of HAP emissions factor equations for open molding and centrifugal casting operations. These equations are specific to the type of resin and gel application and HAP emissions reduction technique used. These equations allow you to calculate HAP emissions factors based on HAP content and application method for each material that you use. These HAP emissions factors are then averaged and compared to limits in the final standards to determine if your open molding and centrifugal casting operations are in compliance.

The HAP emissions factor equations for open molding are identical to HAP emissions equations developed by the composites industry called the Unified Emissions Factors (UEF) as they existed at the time of final rule development. These equations can also be combined with resin and gel coat use to determine HAP emissions rates. It should be noted that although the equations are identical to the UEF at the time the rule is finalized, for purposes of compliance, only the equations actually contained in Table 1 to subpart WWWW of part 63 may be used.

F. When Would I Need To Comply With the Final NESHAP?

We are requiring that all existing sources comply by April 21, 2006. Any source that commenced construction after August 2, 2001, at a site where there were no existing reinforced plastic composite operations is a new source. New affected sources that are now in operation must be in compliance on April 21, 2003. New affected sources that startup after April 21, 2003 must comply upon startup. Existing area sources that increase their HAP emissions or their potential to emit such that they become a major source of HAP must be in compliance within 3 years of the date they become a major source. New area sources that become major sources of HAP must comply upon becoming a major source. All open molding and centrifugal casting operations that comply by meeting a specified HAP emissions limit on a 12-month rolling average will have 1 year from the compliance date to demonstrate compliance.

We are allowing new and existing facilities 3 years to comply from the time their HAP emissions reach or exceed the applicability thresholds which require the installation of add-on controls, if these HAP emissions increases occur after their initial compliance date.

In addition, we have added a one-time exemption for facilities that exceed the 100 tpy threshold due to unusual circumstances. Facilities that apply for this exemption and subsequently exceed the threshold the next year, must comply within 3 years from the time their HAP emissions first exceeded the threshold. Because this is a one-time exemption, an exceedance in any future years would result in a requirement for compliance within 3 years of the subsequent exceedance.

G. What Are the Options for Demonstrating Compliance?

Today's final NESHAP provide several options for compliance for certain operations. We are providing these options to afford industry the flexibility to decide which method is best suited for each particular situation. Operations not listed in this section have only one option for demonstrating compliance.

For open molding and centrifugal casting operations, you determine compliance with the HAP emissions limits by determining HAP emissions factors for the operations at your facility, and comparing your HAP emissions factors to the appropriate HAP emission limits for each open molding and centrifugal casting operation. To determine your HAP emissions factor you may use the HAP emissions factor equations in Table 1 to subpart WWWW, or HAP emissions factors based on facility HAP emissions testing. For open molding operations at existing and new sources, the final rule allows you to choose to comply by meeting the individual HAP emissions limits shown in Table 3 to subpart WWWW of part 63 for each operation at your affected source, or by meeting the weighted average HAP emissions limit for all open molding operations at your affected source. In addition, if you produce parts with any combination of manual resin application, mechanical resin application, filament application, or centrifugal casting operations at your affected source, you can comply using the an alternative method shown in Table 7 to subpart WWWW of part 63. You determine the highest allowable HAP resin for each individual operation from Table 3 to subpart WWWW of part 63. This same resin can then be used in all open molding and centrifugal casting operations as shown in Table 7 to subpart WWWW of part 63.

For open molding and centrifugal casting operations where the rule would require you to meet a percent reduction, you could use an add-on control device to achieve the required reduction, or you may choose to meet a HAP emissions limit that corresponds to that particular operation's percent reduction.

For continuous lamination/casting operations at existing and new sources, we are allowing you to demonstrate that each continuous casting line and each

continuous lamination line meets the appropriate standard in Table 3 to subpart WWWW of part 63, or § 63.5805(b) or (d) of the final rule. Alternatively, you can average all your continuous casting and continuous lamination lines together and demonstrate that they meet the appropriate standard. An additional alternative for sources that emit less than the 100 tpy threshold would be to capture your HAP emissions from your wet-out area in a permanent total enclosure that meets EPA's criteria, as specified in Method 204 of appendix M of 40 CFR part 51, and vent the captured wet-out HAP emissions through a closed vent system to a control device achieving 95 percent reduction of HAP emissions. Under the final rule, these alternatives can be used in combination to demonstrate compliance.

The standards for continuous lamination/casting operations are expressed as a percent reduction of HAP emissions. As an alternative, facilities can elect to meet a HAP emissions limit.

For existing and new pultrusion operations, you can capture and vent your HAP emissions to a control device that achieves the required percent reduction of HAP emissions. For all existing sources and for new sources that emit less than the 100 tpy threshold, you may use a wet-area enclosure with a resin drip collection system, direct die injection or preform injection systems that meet the criteria specified in § 63.5830 of the final rule to meet the 60 percent HAP emissions reduction requirement. For pultrusion machines that produce parts with 1000 or more reinforcements and a cross sectional area of 60 inches or more, you must implement the work practice standards in Table 4 to subpart WWWW of part 63.

For SMC manufacturing operations at new sources that exceed the 100 tpy threshold, we allow facilities to meet a 95 percent HAP emissions reduction requirement, or the HAP emissions limit specified in Table 5 to subpart WWWW of part 63.

H. What Are the Testing and Initial Compliance Requirements?

We are requiring you to conduct an initial performance test using specified EPA test methods on all affected sources which use a control device to achieve compliance. You must test at the inlet and outlet of the control device and using these results, calculate a percent reduction.

We are also requiring you to conduct a design evaluation, as specified by EPA Method 204 of appendix M of 40 CFR part 51, if you use permanent total enclosures to capture HAP emissions. If your enclosure does not meet the requirements for a permanent total enclosure, you must test the enclosure to determine the capture efficiency by EPA Methods 204B through E of appendix M of 40 CFR part 51 or an alternative method that meets the data quality objectives and lower confidence limit approaches contained in 40 CFR part 63, subpart KK. Test runs for EPA Methods 204B through E or alternative test methods must be at least 3 hours.

Prior to the initial performance test, owners and operators of affected sources would be required to install the parameter monitoring equipment to be used to demonstrate compliance with the operating limits. During the initial performance test, the owners and operators would use the parameter monitoring equipment to establish operating parameter limits.

I. What Are the Continuous Compliance Requirements?

If you use an add-on control device, we are requiring that you monitor and record the operating parameters established during the initial performance test, and calculate average operating parameter values averaged over the period of time specified in the final NESHAP to demonstrate continuous compliance with the operating limits.

If you use the HAP emissions equations in Table 1 to subpart WWWW of part 63 to demonstrate that you are maintaining a HAP emissions factor less than or equal to the appropriate HAP emissions limit listed in the final NESHAP, we are requiring that you calculate the HAP emissions factor one time if the resins or gel coats used in the operation remain the same, or if all the resins and gel coats used individually meet the applicable HAP emissions limit. You are required to calculate HAP emissions factors on a 12-month rolling average each month if the resin or gel coat varies between operations or varies over time, and not all resins or gel coats taken individually meet the required HAP emissions limit.

If you are complying with work practice standards, we are requiring that you demonstrate compliance with the work practice standards in the final NESHAP by performing the necessary work practices and by keeping a record certifying that you are in compliance with the work practices.

J. What Are the Notification, Reporting, and Recordkeeping Requirements?

We are requiring that you submit Initial Notification, Notification of Performance Tests, and Notification of Compliance Status reports by the specified dates in the final NESHAP, which may vary depending on whether the affected source is new or existing.

You are also required to submit semiannual compliance reports. If you take action that is inconsistent with your approved startup, shutdown, and malfunction (SSM) plan, then you would need to submit SSM reports within 2 days of starting such action, and within 7 days of ending such action.

We are requiring that you keep a copy of each notification and report, along with supporting documentation for 5 years. Of this time, the 2 most recent years must be on-site. You must keep records related to SSM, records of performance tests, and records for each continuous parameter monitoring system. Under the final rule, if you must comply with the work practice standards, you also need to keep records certifying that you are in compliance with the work practices for 5 years. If you use the HAP emissions factor equations to demonstrate compliance, you must keep all data, assumptions, and calculations used to determine your HAP emissions factors. For new and existing continuous lamination/casting operations, you also must keep the following records when complying with the percent reduction or pound per ton requirements: All data, assumptions, and calculations used to determine the percent reduction or pounds per ton, as applicable; a brief description of the rationale for the assignment of an equation or factor to each formula; all data, assumptions, and calculations used to derive facility-specific HAP emissions estimations and factors; identification and rationale for the worst-case scenario; and documentation that the appropriate regulatory agency has approved all HAP emissions estimation equations and factors.

III. Summary of Environmental, Energy, and Economic Impacts

A. What Facilities Are Affected by the Final NESHAP?

There are approximately 435 existing facilities manufacturing reinforced plastic composites that are major sources and subject to the final NESHAP. The rate of growth for the reinforced plastic composites industry is estimated to be 84 new facilities over the next 5 years.

B. What Are the Air Quality Impacts?

The 1997 baseline HAP emissions from the reinforced plastic composites industry are approximately 18,000 tpy. The final NESHAP will reduce HAP

from existing sources by 7,682 tpy, a reduction of 43 percent.

The final NESHAP will result in small increases in other air pollution emissions from combustion devices that will be installed in the next 5 years to comply with today's final rule. These increases result both from the combustion device directly, and from the electrical generating plants used to generate the electricity necessary to operate the add-on controls and associated air handling equipment. These emissions are estimated to be 2.3 tpy of sulfur oxides (SOx), 3.0 tpy of nitrogen oxides (NO_x), 4.9 tpy of carbon monoxide (CO), and 0.1 tpy of particulate matter (PM) emissions.

C. What Are the Water Quality Impacts?

We estimate that the final NESHAP will have no adverse water quality impacts. We do not expect anyone to comply by using add-on control devices or process modifications that would generate wastewater.

D. What Are the Solid and Hazardous Waste Impacts?

We estimate that the final NESHAP will decrease the amount of solid waste generated by the reinforced plastic composites industry by approximately 2,650 tpy. The decrease in solid waste is directly related to switching to nonatomized resin application equipment (*i.e.*, flowcoaters and resin rollers). Switching to nonatomized resin application equipment results in a decrease in overspray because of a greater transfer efficiency of resin to the part being manufactured. A decrease in resin overspray consequently reduces the amount of waste from disposable floor coverings, cured resin waste, and personal protective equipment (PPE) for workers. Disposable floor coverings are replaced on a periodic basis to prevent resin buildup on the floor. We estimate that solid waste generation of floor coverings will decrease by approximately 620 tpy, and that cured resin solid waste will decrease by approximately 2,030 tpy.

We project that the decreased overspray from nonatomized resin application equipment will result in a decreased usage of PPE, which also consequently reduces the amount of solid waste. When using nonatomized resin application equipment, workers typically wear less PPE than when using atomized spray guns because of the reduced presence of resin aerosols and lower styrene levels in the workplace. Because we did not have information on the many different types of PPE currently used, we did not estimate this decrease in solid waste.

Some facilities that switch from atomized to nonatomized spray guns may have a small increase of hazardous waste from the used nonatomized spray gun cleaning solvents. However, most facilities would not see an increase under the final rule, and the overall impact on the industry will be small relative to the solid waste reductions. Nearly all nonatomized spray guns require resin and catalyst to be mixed inside the gun (internal-mix) and must be flushed when work is stopped for more than a few minutes. External-mix spray guns do not need to be flushed because resin is mixed with catalyst outside the gun. Facilities that switch from external-mix to nonatomized spray guns will use more solvent. Solvent usage should not change at facilities switching from internal-mix spray guns to nonatomized spray guns. The most common flushing solvents are acetone and water-based emulsifiers. Only a couple of ounces of solvent are typically needed to flush the mixing chamber and nozzle of internal-mix spray guns.

We do not have adequate data to predict the potential solvent waste impact from switching to nonatomized spray guns. The magnitude of the impact depends on the type of gun currently used (internal- or external-mix), the frequency of flushing, and the type of solvent used. However, because of the small amount of solvent used, and since most is allowed to evaporate, we believe the overall solvent waste increase will be small compared to the solid waste reductions.

E. What Are the Energy Impacts?

Energy impacts result from the final NESHAP because some facilities will be required to install add-on controls to meet certain HAP emissions limits or percent reduction requirements. We anticipate that these controls will be concentrator/oxidizer systems or thermal oxidizers. These controls increase energy requirements in two ways. First, all reinforced plastic composites facilities must ventilate work areas to maintain worker styrene exposure within acceptable limits. The ventilation systems typically exhaust air directly to the atmosphere. When an add-on control device is added to control HAP emissions, it creates an additional pressure drop for the ventilation system which, in turn, means that more electricity is required to operate system fans and to operate the control device itself. Second, fuel (usually natural gas) is required to supplement the oxidizer combustion process.

We determined that the overall energy demand for operations in the Reinforced Plastic Composites Production source category could increase by 10 million standard cubic feet per year of natural gas, and 0.6 million kilowatt hours of electricity per year as a result of the final rule. We determined this net increase based on the additional energy demand for control devices installed to meet the final standards. No information for comparison is available on the baseline energy consumption for this source category.

F. What Are the Cost Impacts?

We have estimated the industrywide capital costs for HAP emissions control equipment, including equipment such as open container covers, resin bath enclosures, capture systems, and control devices as $12.6 million for the 435 existing sources and $22.8 million for the 84 new sources. The capital costs include the costs to purchase and install the control equipment.

We have estimated the industrywide annual costs of the final rule are $21.5 million per year for the 435 existing sources and $7.7 million for the 84 new sources. Annual costs include fixed annual costs, such as reporting, recordkeeping and capital amortization, and variable annual costs such as natural gas. The estimated average cost of the final rule is $2,800 per ton of HAP emissions reductions for existing sources and $5,560 per ton of HAP emissions reductions for new sources.

G. What Are the Economic Impacts?

We conducted a detailed economic impact analysis to determine the market- and industry-level impacts associated with the final rule. We expect the aggregate price increase for reinforced plastic composites would be only 0.7 percent, or $0.03 per pound, as a result of the final rule. We project that directly affected producers would reduce total production by 1.7 percent, while producers not directly affected would increase their production by 0.7 percent. Markets for reinforced plastic composites used in corrosion-resistant products are expected to be more heavily impacted with price increases of roughly 1.6 percent and reductions in directly affected domestic production of almost 5 percent. The reason for more significant impacts in the corrosion-resistant market is that facilities in this market have higher average per-unit variable compliance costs. Corrosion-resistant product variable compliance costs are $0.13 per pound of product versus an industry average of $0.06 per pound.

In terms of industry impacts, we analyzed impacts for captive producers and merchant producers. Captive

producers make composites for use by another part of their company in a larger product. Merchant producers sell their products on the open market, either to consumers or other businesses.

In our analysis, captive producers of reinforced plastic composites are expected to fully absorb their compliance costs, which is a conservative approach. We assess impacts as if captive producers are viewed as a profit center like a merchant producer but unable to pass on costs. This is done in lieu of an analysis attempting to estimate cost-pass through for the myriad of final products that use reinforced plastics. We assume merchant producers will attempt to pass through costs to their customers.

Through the market impacts described above, the final NESHAP create both gainers and losers within the merchant segment. Some merchant facilities are projected to experience profit increases with the final rule; however, the majority that continue operating are projected to lose profits. The economic impact analysis indicates that 36 out of 301 merchant facilities (12 percent) and 89 out of 466 product lines (19 percent) at these facilities are at risk of closure because of the final NESHAP. These facilities are believed to be small businesses. Note that this number is slightly higher than the estimate of facility closure at proposal, which was 10 percent. This change is not due to any change in stringency of the final rule as applied to small businesses. It is due the reduction in stringency of the final rule for large sources. More information on the measures we have taken to minimize the small business impacts may be found in the Regulatory Flexibility Act discussion in this preamble. Furthermore, the analysis indicates that ten of the 133 captive facilities (7.5 percent) may be at risk of closure if unable to pass on costs to their customers.

Based on the market analysis, the annual social costs of the final rule are projected to be $19.9 million. The social costs are slightly less than the engineering cost estimate of $21.5 million because producers pass on a portion of these costs to consumers through price increases in an effort to reduce their regulatory burden. These costs are distributed across the many consumers and producers of reinforced plastic composites. Directly affected producers, in aggregate, are expected to lose $6.2 million annually in profits, with those not subject to the final NESHAP gaining $18 million. The consumers of reinforced plastic composites are expected to lose $31.7 million due to higher prices and lower consumption levels associated with the final NESHAP. For more information on the economic analysis, consult the final economic impacts analysis document in the docket for this project.

IV. Summary of Changes Since Proposal

A. Above-the-Floor Capture and Control Requirements for Existing Sources

In the proposed rule, existing facilities that are a small business as defined by the Small Business Administration (SBA) regulations at 13 CFR 121.201, and that emitted 250 tpy or more of HAP, or existing facilities that are not a small business and emitted 100 tpy or more of HAP, from the combination of all open molding, centrifugal casting, continuous lamination/casting, pultrusion, SMC manufacturing, mixing, and BMC manufacturing operations, were required to reduce the total HAP emissions from these operations by at least 95 percent by weight. In the final rule, this requirement now only applies to centrifugal casting and continuous lamination/casting operations, and the threshold has been changed to 100 tpy for both large and small businesses. This reduced the number of facilities we estimated would have to meet an above-the-floor requirement from 34 to 3, reduced the industry annualized costs of the final NESHAP from $26.0 million per year to $21.5 million per year, and reduced the HAP emissions reduction estimate from 14,500 to 7,700 tpy. In addition, for centrifugal casting, the percent reduction requirement only applies to HAP emissions that are vented from the closed centrifugal casting mold. It does not apply to HAP emissions that occur from other operations such as pouring or spraying resin into a centrifugal casting mold while it is open.

B. Replacing the Point Value Equations With HAP Emissions Factor Equations Based on the Unified Emissions Factors, and Changes to Centrifugal Casting HAP Emissions Factors

In the proposed rule, we used a group of equations called point value equations to determine surrogate HAP emissions factors. These factors were then used to rank existing facilities to determine existing source MACT floors for open molding operations. However, we specified that the point value equations were not considered HAP emissions factors and, therefore, should not be used for HAP emissions reporting. This resulted in the potential for facilities to have to use two different sets of equations for HAP emissions reporting and MACT compliance determinations.

In the final rule, we have eliminated the point value equations and replaced them with HAP emissions factor equations that are identical to HAP emissions factor equations that are being used in this industry for HAP emissions calculations, called the Unified Emissions Factors. Therefore, facilities now will have the same equations for MACT compliance determinations and HAP emissions calculations for HAP emissions reports.

For centrifugal casting, we have retained the HAP emissions factor equation in the proposed rule for sources that blow heated air through the mold during spinning and curing. For other centrifugal casters, we have created a new HAP emissions factor equation based on more recent information. This new HAP emissions factor significantly changes the numerical value of the floor (pounds of HAP emissions per ton of resin used) from the value in the proposed rule. However, it did not change the floor facility or the level of control a facility would need to meet the floor.

These new HAP emissions factor equations were also used to re-rank existing facilities to establish the floor level of control for existing sources. Though this change did result in different floor values in lb/ton, it did not change the level of control actually required to meet the floor. However, as discussed below, our reanalysis did result in changes to some floors for other reasons.

C. MACT Floors for Existing Sources

There are several changes to the MACT floors for existing sources, and for new sources that emit less than 100 tpy for the combination of all open molding, centrifugal casting, pultrusion, SMC and BMC manufacturing, mixing, and continuous lamination/casting operations. These changes were a result of facilities submitting additional data that indicated our original analysis of their facility HAP emissions factors were in error, or out of date.

For noncorrosion-resistant resins applied using mechanical application, the proposed rule had different floors for filled and unfilled resins. The reason for separating filled and unfilled resins was that at the time of proposal, nonatomized resin application techniques were not available for filled resins. Since proposal, filled resins now can be applied using nonatomized spray. Therefore, we now have combined the two process/product groupings into one. Also, several facilities in this process/product

grouping provided revised data. As a result, the floor level of control for noncorrosion-resistant resins using mechanical application is a HAP emissions limit of 87 lb/ton. This limit requires a resin with no more than 38.4 percent HAP applied using nonatomized mechanical resin application techniques. At proposal, facilities could use a 42.8 percent resin (filled) or a 38 percent HAP (unfilled) resin and nonatomized mechanical resin application.

For mechanical corrosion-resistant resin application, the revised floor is a HAP emissions limit of 112 lb/ton. This limit requires a resin with no more that 46.2 percent HAP and nonatomized mechanical resin application. At proposal, a resin HAP content of up to 48.3 percent was allowed if nonatomized mechanical resin application was used.

For manual application of tooling resin, the revised floor is 157 lb/ton. This allows a resin HAP content of 45.9 percent or less. At proposal, the maximum allowable HAP content was 39.9 percent.

For tooling gel coat the revised floor is 437 lb/ton. This limits gel coat HAP content to 40 percent of less. At proposal, the limit was 38 percent or less.

For SMC manufacturing, the work practices required in the proposed rule were use of nylon film, folding the edges of the film, and covering the doctor box. In the final rule, the requirements are a covered resin transport system to the doctor box and the use of nylon-containing film.

For pultrusion operations producing parts with 1000 or more reinforcements and a cross sectional area of 60 inches or more, we have changed the floor from 60 percent HAP emissions reduction to a work practice of air flow management.

In addition, we established three new floors for speciality resins and gel coats. These are shrinkage-controlled resins, fire retardant gel coats, and high performance gel coats. These speciality products were identified from comments received on the proposed rule. The new floors are shown in Table 3 to subpart WWWW of part 63.

D. Cleaning

In the proposed rule, we required that cleaning materials contain no HAP unless cleaning cured resin from application equipment. In the final rule, we have modified that requirement to allow HAP-containing cleaners to be used in closed systems such as closed tanks, and resin and gel coat delivery systems.

E. Compression/Injection Molding

In the proposed rule, we required that only one resin charge be uncovered at a time. We have clarified this requirement for the final rule to reflect that one charge may actually have to fill multiple molds. Also, we added a provision to allow the use of automated loaders and slitters. We also clarified that paste added to the mold and in-mold surface coatings are considered part of the closed molding operation.

F. Averaging Provisions

In the proposed rule, we allowed facilities to average across all open molding operations and all centrifugal casting operations. The average was based on a 12-month rolling average calculated monthly. In determining compliance, the average for each month was calculated and then the monthly averages were averaged over a 12-month period. In the final rule, the 12-month average is based on a weighted HAP emissions factor calculated from total resin and gel coat use over the 12-month period. This method will provide a more accurate value for the actual HAP emissions, in lb/ton, that the facility produced in the previous 12 months.

In the proposed rule, we did not allow pultrusion lines to average; each pultrusion machine had to meet the 60 percent reduction requirement for existing sources. In the final rule, we allow facilities to over control some lines, and under control (or leave uncontrolled) others, as long as the average reduction for all lines combined is 60 percent weighted by resin use. Also, we are allowing facilities to average the time that wet area enclosure covers are open across lines.

G. Pultrusion Compliance Options

In the proposed rule, we allowed pultrusion operations to use direct die injection as a compliance alternative to meet the 95 percent capture and control requirement. In the final rule, we are removing direct die injection as a compliance alternative because, based on industry data, it does not achieve 95 percent HAP emissions reduction. We still allow direct die injection as a compliance option to meet the 60 percent HAP emissions reduction requirement. We have also added another compliance option, preform injection, to meet a 60 percent HAP emissions reduction. We have also added another compliance option, airflow management work practices, for pultrusion machines that produce large parts as set forth in Table 4 to subpart WWWW of part 63.

H. Applicability

We made a number of changes dealing with rule applicability. First, we expanded the list of specific operations that are part of the source category, but are not subject to any control, reporting, or recordkeeping requirements. These operations include application of mold sealing and release agents, mold stripping and cleaning, repair of previously manufactured parts that is unrelated to collocated manufacturing operations, personal activities that are not part of the manufacturing operations (such as hobby shops on military bases), prepreg materials as defined in § 63.5935 of the final rule, non-gel coat surface coatings, repair or production materials that do not contain resin or gel coat, and research and development (R&D) operations as defined in section 112(c)(7) of the CAA. In addition, we exempted any facility that uses less than 1.2 tpy of resin and gel coat, and R&D facilities and operations at manufacturing facilities. The rationale for these changes is discussed in the responses to major comments section.

I. Potential Overlap With the Boat Manufacturing NESHAP (40 CFR Part 63, Subpart VVVV)

In the proposed rule, we were silent concerning situations where a facility could be subject to both the Boat Manufacturing NESHAP, 40 CFR part 63, subpart VVVV, and the Reinforced Plastic Composites NESHAP. In today's final rule, we have added § 63.5787 to clarify which subpart applies. In general, if your facility makes boat hulls and decks, or molds for boat hulls and decks, then 40 CFR part 63, subpart VVVV, applies to you. If 40 CFR part 63, subpart VVVV, does not apply to you, and you meet the applicability criteria in § 63.5785 of the final rule, then the Reinforced Plastics Composites NESHAP apply. If you are subject to 40 CFR part 63, subpart VVVV, and also make reinforced plastic composite parts that are not used in boat manufacture, then both 40 CFR part 63, subpart VVVV, and the Reinforced Plastic Composites NESHAP may apply. See § 63.5787 in the final NESHAP for more detail.

J. Determination of Resin and Gel Coat HAP Content

In the proposed rule, we stated that facilities could determine resin and gel coat HAP content using material safety data sheets (MSDS) or resin specification sheets. In the final rule, we have included § 63.5797, which describes in more detail how to determine resin and gel coat HAP

content. This new section also clarifies that only organic HAP are included in determining HAP content. The reason is that we have no data to indicate that any other HAP, such as inorganic HAP potentially present in pigments or resin solids, are emitted from the production process. We also now include a provision to account for normal manufacturing tolerances that occur in resin and gel coat manufacture.

K. New Source MACT Floors

In the proposed rule, the MACT floor for all open molding and pultrusion operations located at new sources above a 100 tpy HAP emission threshold was a 95 percent weight reduction in HAP emissions. In the final rule, we have subcategorized open molding and pultrusion operations by part size. For open molding and pultrusion operations that produce large parts the floor level of control is now the same as for existing sources. Large parts are defined in § 63.5805 (d)(2). All other new source MACT floors are unchanged.

V. Summary of Responses to Major Comments

This section presents a summary of significant public comments and responses. A summary of all the public comments that were received and our responses to those comments can be found in Docket ID No. OAR–2003–0003 (formerly Docket No. A–94–52).

Comment: We received numerous comments on the above-the-floor requirements for existing sources. First, commenters stated that EPA had significantly underestimated the costs of add-on controls. They stated that industry estimates were, in some cases, ten times higher than our estimates. They stated that we had overestimated the HAP concentrations in the exhaust streams, underestimated the exhaust flows, and omitted costs for continuous monitors.

Second, the commenters claimed that we had not established that 95 percent capture and control was technically feasible for this diverse industry, and that only two facilities out of 433 actually had achieved the 100 percent capture that is required to meet an overall capture and control level of 95 percent. They also stated that these two facilities were atypical of the industry as a whole because they also had collocated coating operations that were also routed to the same control device. They further stated that the criteria of EPA Method 204 of appendix M of 40 CFR part 51 are not feasible for most facilities in this industry. For these reasons, the commenters recommended that the above-the-floor requirement be removed.

Response: As a result of these comments, we reviewed the costing methodology for the above-the-floor requirements in the proposed rule and made changes to our costing methodology for add-on controls. Some of the major changes were lowering the default inlet concentration to the control device from 100 parts per million volume (ppmv) to 50 ppmv, revising the fan power equation, and using 2,000 operating hours per year, rather than 6,000 hours per year, as a default value in the absence of actual yearly operating information.

Based on these new costs, the cost per ton of HAP emissions reduction of the above-the-floor requirement significantly increased for most process/product groupings. As a result, we have removed the above-the-floor control requirements for all process/product groupings except centrifugal casting and continuous lamination/casting. It should be noted that the comments discussed above were based on open molding operations. We received no comments specifically on the above-the-floor requirements as applied to centrifugal casting and continuous lamination/casting.

Comment: One commenter opposed allowing control requirements for new sources emitting less than 100 tpy to be the same as those for existing sources because a new site has the opportunity to design and incorporate pollution prevention and control strategies that would be cost-prohibitive for existing sources to implement. The commenter recommended that EPA consider more stringent requirements for new sources, including smaller sources, through generally available control technology or other approaches that would not be overly burdensome.

Another commenter adds that EPA's analysis indicates that the best controlled facilities have reduced HAP by only 95 percent, and 95 percent is most likely the maximum extent of historic regulatory requirements. The commenter notes that EPA looked at the experience of existing facilities to achieve greater than 95 percent control through add-on control in conjunction with pollution prevention and did not find facilities achieving greater control than that. While the assessment may be correct for what EPA looked at, the commenter states that examining past experience that lacks regulatory drivers for greater control is not the same as examining the present and future potential for control opportunities. The commenter believes that the proposal dismisses the potential for these two control techniques (add-on control and pollution prevention) to be applied to new sources.

Response: We agree that new facilities can more easily incorporate pollution prevention and add-on controls. This is the reason we set the new source floor at 95 percent control for most new sources that emit over 100 tpy, and not at the same level as existing source floors.

Facilities that have incorporated add-on controls tend to be larger facilities. New facilities in this industry can be small operations that operate a limited number of hours and still be major sources. These small sources cannot reliably meet 95 percent capture and control given their limited operating schedules and their potential lack of on-site technical expertise. Therefore, we are not requiring a source emitting less than 100 tpy to meet the 95 percent capture and control level.

We examined whether or not we could specify some other level of control for small sources, but we could not determine what would be an appropriate level of capture and control below 95 percent. We also considered basing new source MACT floors for facilities that emit less then 100 tpy on the single best facility that incorporated pollution prevention. However, as discussed in the preamble of the proposed rule, we believed that using one facility that had the lowest HAP content resins and gel coats was unworkable, unless we could show that all new plants would build the same products as the plants that had the lowest HAP content resins and gel coats.

Given this, we had to determine a threshold value above which 95 percent capture and control is feasible for all new plants, given the diversity of this industry. We selected 100 tpy of actual HAP emissions because above this level facilities tend to operate more hours per year and are better equipped to maintain capture and control systems. Also, at the time we proposed the rule, the smallest facility in the open molding process/product grouping that was permitted at 95 percent capture and control emitted approximately 100 tpy. Therefore, we chose this number as the threshold at which 95 percent capture and control is required.

This was not the only approach we could have taken to subcategorize new sources, nor is 100 tpy the only threshold we could have chosen. For example, we could have subcategorized by annual hours of operation. However, depending on the threshold we set, this could result in large, new HAP emissions sources avoiding the 95 percent capture and control

requirements simply by building a larger facility and reducing hours of operation. By tying the requirement directly to HAP emissions, we believe we have taken the most logical approach from an environmental standpoint and an enforcement standpoint. Also, the 100 tpy threshold is a reasonable choice that means that all new large facilities in most of the process/product groupings will have to meet the most stringent HAP emissions control levels.

Comment: We received numerous comments on the new source MACT floor for facilities with open molding, pultrusion, SMC manufacturing, mixing, and BMC manufacturing that emit 100 tpy or more of HAP from these operations. The commenters stated that the 95 percent capture and control requirements of the floor were technically infeasible and too costly. They also stated that 95 percent capture and control does not represent the best HAP emissions control approach when all environmental impacts, such as increases in emissions of criteria pollutant and greenhouse gases, are considered. The commenters note that the CAA states that the best controlled similar source must be the basis of the new source MACT floor; therefore, EPA is only authorized to apply the 95 percent capture and control requirements to facilities that are similar. The sources cited by EPA make uniformly-sized parts in high volume, employ mechanical resin application, and operate three shifts a day. However, they differ from other facilities in the industry. One of the sources is primarily a metal fabrication operation and sends significant amounts of emissions from a painting operation to the control device, making an unusually rich combustion stream. They also claimed that the facility had not been proven to meet the requirements of EPA Method 204 of appendix M of 40 CFR part 51. The other facility employs an unusual molding operation, and the ability of this facility to actually meet the 95 percent capture and control requirement is open to question. Neither of these sources are similar to any other composites open molding operation.

Response: Our available information continues to support that the appropriate new source floor for facilities that emit 100 tpy or more of combined HAP from their open molding, pultrusion, SMC manufacturing, BMC manufacturing, mixing, centrifugal casting, continuous lamination, and continuous casting operations is 95 percent capture and control for several reasons. First, the term "best control" means best control of HAP emissions. The only other control techniques mentioned by the commenters were the pollution-prevention techniques that make up the existing source floors. The commenters claim that when other environmental impacts of add-on controls are considered, pollution-prevention control techniques are actually superior. They provided examples that showed HAP emissions reductions from pollution-prevention techniques for some facilities of up to approximately 70 percent; however, the actual HAP emissions reductions a facility will achieve based on pollution-prevention techniques will be highly site specific. Also, the highest pollution-prevention HAP emissions reduction examples assume facilities could reduce HAP emissions by enhanced process monitoring, which would reduce materials used. The HAP emissions reductions based on materials-use reductions assumes facilities are not currently using materials as efficiently as they could. There are no data to support this assumption, and the potential for HAP emissions reduction of this type could vary widely. The second example presented by one commenter assumes facilities would use nonatomized gel coat application. However, the same commenter has stated emphatically that nonatomized gel coat application cannot be used at every facility. Therefore, this example cannot be considered to fairly represent the HAP emissions reductions achievable for the industry as a whole.

Our overall estimate of the HAP emissions reduction that would occur with only pollution-prevention techniques is approximately 41 percent for open molding, compared to the significantly higher 95 percent HAP emissions reductions possible with capture and control. The CAA indicates that "best control" in the context of setting floors is the control that achieves the best HAP emissions reduction. Based on this, 95 percent capture and control represents best control for this industry.

Even if we were to consider other environmental impacts of capture and control, 95 percent control would still be considered best control. Calculations provided by one commenter indicates that a total of only 0.15 tons of criteria pollutants are generated per ton of styrene reduction; however, this number appears to be based on one of the three actual operating facilities using add-on controls shown in the commenter's example. Data from another facility using a concentrator/oxidizer system in the same report showed criteria pollutant emissions of 0.06 tons per ton of styrene emissions reduction. Our estimate at proposal was that, on average, this figure is closer to 0.04 tons of criteria pollutants per ton of HAP emissions reduction. Regardless of which number is used, the amount of HAP emissions reduction is significantly higher than any resulting criteria pollutant emissions. The commenters also cite greenhouse gas effects. They state that 30 tons of greenhouse gases are produced for every ton of styrene emissions reduction.

We reviewed the information that formed the basis of the estimate of greenhouse gas estimates. Based on our analysis, we believe that the estimate of 30 tons of greenhouse gases are produced for every ton of styrene emissions reduction is an overestimate because it is based on examples where the HAP emissions reduction varies between 77 to 84 percent. The final rule will require 95 percent HAP emissions reduction. Also, we believe the air flows used in the examples provided by the commenter are higher than will be required for new facilities. Higher air flows result in increased use of natural gas and higher greenhouse gas emissions. We believe a more accurate number would be approximately 20 tons of greenhouse gases produced for every ton of styrene emissions reduction.

Second, regardless of which number is the most accurate, any contribution of the final rule to global greenhouse gas emissions is insignificant. The total greenhouse gas emissions in the United States exceed 6 trillion tons from fossil fuel combustion alone. However, the difference between emissions of styrene from a facility controlled to the 95 percent level and one controlled using only pollution prevention is significant to the populations living near an affected facility.

The commenters also stated that the facilities that formed the basis of the new source floor are not "similar sources." We disagree because there are actually three sources within this source category that meet the criteria to set a 95 percent capture and control floor. The commenters point out that three is a small number compared to the 433 facilities in the database at proposal. However, the CAA requires the new source floor to be based on the single best performing similar source. Therefore, only one source is sufficient to set a new source floor as long as we determine it is similar. The commenters stated that the source setting the floors operates three shifts (they shut down on weekends). However, we subcategorized new sources by annual HAP emissions. The reason was that larger sources are more likely to operate more than one shift. Also, since this floor only applies

to new sources, the facility can be designed to meet the necessary production rate with three shift operation if the operator desires to minimize control device startups and shutdowns.

The commenters stated that in two cases, the floor facilities have collocated surface coating operations. Our evaluation of these facilities was based only on the reinforced plastic composites portion of the facility. During site visits to these facilities, we determined that these facilities were required to apply 95 percent capture and control to all major processes due to State regulations. That requirement would apply regardless of whether or not the facility had collocated surface coating operations. Also, the presence of the surface coating operations does not result in a more concentrated exhaust stream compared to facilities without surface coating operations. Thus, there is no technical basis to say these facilities are not similar based on the presence of surface coating operations.

We also reviewed the commenters claim that the facilities that set the new source floor do not actually meet the requirements of EPA Method 204 of appendix M of 40 CFR part 51. Part of that claim was based on the fact that the floor facilities had doors in the PTE that were opened to move parts and materials in and out of the PTE.

One criteria of EPA Method 204 of appendix M of 40 CFR part 51 is as follows: "All access doors and windows that are not treated as natural draft openings shall be closed during routine operation of the process". This criteria is not intended to require that these doors be closed at all times. It means that doors must be closed any time that you are not actually moving parts or equipment through them. Therefore, the fact that the floor facilities open doors to move parts in and out of the PTE does not mean they do not meet the requirements of EPA Method 204.

In addition, we reviewed the compliance determinations for two of the floor facilities. Our review did not reveal any conditions that would indicate that the requirements of EPA Method 204 of appendix M of 40 CFR part 51 are not being met.

Comment: The commenters stated that the facilities that manufacture large parts using open molding or pultrusion are not similar to the floor facilities that are the basis of the capture and control requirements for the new source floors. They stated that the facilities used to set the 95 percent capture and control requirement only manufacture small parts and, therefore, should not be used to set a capture and control floor requirement for facilities making large parts. They also stated that achieving 100 percent capture is not feasible for large parts sources in these process groups. Though EPA had cited facilities that coated large parts in permanent total enclosures (PTE), coating operations cannot be considered similar to the manufacture of reinforced plastic composites. They suggested that any part with any dimension that exceeds 12 feet be considered a large part and be exempt from capture and control requirements.

Response: After reviewing the comments and available data, we have determined that the facilities currently achieving 95 percent capture and control are not similar to sources producing large parts. At proposal, we noted that we had not identified any facilities in the reinforced plastic composites industry where processes producing large parts, such as storage tanks and swimming pools, have applied 100 percent efficient capture systems, but stated our belief that such PTE were technically feasible based on large PTE in other industries. We reviewed available data on the facilities in our database and found that facilities producing parts over a certain size presented different technical issues from facilities that have successfully incorporated 95 percent capture and control. As noted in the preamble to the proposed rule, one of these facilities has a PTE large enough to produce large parts. However, the air flows and HAP concentrations exiting the PTE at this facility are not the same as would be expected from a facility using a similar sized PTE to capture and control emissions from large parts production.

We also noted in the preamble to the proposed rule that surface coating operations for very large parts (as large as ocean going ships) had successfully applied PTE. However, we agree that coating operations and reinforced plastic composites operations are not similar sources. Reinforced plastic composites production typically requires more workers per part due to the necessity to both apply and roll-out the resin. Also, large parts are continuously laminated until completion rather than coated in sections.

This difference in sources, while applicable to evaluating floors based on capture and control, does not exist in the case of floors based on pollution-prevention technologies such as the use of low-HAP materials and nonatomized resin application. For that reason, we did not differentiate between large and small parts when setting floors based on pollution-prevention control techniques for either new or existing sources.

Because we determined that capture and control was not the appropriate floor for large parts manufacture, the floors for these specific operations are now the same as the floors for existing operation, which are emission limits based on the use of low-HAP materials and nonatomized resin application.

However, we do not agree with the commenter's suggested definition of large parts, because it would exempt parts from capture and control requirements where those requirements have already been demonstrated. The largest part produced at a facility where 95 percent capture and control is demonstrated has a volume of 250 cubic feet. If this part were placed in a rectangular six-sided box, the largest side of the box would be 50 square feet. Therefore we chose these criteria as the definition of a large part for open molding. For pultrusion, the largest part produced by a facility with 95 percent capture and control was 2 inches high, 10 inches wide, and had approximately 350 reinforcements. Therefore, we choose these criteria as the definition for large pultruded parts.

Comment: Several commenters stated that capture and control requirements would make it difficult for facilities to meet Occupational Safety and Health Administration (OSHA) worker health and safety requirements. Process enclosures at current facilities are designed and operated to provide safe and efficient production of composite products. The primary purpose of enclosures in this industry is to remove contaminated air from the workplace to achieve OSHA requirements for limiting occupational exposures. Enclosures must also allow enough cool air to enter the workplace so that workers are not subject to excessive heat stress. One commenter provided a study that stated that if process enclosure exhaust flows were reduced to increase exhaust concentrations being routed to the control device, worker exposure to contaminants and heat would be increased to unacceptable levels.

Response: The use of PTE for capture of HAP emissions should not result in increased worker exposure to contaminants or heat stress if appropriate precautions are taken. As previously noted, one solution is to design the spray enclosures based on meeting worker exposure requirements, and then enclosing the entire lamination area in a PTE. The facilities currently using PTE do not exceed OSHA exposure guidelines. Experience in the printing and publishing industry shows that use of PTE, in many cases, results

in reduced worker exposure to both contaminants and heat stress. In high heat and humidity areas, it is likely that some type of air cooling will be required during summer. However, this issue is present even without the requirement for capture and control.

Comment: Five commenters stated that the limit of tooling gel coats (38 percent HAP) is not achievable. One commenter claimed that we set this limit based on one infrequently used product that is not representative of the industry as a whole. The commenter's products represent 70 percent of the tooling gel coat market and the maximum HAP contents range from 42 to 50 percent HAP. Their lower HAP gel coat has not gained a significant market acceptance. They have performed 2 years of research and development efforts aimed at developing a lower-HAP gel coat that would meet the requirements of the proposed rule and have been unsuccessful. They stated we had not independently tested the product on which the standard is based, so there has been no demonstration of the product's quality or suitability for broad use in the industry. The commenter also stated that setting the standard at 38 percent would have the effect of encouraging manufacturers of tooling gel coats to use para methyl styrene, which is not regulated as a HAP, as a substitute. Also, lower-HAP gel coats may be less durable than products currently on the market, which would result in reduced mold life. Therefore, more molds would have to be built to produce the same amount of product. This would result in the standard actually causing a HAP emissions increase. This commenter requested a tooling gel coat HAP limit of 52 percent HAP for clear gel coats and 49 percent for pigmented gel coats.

A second commenter asked that EPA consider tooling gel coats as speciality gel coats exempt from HAP limits similar to the speciality coating exemption contained in the Aerospace Coating MACT standards (40 CFR part 63, subpart GG). This commenter stated there is a strong possibility they will discontinue manufacturing tooling gel coats if the standard is not changed.

Another commenter stated that we must allow higher HAP limits for tooling applications in vacuum resin infusion, compression, and resin transfer molding composite tool applications, where high exotherms and heated tools are required. Durability of the mold surface is essential to the longevity of the mold. Thermal stability is a key element that requires higher-HAP content. Repeated high exotherms during the cure cycles can greatly reduce the life of low-HAP gel coats. Greater porosity found in the low-HAP materials can also create mold surface problems. Ironically, these are closed molding processes, which result in much lower HAP emissions and employee exposures than open molding processes. Closed molding facilities will not be able to offset the small amounts of high-HAP tooling gel coat used in tool production with large amounts of low-HAP general purpose open molding resins using facility averaging. The commenter recommends that the final MACT standards allow up to 48 percent HAP content for pigmented tooling gel coats.

Response: We have received additional data since proposal. Based on these data, we increased the floor for tooling gel coats to 40 percent. We obtained very little data from industry on tooling gel coats in the original data requests and in additional efforts to obtain additional tooling gel coat data. To supplement the limited data, we looked at the tooling gel coat data used in developing the Boat Manufacturing MACT (40 CFR part 63, subpart VVVV). This is a reasonable approach because gel coat manufacturers stated that they sold the same tooling gel coats in both the reinforced plastic composites and boat manufacturing industries. The revised HAP content limit of 40 percent is the same as the Boat Manufacturing NESHAP HAP content limit for tooling gel coats.

We considered the issue raised by the commenters that a low limit in tooling gel coats would actually increase HAP emissions. While we agree that more frequent replacement of inferior molds would lead to increased HAP emissions, the factual data do not indicate that a 40 percent HAP content limit results in inferior molds. Facilities in the field (both reinforced plastic composite manufacturers and boat manufacturers) are building molds with 40 percent HAP tooling gel coat. We have no data to indicate that these facilities are producing lower quality molds than average, and none of the commenters has been able to provide objective data to substantiate that reduced mold life is inevitable with low-HAP gel coats. The information provided was based on assumed reduction in mold life. Also, the fact that one of the commenters covers 70 percent of the market is irrelevant, because MACT floors are set based on best control, not market share. In the absence of objective data that the facilities that use low-HAP tooling gel coats produce inferior molds with shorter mold lives compared to the rest of the industry, the MACT floor must be set based on the best performing facilities. In this case, that results in a floor of 40 percent HAP.

Comment: One commenter stated that although clear cultured marble gel coats have been formulated with HAP levels as low as 40 percent, the tolerance for thermal shock and water resistance are lowered with lower-HAP levels. According to the commenter, 48 percent HAP clear coat is required for manufacturers to maintain current warranties and many have switched back to the high-HAP clear gel coats due to the poor performance of the lower-HAP clear gel coats. The commenter suggests that "clear gel coats for cultured marble" should be defined as "those used for products subject to ANSI Z124 testing" and the rule should limit the HAP content of these materials to 48 percent. A second commenter also stated that a 48 percent HAP content is necessary to meet desired gel coat performance. The commenter claims that the proposed limit of 44 percent does not take into account the entire spectrum of uses and does not satisfy the requirements of their applications.

Response: We are bound by the statutory requirements of the CAA to set MACT floors based on the average of the best performing sources as illustrated in the available data. In the absence of specific data to support the request, we have no basis to change the floor.

In developing different process product grouping for gel coats, we did consider the different performance characteristics of different types of gel coat. These types were tooling gel coat, clear gel coat, pigmented gel coat (white/off white), pigmented gel coat (all colors except white/off white), fire retardant gel coat, and corrosion resistant/high strength gel coat. Based on information provided by industry, we determined that these different gel coat types had sufficiently different characteristics that they should be considered separately for floor determinations. However, we do not have data to demonstrate that it would be appropriate to further subcategorize clear gel coats based on each gel coat's performance characteristics.

Comment: One commenter states that only the white/off-white and some pastels can meet a floor of 30 percent HAP because of the titanium dioxide and inert filler loading. Most solid colors require a HAP content of 38 to 40 percent. Higher performance pigmented gel coats that require high molecular weights would, therefore, need a higher monomer content to achieve workable viscosities and would probably no longer be available to the market place.

Response: White/off-white gel coats will be defined as those containing 10

percent or more by weight titanium dioxide. As proposed, these gel coats will be subject to a HAP limit of 30 percent by weight, and all other pigmented gel coats will be subject to a HAP limit of 37 percent by weight.

At the time we developed the proposed rule, we had no data on pigmented gel coats other than white/off-white and some reds. Based on industry comments, we split pigmented gel coat into two groupings, white/off-white and other colors due to the fact that white/off-white gel coats contain titanium dioxide, which is a heavy pigment, while other colors do not. At the time we created this new grouping, we requested data from the industry concerning the HAP contents of pigmented gel coats. The industry representatives indicated that these gel coats typically have 37 percent HAP. Because non-white pigmented gel coats comprise a very small part of the total industry, we elected to accept the 37 percent number rather than attempt to gather additional data. The commenter provided no data to support their request. In the absence of new data, we have no basis to change this floor.

Comment: Two commenters request that the category of fire retardant gel coats be exempt from HAP limits. Both commenters note that fire retardant gel coats are used in manufacturing transportation parts, building products, trains, airplane parts, and theaters. One commenter stated that these are all critical areas of applications and require various Underwriter Laboratory (UL), American Society for Testing and Materials (ASTM), and Fire Rating Certifications. It was suggested that fire retardant gel coats be defined as "those used for products for which low-flame/low-smoke resin is used."

Response: We have added a process/product grouping for fire retardant gel coats. These gel coats are defined as gel coats used in low-flame spread/low-smoke product applications. We have established a HAP emissions limit of 854 lb/ton which is equivalent to gel coats with a maximum HAP content of 60 percent using atomized application.

Comment: Four commenters stated that we need to establish a separate process/product grouping for corrosion-resistant gel coats. The commenters stated that gel coats used in specific corrosion protection applications must meet the same requirements as corrosion-resistant resin. One commenter added that gel coats requiring chemical resistance to a wide range of chemicals including acids, bases, and solvents are often based on the resins similar to those that make up the structural part of the composite and provide the necessary corrosion resistance. For this reason, the commenters believe that the HAP limitation for corrosion-resistant gel coats should be 48 percent, the same as it was in the proposed rule for lamination resins used to make corrosion-resistant composites. It was suggested that "corrosion-resistant gel coats" be defined as "those used for products made with corrosion-resistant resin" and that the rule limit the HAP content of these materials to 48 percent.

Response: We agree that there are technical limitations for corrosion-resistant applications that warrant a separate limit for corrosion-resistant gel coats, similar to the separate limits established for other specialty resins and coatings.

In the final rule, we established a separate HAP content limit of 48 percent for corrosion-resistant gel coats and defined them as "those gel coats used to manufacture products made from corrosion-resistant resin." We believe 48 percent HAP is the appropriate number because the highest HAP content level allowed in all the corrosion-resistant resin process/product groupings is 48 percent.

Comment: Several commenters stated that we need an additional process/product grouping for low-shrink resins. These resins have special shrinkage control properties that are unique and cannot be obtained in any other way. These resins were not identified when EPA surveyed the industry. One commenter stated that a specialty process group is needed for high molecular weight, low-shrink resins used in wind turbine blade manufacturing. The resin currently in use is 42 percent HAP unfilled. The facility would be unable to gain any relief by facility averaging because the facility predominantly uses zero-HAP epoxy resin, rather than a low-HAP production resin. Commenters requested that EPA create a subcategory for these resins with a maximum HAP level of 48 to 52 percent.

Response: Our understanding is that these low-shrink resins are highly filled resins with special chemistry that allows them to cure at room temperature with significantly less shrinkage than a typical resin. Given the unique properties of this resin, we agree that a separate process/product grouping is appropriate. The resin manufacturer indicated that the maximum HAP content of the resin is 50 percent. Therefore, we have set HAP emissions limits for shrinkage-controlled resins that allow up to 50 percent HAP. This specialty resin costs significantly more than other resins, which provides a deterrent for facilities using the resin where its special properties are not necessary.

Comment: One commenter believes higher HAP limits are needed for the filament application of corrosion-resistant products. The commenter claims that the rule, as proposed, will eliminate use of certain types of corrosion-resistant resins that impart required properties to certain applications. The commenter noted that the proposed limit for corrosion-resistant filament application resins was lower than for noncorrosion-resistant filament application resins. The commenter believes that the HAP emissions limit for all categories of filament application should be 178 lb/ton, and stated that this change will have insignificant impact on EPA's total HAP emissions reductions target, with the difference in HAP emissions reductions being 3 tpy.

Another commenter states that the proposed MACT of 42 percent HAP cannot be met with an isophthalic resin without some compromise to the physical properties of the cured resin. The commenter requested EPA to consider the 48 percent HAP limit found in South Coast Air Quality Management District (SCAQMD) Rule 1162.

Response: While we acknowledge the commenters concerns, we developed the floor for this process/product grouping in the same manner as floors for other process/product groupings in open molding. We gathered data from industry and ranked the performance of the facilities in the corrosion-resistant process group and set the MACT floor based on the average of the best 12 percent, as required by law.

Though we are not changing the floor for filament application, we are retaining a provision included in the proposed rule that allows facilities to use the same resin in multiple processes. The rationale for this provision is, while our floor development ranking procedure is correct, we also realize it does not account for the fact that some facilities use multiple operations to produce components of the final product, and the resins used in the subcomponents must be compatible. This provision will allow most facilities the flexibility to use the necessary level of HAP in corrosion-resistant applications because mechanical operations have a higher-HAP content limit.

Comment: One commenter recommended that the model point value for corrosion-resistant manual resin application be changed from 124 to 190 to reflect the use of the same

percent HAP used in mechanical resin application. The commenter notes that the facility that sets the floor using a 40 percent HAP resin is not typical of a true corrosion-resistant (CR) company because that facility uses only manual application, while true CR companies use both manual and mechanical application techniques. A second commenter requested that the MACT floor for manual corrosion-resistant resin be changed so that it is the same as the floor for mechanical corrosion-resistant resin.

Response: As discussed in the previous response, the floor is based on the data available for this process/product grouping. However, as with filament application, the provision allowing facilities to use the same resin in multiple operations should allow enough flexibility for facilities to meet rule requirements, but still produce products with the necessary properties. Therefore, facilities that produce corrosion-resistant and noncorrosion-resistant products using both manual and mechanical resin application will be able to use the same resin in both operations.

Comment: One commenter stated that the proposed MACT of 35.5 percent HAP for noncorrosion-resistant centrifugal casting would result in a resin too high in viscosity, which may create air release problems. The commenter states that lower molecular weight resins would cause some limitations in physical property requirements.

Response: We received new data that changed the floor for centrifugal casting to 37.5 percent HAP. With less than 30 facilities in the process group for which we have data, the MACT floor must represent the average performance of the top five facilities. We have no data to support raising the floor any further.

Comment: One commenter stated that they believe that new operations should be subject to new source MACT even if they are added to an existing source. The commenter understands that there are cases in which the new equipment may be incorporated within an existing manufacturing line, making it difficult to employ separate controls (*e.g.*, if all the equipment is controlled at a later end point). The commenter suggests, however, that separate and more specific provisions can be included in the rule to govern such cases.

Response: This comment is only applicable to new source MACT for specified processes that emit over 100 tpy, because below that level, new source and existing source MACT are the same. We believe that, for this particular industry, the ability of a facility to incorporate the capture and control requirements of new source MACT for larger facilities is closely related to the structure housing the process, because the size and shape of the existing building affects the layout of the production line. Even if there are significant process changes, this by itself would not indicate that the building housing the process has been changed, thereby making retrofit of capture and control systems unfairly difficult compared to a new greenfield facility. We believe that attempting to develop a detailed set of requirements that could cover every situation would be unrealistic.

We agree that this provision may result in small facilities being able to grow significantly without becoming new sources. However, it should be noted that in the final rule, we have overridden the portion of the general provisions in 40 CFR part 63 which states that facilities that move are still considered existing. Because we believe the cost and technical feasibility of capture and control are closely related to the building housing the process, we believe that a facility that moves should be considered a new source because they can plan for capture and control prior to erecting or selecting a new building. Therefore, facilities that would be considered existing sources under the general provisions will be considered to be new sources under the final rule. Therefore, in this aspect, the final NESHAP are more stringent.

Comment: Several commenters requested clarification in this rule on which operations at a reinforced plastics composites facility and which operations at a boat building facility will be covered by this rule and which will be covered by 40 CFR part 63, subpart VVVV (Boat Manufacturing NESHAP).

It was noted that neither the preamble nor the proposed rule explicitly states whether this rule applies to manufacturing of boats or boat components and requested that language be added to the final rule clarifying that this rule does not apply to any processes or operations subject to 40 CFR part 63, subpart VVVV. One commenter stated that boat building plants routinely produce non-boat parts and presumed that such facilities will be required to meet the composites rule when producing composite parts that are not associated with the manufacture of boats. The commenter also points out that some composite plants produce boat parts that are then used to build boats, such as when producing barge covers that are related to the manufacture of river barges.

Response: We have added § 63.5787 to the final rule to specifically address this issue. A facility must produce boat hulls and decks, or molds for boat hulls and decks, to be covered by the Boat Manufacturing NESHAP (40 CFR part 63, subpart VVVV). If it produces reinforced plastic composites, as defined in the final rule, and is not covered by the Boat Manufacturing NESHAP, then it is covered by the Reinforced Plastic Composites NESHAP, regardless of the final use of the parts.

In the case where a facility is subject to the Boat Manufacturing NESHAP (40 CFR part 63, subpart VVVV), but the facility also makes parts that are not a component of their boats, then the non-boat parts are covered by the Reinforced Plastic Composites NESHAP. However, only resins and gel coats actually used to make parts covered by the Reinforced Plastic Composites NESHAP are considered in determining compliance.

In addition, in order to simplify compliance, we are allowing facilities that are subject to the Boat Manufacturing NESHAP (40 CFR part 63, subpart VVVV) and that also make parts subject to the Reinforced Plastic Composites NESHAP, to elect to make all their manufacturing operations subject to the Boat Manufacturing NESHAP if they can demonstrate, through the appropriate HAP emissions calculations, that this will not result in any HAP emissions increases over what would occur if they complied with the Reinforced Plastic Composites NESHAP for non-boat part production. We also clarify that HAP emissions from activities covered by the Boat Manufacturing NESHAP are not considered when calculating HAP emissions thresholds to determine the applicability of add-on controls.

Comment: One commenter requested that the rule explain what happens in instances where the 100 tpy threshold is exceeded even by a little, temporarily. Does this require that add-on controls be installed?

Response: It is our intent that unusual circumstances result in a facility having to add and operate add-on controls. We have included clarifying language in the final rule that allows a one-time exemption to the 95 percent capture and control requirements for facilities that were below the 100 tpy threshold and exceed the threshold due to unusual circumstances. This exemption allows facilities to average annual HAP emissions over 3 years to determine if they exceed the threshold. However, facilities are also required to document the unusual circumstances that caused the exceedance, and why they expect to remain below the threshold in the

future. If they exceed the threshold a second time, then the exemption is immediately withdrawn and they must comply with the 95 percent capture and control requirements within 3 years from when they originally exceeded the threshold.

Comment: Two commenters requested clarification of several issues related to repair work. They are assuming the proposed rule is intended to cover manufacturing operations only. Repair processes conducted in a manufacturing facility are also covered because they are likely to use the same materials. If the processes conducted are re-manufacturing, refurbishment, repair, or maintenance, it will be considered repair for the final NESHAP. The exception would be if the repair is a part which frequently needs replacement and is made in an assembly-line type process. They also asked that since there is no de-minimums level, if any manufacturing is done, would it be covered? They noted that at some of the commenter's facilities, some minor manufacturing may occur. The repair work that may also be done at the same facility is not related to the manufacturing processes (and would be using different resin and reinforcing materials.) The commenter believes that as the rule is currently written, both the manufacturing and repair operations would be covered. The commenter does not believe that is EPA's intent and asked if we could develop language to correct that.

One commenter stated that definitions of repair and manufacturing should be added to clarify the types of repair and manufacturing covered by the rule. The preamble and rule should be consistent in stating that the facilities that only repair composites are not affected. The commenter also feels that repair operations collocated with unrelated manufacturing operations should not be covered either. In a related comment, several commenters asked that a low-use cutoff be established so that facilities that use small amounts of resin and gel coat are not subject to the rule, especially since those uses may be incidental to a completely different manufacturing operation.

Response: The final rule has been written to make explicit what repair operations are and are not covered. Specifically, facilities at which only repair occurs are not covered by the final rule. In addition, repair of previously manufactured reinforced plastic composites unrelated to the reinforced plastic composites manufactured at the facility are also not covered by the final rule. Repair processes on parts that are manufactured at the same location are covered by the final rule. In addition, we have added a low-use cutoff exemption to the final rule. We reviewed our entire database and determined that we had no data for facilities that use less than 1.2 tpy of resin and gel coat combined. Therefore, we believe that, in the absence of any available data, facilities that use less than 1.2 tpy of resin and gel coat to produce reinforced plastic composite products or components should be exempt from the final rule.

Comment: Many commenters requested that the rule incorporate an exemption for R&D facilities, and for R&D operations collocated with manufacturing operations. The materials used in R&D operation may be significantly different from those used in manufacturing.

Response: We have written the final rule to exempt R&D facilities and R&D operations. The definition of R&D is the same as contained in section 112(c)(7) of the CAA.

Comment: Several commenters stated that they believe the EPA cannot set different standards for small and large businesses based on the size of the business, rather than the size of the source. They believe that because the CAA clearly identifies "major source" by the level of HAP emissions, MACT floors must depend on the average HAP emissions reductions by the best sources without regard to cost factors of business size. They stated that this distinction was unfair because two facilities that emit the same amount of HAP would potentially have different requirements solely on the basis of their ownership. The commenter also believes that EPA did not adequately support the determination that large businesses have better access to capital than small businesses. They stated that this is not necessarily true.

Response: Based on the revised cost analysis, we have determined that it is no longer necessary to distinguish between small and large businesses. However, we still believe the use of different thresholds in the proposed rule was appropriate because this distinction only applied to the above-the-floor regulatory option. The CAA specifically states that when we go above the floor, we must consider costs.

Comment: One commenter states that the small business threshold of 250 tpy should apply to both existing and new sources. New capital funding to build a new facility would require due diligence on the part of the lending institution. The new facility would have to generate enough cash flow to meet the added debt load. Adding a capture and control system to the debt load would significantly reduce the cash flow available to pay back the lender's note on a new facility because the capture and control system is a non-value added asset. The lending institution would discern this and deny the loan.

Response: For new sources, the proposed (and final standard) is the MACT floor, not an above-the-floor option. We do not have the flexibility to create small and large business distinctions when the standard is set at the MACT floor. Therefore, the final rule for new sources does not incorporate a small and large business distinction.

Comment: Several commenters stated that a method to establish percent reduction and HAP emissions factors is needed to foster the development of new products and equipment to serve the affected industry. They recommended that EPA establish a protocol to allow the smooth introduction of equipment, products, and other technologies into the final rule.

Response: Allowing facilities to use site-specific HAP emissions factors, and the procedure in the general provisions in 40 CFR part 63, subpart A, that allows facilities to demonstrate equivalent HAP emissions reductions, adequately address the incorporation of new HAP emissions reduction technologies. However, we have added § 63.5798 to the final rule that discusses how to obtain approval for new technologies.

Comment: Two commenters requested that EPA change the averaging provisions to allow a facility that changes some processes to non-styrene containing resins to average these resins with the styrene-containing resins to demonstrate compliance.

Response: We do not believe it would be appropriate to allow the use of non-styrene containing resins and gel coats to be included in the calculation of compliance. The MACT floors were developed only considering resins and gel coats that contain styrene (and other organic HAP, such as MMA) used at the facilities in our database. We did not consider non-styrene resins and gel coats used at our database facilities. Given the basis for developing the standards, it is inconsistent to allow non-styrene containing resins and gel coats to be used in the compliance calculations. Therefore, we have not added this request to the final rule.

Comment: Numerous commenters recommended replacing the point value system with the Composite Manufacturers Association (CFA) UEF

table. The composites industry is already using these HAP emissions factors to calculate annual HAP emissions. It would simplify reporting and recordkeeping if one set of HAP emissions factor equations were used. Another commenter stated that if EPA uses the UEF, all HAP should be treated as styrene because this is how EPA developed the MACT floors. They noted that these factors are used by industry for toxic release inventory reporting and obtaining permits. According to the commenters, use of these factors for MACT will reduce the paperwork burden for small manufacturers.

Response: We reviewed the UEF and the basis for their development. Based on this review, we believe that these equations are acceptable for estimating both HAP emissions factors for compliance purposes and HAP emissions.

As a result, in the final rule we have written the HAP emissions factor equations in Table 1 to subpart WWWW of part 63 to be identical to their equivalent UEF equations. Therefore, facilities will have one set of identical factors for both compliance and HAP emissions estimation purposes.

Because of this change, it was necessary to recalculate the floor values by recalculating HAP emissions factors using the new HAP emissions factor equations for the facilities in our database and reranking the facilities based on the new calculations. Therefore, both the numerical values of the floors (lb/ton) and the equations used to calculate compliance changed. Note the floors themselves did not change significantly because when we reranked facilities using the new HAP emissions factors, the ranking order did not change with two exceptions. In those cases, the new equations caused two facilities to switch places and changed the floor slightly. However, these changes were minor compared to the changes that resulted from other comments we received and additional data we gathered.

In addition, we have added to the final rule equations for the nonatomized gel coat application and for the mechanical atomized controlled spraying of resins. We have incorporated the latter UEF equation in the final rule so that it is applicable only where the controlled spray is achieved through automated or robotic, not manual, spraying.

Finally, we are incorporating only the UEF equations developed for styrene and not those developed for MMA. We are doing this because the data analysis forming the basis of the standards assumed all organic HAP to be styrene. This is a reasonable assumption as the amount of MMA used is a very small percentage of the total HAP monomer used.

Comment: One commenter noted that the proposed rule does not provide for manual application of gel coats. Many gel coats are applied manually as exterior coatings when the major component part is made. The rule should require that for HAP emissions calculations from manual application, gel coat should be considered as a resin with the stated HAP content and the appropriate point value equation should be used. Companies where manual gel coat application is less than 2 percent of the total gel coat usage should be exempt from maintaining records of manual application.

Response: We agree with the commenter that the proposed rule did not provide an equation to estimate HAP emissions from the manual application of gel coats and that the rule needs to address this. In the final rule, we have addressed this issue by allowing two options. First, the facility may elect to simply include manually-applied gel coat with spray gel coat application for compliance and HAP emissions estimation purposes. Alternatively, they can elect to treat the gel coat as spray for compliance purposes, but use the manual resin application HAP emissions factor to estimate HAP emissions.

We believe the changes discussed above are sufficient to simplify reporting and recordkeeping for manual gel coat application. Therefore, we have not added an exemption for maintaining records for manual gel coat application.

Comment: Several commenters requested that sources be allowed to use HAP emissions factors in approved title V permits to estimate HAP emissions. It was noted that the use of such factors will reduce the administrative burden for sources and regulators and will likely improve HAP emissions estimates. One commenter suggested that such factors also be allowed to be used for compliance determinations.

Response: We agree with this comment and believe that § 63.5798(a)(1) and (2) of the final rule already allow for the use of facility-specific HAP emissions factors. Section 63.5798(a)(1) states, in part, that "you may use any organic HAP emissions factor approved by us such as factors from the Compilation of Air Pollutant Emissions Factors, Volume I: Stationary Point and Area Sources (AP–42)." Section 63.5798(a)(1) was not intended to limit organic HAP emissions factors only to the AP–42. Paragraph (a)(2) of § 63.5789 allows the development of facility-specific organic HAP emissions factors through performance testing. If a facility has facility-specific factors that have been approved for use in title V operating permits, then those factors can be used to determine whether or not the facility is a major source under section 112 of the CAA. In addition, a facility can use facility-specific factors for comparison against applicable HAP emissions limits. We have written the language in § 63.5798 of the final rule to clarify the use of such facility-specific factors and have added the provision that such factors must be supported by test data.

Comment: One commenter notes that the alternative point values in Table 5 to subpart WWWW of part 63 do not provide a realistic alternative to 95 percent capture and control. In an example calculation for 35 percent styrene resin in open molding, the point value calculation is equivalent to 96 percent control, which is more stringent than the add-on control requirement.

Response: While the values may not appear realistic for some facilities, Table 5 to subpart WWWW of part 63 does present the opportunity to meet the final standards using alternative means. We believe that the values in Table 5 to subpart WWWW of part 63 provide incentive to continue to pursue lower-HAP resins and gel coats and other pollution-prevention opportunities and that even if only one facility can use the values, then their inclusion is worthwhile. For these reasons, we have retained Table 5 to subpart WWWW of part 63. However, we have made minor modifications to this table. For process/product groupings where there is an operating facility that currently meets the 95 percent control requirement, we changed the value in Table 5 to subpart WWWW of part 63 to reflect the highest actual calculated HAP emissions factors for operating facilities.

Comment: One commenter stated that the weighted average point values should be calculated as a weighted average of resin used. The commenter pointed out that the equation in the current proposal gives equal weight to each month instead of each quantity of resin or gel coat processed. Another commenter asked for clarification on how the "weighted average floor" is calculated.

Response: We agree with the commenter that 12-month rolling average point values should be calculated using a weighted average based on the amount of resins, rather than using an average based on monthly values, as was proposed. Therefore, the final rule incorporates the commenters' suggestion. Also, we have changed the

terminology for the averaging calculations. We now use the term "emissions factor" when discussing values calculated using actual resin and gel coat HAP contents, and "emissions limit" when discussing average values calculated from the required floor limits. This change should clarify how to calculate the weighted average floor.

Comment: Several commenters asked that EPA include a test method to determine the effectiveness of vapor suppressants. They suggested that the CFA-developed vapor suppressant test method be used.

Response: We agree with the commenter that the final rule should incorporate a test method applicable to vapor suppressants, which are effective at reducing HAP emissions for many resin applications. The effectiveness of vapor suppressants varies depending on the resin and the application technique used. Thus, a single effectiveness value cannot be assigned. The final rule, therefore, incorporates a test method to determine the effectiveness of vapor suppressants for facility-specific applications. This test method is being published as appendix A to subpart WWWW of 40 CFR part 63.

Comment: One commenter states that the proposed rule is vague or silent on key issues including continuous monitoring of the preconcentrator control performance. The commenter states that the question of the practical long-term efficiency of the preconcentrator system is particularly disturbing because the proposed rule is silent on the issue of compliance assurance. Unfortunately, compliance assurance will present three problems: no available parametric measure will work to monitor absorber efficiency; continuous or semi-continuous flame ionization detectors (FID) are the only practical alternative, but are unreliable; and automated FID equipment is very expensive and prone to periods of malfunction.

The commenter also states that the only feasible available continuous emissions monitor (CEM) system that can measure styrene is an automated sampling device based on an equivalent FID sensor as described in EPA Method 25A of appendix A–7 to 40 CFR part 60 that has an annual cost of $78,200 per year. The additional cost of this necessary compliance monitoring equipment was not included in the EPA cost analysis.

Response: We have reviewed the information on those facilities using add-on control devices with carbon adsorbers within the reinforced plastic composites industry and have found none that are using FID. These facilities are able to demonstrate compliance with 95 percent reduction. Therefore, we do not believe it is necessary to require use of FID under the final rule and have not included the cost of such devices in our cost analysis.

Comment: One commenter notes that the requirements for sources to determine the HAP content should be the same as those in the Boat Manufacturing NESHAP (40 CFR part 63, subpart VVVV). The commenter points out that the boat rule allows sources to use information from the supplier or manufacturer and requires the use of the upper limit of a range if a range is provided and allows use of supplier information as long as a measured value does not exceed the provided value by more than 2 percentage points. The commenter notes that suppliers provide many of the same resins and gel coats to boat manufacturers and composites manufacturers.

Response: We agree with the commenter and the final rule has been written in line with the HAP content determination provisions found in the Boat Manufacturing NESHAP, which in part allow up to a plus or minus 2 percent allowance.

Comment: One commenter stated that the rule should allow composites manufacturers to change compliance options and should provide guidance on notification and record keeping requirements if affected sources need to switch compliance options.

Response: We agree with the commenter and have included language in the final rule making it clear that changes in the selected compliance option are allowed.

Comment: One commenter opposed capture and control for pultrusion sources based on worker safety. The commenter notes that the EPA analysis assumes an inlet concentration of 100 ppmv, but their measured concentrations are about 12 ppmv. At that concentration, according to the commenter, capture and control is not viable. The commenter claims that efforts to increase the inlet concentration lead to OSHA and industrial hygiene concerns and that any changes increasing the concentration to over 20 ppmv would exceed American Congress of Governmental Industrial Hygienists recommended maximums. Further, the commenter states that levels approaching 50 ppmv require installation of engineering controls (ventilation or HAP prevention) and exposure to these levels would meet with serious union objections. The commenter notes that these considerations result in higher capture and control costs. The commenter requests that health related issues be fully addressed before the proposed above-the-floor capture and control is implemented. Another commenter stated that pultrusion products requiring constant attention would have to have an enclosure large enough for the operator to be inside, and this would increase health risks due to styrene exposures.

Response: As noted in previous responses, the above-the-floor requirement for 95 percent HAP emissions reduction is no longer required for pultrusion operations at existing sources and, therefore, capture and control is no longer an issue for existing facilities. We also note that our revised cost analysis now uses a target maximum inlet concentration of 50 ppmv rather than 100 ppmv. The 50 ppmv target is the same as the current OSHA 8-hour time weighted average limit for styrene.

We have not changed our position on capture and control for new sources, except, as discussed above, with respect to large parts made by pultrusion (and open molding) sources. New facilities can be designed with the appropriate measures in place to avoid worker exposure in excess of OSHA requirements. As previously discussed, facilities that have incorporated capture and control meet current OSHA requirements for worker safety.

Comment: Several commenters requested that preform injection, a technique that applies resin to the reinforcements in a closed box, be an allowed control technology because it is a more viable and readily attainable control technology than either add-on control or direct-die injection. One commenter stated that preform injection should qualify for a 90 percent HAP emissions reduction, and the CFA proposed definition and requirements should be used as the criteria for preform injection. A second commenter stated that although it falls short of 95 percent reduction, reduction rates of 90 percent are attainable and an excellent trade off given the applicability, capital requirements, and operating costs associated with preform injection.

Response: We agree with the commenters that preform injection is a viable control technology for reducing HAP emissions from pultrusion operations. Preform injection is included in the final rule as an option for meeting the 60 percent HAP emissions reduction requirement for existing pultrusion sources. However, as stated by the commenters, preform injection (and direct die injection) do

not meet the 95 percent HAP emissions reduction requirement, which is the new source MACT floor. The CAA does not allow us to be less stringent than the floor. Therefore, we cannot allow preform injection, or direct die injection, to be a compliance option to meet the 95 percent HAP emissions reduction requirement. We also included a definition for preform injection in the final rule that is based on the commenter's suggested language.

Comment: Several commenters requested a 12-month averaging period for compliance for pultrusion. The commenters stated that pultruders should be able to use a combination of preform injection, wet area enclosures, direct die injection, and "no control" to meet the 60 percent HAP emissions reduction requirement for existing sources. The commenters pointed out that HAP emissions credits could be earned to offset the processing of products with an open bath and "no control." According to the commenters, without averaging, facilities will be forced to discontinue manufacturing products that require constant open access (for example, certain complex profiles) or to shut down any processing line when there is an extended period of processing adjustments (which require open access to the line).

Response: We agree that averaging will add some flexibility for you to comply with the final rule without increasing HAP emissions. Therefore, for existing sources we have included an averaging option. For purposes of averaging, we have assigned wet area enclosures a 60 percent HAP emissions reduction, and direct die injection and preform injection a 90 percent HAP emissions reduction.

Comment: Several commenters requested that the 60 percent emission reduction requirement for existing sources, which is based in the use of a wet area enclosure, be replaced with a work practice standard of air flow management. They stated it was impossible to apply wet area enclosures to these large parts because of accessibility concerns. Large parts require almost constant access because they are extremely complex. The other control options for existing sources, preform injection and direct die injection, have also not been demonstrated on these large parts. They suggested a definition for large parts, which was parts with 1,000 or more reinforcements and at least a 60 square inch cross sectional area.

Response: We agree that wet area enclosures, which form the basis of the existing source floor, are not feasible for large parts as defined in the comment. Therefore, we developed a separate existing source MACT floor for large pultruded parts. A review of the available data indicates air flow management (as described in more detail in Table 4 to subpart WWWW of part 63) has been used to control emissions from this process group. Therefore, the existing source MACT floor is air flow management. The final rule has been written to reflect the new floor.

Comment: Many commenters requested that the limit on wet enclosure open times of 30 minutes per shift be changed to 90 minutes per day to allow for necessary repairs, start-ups, and shutdowns.

Response: We evaluated the commenters' request. The facilities that actually set the floor for pultrusion are limited to 30 minutes per 8 hour shift or 45 minutes per 12 hour shift. In addition, the facility may average over all pultrusion lines. We have included averaging provisions across lines in the final rule. We have also allowed a facility to have the doors and covers open 90 minutes per day providing the machine is operated three 8-hour shifts or two 12-hour shifts.

Comment: Three commenters claimed that the height restriction on wet area enclosures is not practical because it does not allow room above the highest part to make adjustments to the process or equipment. According to the commenters, the actual height of the wet area enclosure has no impact on HAP emissions because the puller window is the controlling factor, and styrene emissions will remain near the bath without air flow. The commenters, therefore, requested that the restriction be removed.

Response: We have no data to suggest that limiting the height of the enclosure affects the amount of HAP emissions reduction. Therefore, we did not include the height restrictions on the wet area enclosures in the final rule.

Comment: Commenters requested that capture and control not be required for sources engaged in SMC manufacturing. The commenter stated that EPA's proposal for control is based on one source and, according to the commenter, that source has found that they cannot operate the SMC operation and comply with EPA Method 204 of appendix M of 40 CFR part 51.

A second commenter stated that their SMC operation is permitted by Ohio EPA as a PTE with all HAP emissions vented to a thermal oxidizer. They have found it expensive to maintain the PTE and control device and may be required to install additional monitors at great expense.

Response: For existing sources, the final rule does not require capture and control for SMC manufacturing. For new sources, however, the floor is 95 percent reduction and we do not have the flexibility to change the floor. Most of the comments raised by the commenters relate to the cost of PTE and thermal oxidizers. However, costs may not be considered in setting the floor. Additionally, the problems with compliance noted by one commenter do not, in themselves, indicate that new sources cannot be designed and operated to meet the 95 percent control requirement. For example, the facility states that they must open a large overhead door to operate their second SMC machine. In a new facility, the plant layout can be designed where large doors are not required to be continually open. Therefore, the final rule retains the requirement of 95 percent capture and control for SMC manufacturing at new sources that exceed the 100 tpy of HAP emissions threshold.

Comment: One commenter noted that an alternative to meeting the 95 percent HAP emissions reduction requirement is provided for some operations and requests that an alternate HAP emissions limit be provided for SMC manufacturing. An alternative HAP emissions limit allows SMC manufacturers to utilize pollution-prevention efforts that have already been implemented and encourages the use of future pollution-prevention efforts.

Response: For SMC manufacturing, we have incorporated a HAP emissions limit of 2.4 lb/ton as a compliance alternative to the 95 percent control requirement in the final rule.

Comment: A number of commenters expressed concerns about the floor level of control for SMC manufacturing that is based on several work practices. They stated that the requirement to cover doctor boxes should be deleted because the boxes have to be open for machine operators to monitor paste levels. They also mentioned that folding the edges of the SMC had proved to create problems for some facilities that had tried the practice. Finally, they stated that the requirement to enclose the SMC in nylon film should actually say nylon-containing film.

Response: We evaluated the basis for the MACT floor by reviewing all of the data available prior to proposal and contained in the public comment letters. On the basis of this review, we discovered that the MACT floor at proposal did not accurately reflect the actual work practices currently being used. Therefore, we changed the floor to

for both new and existing sources to cover or enclose the resin transport system up to the doctor box and use nylon-containing film to enclose the SMC. Based on the practices at the best controlled similar source, these work practices also apply to new sources that are above the 100 tpy threshold.

Comment: Several commenters requested that the requirement for "no visible gaps in mixer covers" be revised to allow reasonable and necessary openings. In general, they stated that mixing vessels must have some opening or vents to allow air to enter or leave the vessel when materials are added or removed, or when the contained material expands or contracts due to changes in temperature. Commenters also noted necessary clearance for mixing shafts and other instrumentation are essential and suggested allowing a gap of one inch. An additional commenter stated that they have several holding tanks that are continuously agitated to prevent settling. They requested that we add clarifying language to the definition of mixers to exclude tanks that are only agitated to prevent settling.

Response: Based on our review of the available data on the current industry control on mixing tanks, we found that the proposed rule is more stringent than the floor and that to allow some visible gaps around shafts, etc., is consistent with the data available to set the floor. Therefore, we have written the final rule to allow no more than one inch of visible gap around mixing shafts and any required instrumentation.

With regard to the request to exempt tanks that are agitated only to prevent settling, concern was that the mixing shafts required clearance. Because we have added a provision to allow up to a one inch clearance around the agitator shafts, this concern has been addressed and the suggested exemption for these specific types of mixers is not warranted. Therefore, the final rule does not include an exemption for tanks that agitate only to prevent settling.

Comment: Several commenters requested that the rule allow active venting under three conditions: when adding filler; when using nitrogen blanketing; and prior to opening a mixer. Several commenters stated that when powders are added to mixing tanks, vent gases are directed to a dust collector to protect employees. One commenter stated that you cannot capture dust without actively venting. The commenter suggests that the proposed rule allow active venting as part of the material addition process. Two commenters actively vent covered mixers at very low flow through a dust collector. The active flow results from nitrogen flowing through the air space for safety reasons (to prevent vapor buildup). Based on stack test results, HAP emissions under these conditions were found to be very low (0.000292 lb styrene/lb styrene available). For these reasons, active venting for safety reasons, using an inert gas purge, and at low flow, should be allowed for covered mixers. Another commenter stated that some mixing operations use nitrogen blanketing for safety (to prevent formation of flammable atmospheres). These sources have an incentive to limit use of nitrogen blanketing because of cost; so, HAP emissions will be negligible. Two commenters also requested that the rule allow venting just before adding materials to clear out vapors prior to opening covers and to allow venting just after adding powders to capture residual dust in the vapor space. One commenter also asked that the term "active venting" be defined in the rule.

Response: We believe that most HAP emissions that result from mixing operations occur when active mixing is taking place. Also, based on the data used to set the MACT floor, the facilities that responded that mixers have no active venting meant that the mixer was covered and not vented during mixing. As a result, we have written the rule requirement to read "close any mixer vents when actual mixing is occurring, except that venting is allowed during addition of materials, or as necessary prior to adding materials or opening the cover for safety." Because we have removed the term "active venting," no definition of this term is required.

Comment: One commenter believes that covers should be required instead of add-on control for larger mixing operations. According to the commenter, covers can reduce HAP emissions by 84.8 percent to 96 percent. The commenter then maintains that the incremental HAP emissions reduction from oxidation cannot justify the cost and energy use of control when compared to covers. The commenter notes that there are some facilities in EPA's database that use add-on controls for mixing. However, according to the commenter, the control in all cases is incidental to the use of the add-on control for other operations in the facility. Therefore, the commenter believes that add-on control is not the best control for mixing, and the final rule should require covers instead of add-on controls for all mixing operations.

Response: The reasons for why HAP emissions are being controlled is usually not considered in the setting of MACT standards. Further, we disagree with the commenter's characterization of the control of mixing HAP emissions as "incidental." We do not agree that the data provided support the claim of 85 to 96 percent control using covers. Therefore, we have not written the rule as requested by the commenter. New sources that exceed the 100 tpy HAP emissions threshold will still have to cover the mixing tanks and control their HAP emissions from mixing by 95 percent, which is the new source floor level of control.

Comment: Two commenters suggested that the definition of compression molding be changed to include a process where resin paste is added to the reinforcement at the press and to include the use of in-mold coating (IMC). According to the commenters, the resin paste process is similar to the use of SMC and BMC because there is no exposure of HAP-containing material, except where the charge is being prepared and placed in the mold. The controls for this process are the same as those available for SMC and BMC (*i.e.* limiting the quantity of exposed materials to that which is required for one press cycle). In-mold coating is a process where HAP-containing materials are mixed with catalyst and then injected into the mold cavity after the molding cycle has started. The IMC reduces the need for post-mold coating (painting) operations. The controls available for IMC are the same as those generally available for mixing operations.

Response: We have modified the definition of closed molding to include these processes.

Comment: Several commenters requested that the work practice standard requiring closed molding operations to uncover, unwrap, or expose only one charge per mold cycle per machine be revised so that a charge is defined as the amount of materials required to charge the mold(s) for each machine cycle. Some machines have more than one mold, and limiting the amount of material would cause a bottleneck in production capacity. One commenter added that the rule should allow multiple charges to be loaded into the hopper, provided the hopper is kept covered between loading operations and that the unlimited use of slitting machines to unwrap, cut, and prepare charges should be permitted, provided that the charges are then covered or placed in a closed container prior to use at the press.

Response: We agree that where multiple charges are required for a single mold cycle, the rule should allow them to be prepared at the same time

and held in a closed container prior to use. Therefore, we have written the final rule to define "charge" per the commenter's suggestion and to require that multiple charges be kept covered, as for single charges, until used. We have also written the final rule to allow the use of hoppers, robotic loaders, and slitters.

Comment: Many commenters noted in the proposed rule that polymer casting mixing operations in containers of 21 gallons or less may be open while active mixing occurs and requested that this exemption be increased. The commenters note that many are using 350 lb containers, which is equivalent to 21.6 gallons. According to the commenters, the mixing process uses an electric mixer and requires frequent manual scraping of the sides, and a requirement to cover the mixer would present a productivity disadvantage.

Response: Changing the volume exemption from 21 to 21.6 gallons would be consistent with the intent of the proposed exemption. The surface area of exempt mixers is a more important parameter because it is directly related to the amount of HAP emissions that would occur. Therefore, we have included this exemption in the final rule but have changed the exemption parameter to 500 square inches of surface area. This change should allow the 21.6 gallon mixers, commonly used in this industry, to be exempt from the requirement to cover the mixer.

Comment: One commenter noted that worker safety, fire prevention, and product quality requirements necessitate limited active venting of HAP-containing materials storage vessels, covered mixers, and material conveyance enclosures. Some facilities store resins in bulk tanks with passive atmospheric venting. Problems arise from resin contact with the water vapor in the atmosphere. Polymerization occurs on side walls, vents, and transfer pipes. Vents, especially conservation vents, can plug, threatening the tank's structural integrity. Nitrogen blanketing is used by some facilities to solve these problems. Nitrogen blanketing is also used to inert the head space in bulk HAP-containing materials storage tanks for fire prevention.

Another commenter requested clarifying language to allow passive vents for bulk HAP-containing materials storage tanks. The vents are small to allow for breathing of the tanks as they are filled and emptied. These vents are required under OSHA to prevent pressure build-up and to reduce the chances of explosions and major leaks or spills. The annual breathing losses from all eight of this commenter's tanks are less than 1 tpy. A third commenter suggested that the rule be changed to allow venting from HAP-containing materials storage vessels.

Response: We did not intend to prohibit bulk HAP-containing materials storage tanks from venting to the atmosphere for safety. The final rule has been written to clarify this. However, it is not our intent to allow venting from all HAP-containing materials storage vessels because the safety concerns commenters raised are limited to bulk HAP-containing materials storage vessels. Thus, the final rule prohibits venting from HAP-containing materials storage vessels other than bulk storage tanks.

Comment: One commenter noted that the proposed rule would require that HAP-containing materials storage containers be kept closed or covered, except when adding or removing materials. The commenter claims this provision is not workable.

Response: We believe that covering HAP-containing materials storage containers is a simple and cost-effective way to reduce styrene evaporation. We also note that over 200 facilities that reported information on storage stated that HAP-containing materials storage containers are covered or closed. This provision has been written in the final rule.

Comment: Several commenters requested that HAP cleaners be allowed when used in a closed system or covered tank. The reasons were that aggressive cleaners were necessary due to the presence of cured resin on some surfaces, and that it was important to use a cleaner that would not cause contamination problems. They stated that HAP emissions from these closed systems were minimal, and in many cases, the styrene used for cleaning was recycled to the process as a raw material.

Response: The proposed rule allowed the use of HAP cleaners to remove cured resin from application equipment because of the difficulty associated with removing the cured resin. One commenter in particular identified other equipment used in the process on which cured resin may occur. We note, as the commenters have, that styrene is the main HAP used in the reinforced plastic composites industry and can be reused in the process without contaminating the end products. Therefore, we believe that the commenters' requests are reasonable and have written the final rule to expand the definition of "application equipment" and to allow the use of HAP-containing cleaners in closed systems (including covered tanks).

VI. Relationship of the Final NESHAP to Other NESHAP and the CAA Operating Permits Program

A. National Emissions Standards for Closed Vent Systems, Control Devices, Recovery Devices, and Routing to a Fuel Gas System or a Process (40 CFR Part 63, Subpart SS)

If you use an add-on control device(s) to control HAP emissions, you will need to comply with certain provisions in 40 CFR part 63, subpart SS, for add-on controls. The standards in subpart SS, cited by the final Reinforced Plastic Composites NESHAP, are applicable to most sources using an add-on control device. The final Reinforced Plastic Composites NESHAP cite these sections in subpart SS rather than repeating them in the regulatory text.

B. NESHAP for Boat Manufacturing (40 CFR Part 63, Subpart VVVV)

The final NESHAP for Boat Manufacturing were published on August 22, 2001 (66 FR 44218). There is a potential overlap between facilities that produce reinforced plastic composites if they also produce boat hulls, boat decks, or molds for boat hulls and decks. We have included provisions in the Reinforced Plastic Composites NESHAP to clarify where the Reinforced Plastic Composites NESHAP apply, and where the Boat Manufacturing NESHAP (40 CFR part 63, subpart VVVV) apply.

C. NESHAP for Plastic Parts and Products (Surface Coating)

There are currently NESHAP under development for proposal that will regulate coating of plastic parts and products. The Small Business Advocacy Review Panel, convened for the Reinforced Plastic Composites NESHAP, recommended that we consider the interaction of the Reinforced Plastic Composites NESHAP and the Plastic Parts and Products NESHAP. The Plastic Parts and Products NESHAP may potentially affect facilities that produce reinforced plastic parts and then apply a coating to the finished parts. We have coordinated with this project and have determined that there should be no overlap (*i.e.*, specific operations covered by today's final NESHAP should not also be covered in the Plastic Parts and Products NESHAP). We have not determined any requirements of today's final NESHAP that would overlap, conflict, or cause a duplication of effort.

D. Operating Permit Program

Under the operating permit program codified at 40 CFR part 70 and 40 CFR part 71, all major sources subject to standards under section 111 or 112 of the CAA must obtain an operating permit (*See* §§ 70.3(a)(1) and 71.3(a)(1)). Therefore, all major sources subject to the final NESHAP must obtain an operating permit.

Some reinforced plastic composites production facilities may be major sources based solely on their potential to emit, even though their actual HAP emissions are below the major source level. These facilities may choose to obtain a federally enforceable limit on their potential to emit so that they are no longer considered major sources subject to the final NESHAP. Sources that opt to limit their potential to emit (*e.g.*, limits on operating hours or amount of material used) are referred to by the EPA as "synthetic area" sources. To become a synthetic area source, you must contact your local permitting authority to obtain an operating permit with the appropriate operating limits. These limits must be obtained prior to the compliance date for existing sources, which is April 21, 2006. These operating limits will then be federally enforceable under 40 CFR 70.6(b).

VII. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether this regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, OMB notified EPA at proposal that it considered this rulemaking a "significant regulatory action" within the meaning of the Executive Order. The EPA submitted the proposed rule to OMB for review. Changes made in response to suggestions or recommendations from OMB are documented and included in the public record. The OMB has informed EPA that it no longer considers this action significant. Therefore, it is not subject to further OMB review. The OMB did request a copy of the final regulation and preamble prior to publication. However, they did not request any changes in the final rule.

B. Paperwork Reduction Act

The information collection requirements in the final rule have been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An information collection request (ICR) document has been prepared by EPA (ICR No. 1976.01) and a copy may be obtained from Susan Auby by mail at the Office of Environmental Information, Collection Strategies Division (2822), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at "*auby.susan@epa.gov*," or by calling (202) 566–1672. A copy may also be downloaded from the internet at *http://www.epa.gov/icr*. The information requirements are not enforceable until OMB approves them.

The final rule contains monitoring, reporting, and recordkeeping requirements. These notices and reports are the minimum needed by us to determine if you are subject to the NESHAP and whether you are in compliance. These recordkeeping requirements are the minimum necessary to determine initial and ongoing compliance. Based on reported information, we would decide which reinforced plastic composites facilities and what records or processes should be inspected. The recordkeeping and reporting requirements are consistent with the General Provisions of 40 CFR part 63.

These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to us for which a claim of confidentiality is made will be safeguarded according to our policies in 40 CFR part 2, subpart B.

We expect the final rule to affect a total of approximately 488 facilities over the first 3 years. This includes 435 existing facilities, and 53 new reinforced plastic composites facilities that will become subject to the final NESHAP during the first 3 years.

The estimated average annual burden for the first 3 years after promulgation of the final NESHAP for industry and the implementing agency is outlined below. You can find the details of this information collection in the "Standard Form 83 Supporting Statement for ICR No. 1976.01," in Docket ID No. OAR–2003–0003 (formerly Docket No. A–94–52).

Affected entity	Total hours	Labor costs	Total annual O&M costs	Total costs
Industry	13,785	$613,623	$15,807	$629,431
Implementing agency	11,120	444,047	NA	444,047

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. Control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. When the OMB approves the information collection requirements of the final rule, the EPA will amend the table in 40 CFR

part 9 of currently approved ICR control numbers issued by OMB for various regulations.

C. Regulatory Flexibility Analysis

The EPA has prepared a Final Regulatory Flexibility Analysis (FRFA) in connection with the final rule. For purposes of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) A small business ranging from 500 to 1,000 employees as defined by the Small Business Administration's size standards; (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. The table below presents the size threshold for small businesses by NAICS Codes.

Category	NAICS codes	Maximum number of employees to be considered a small business
Manufacturing	335312 336211 336112 33612 336213 336413 33651	1000
	325211 327993 332998 33312 33651 335311 335313 33422 33653 336399	750
	All other identified NAICS Codes in this source category	500

In accordance with section 603 of the RFA, EPA prepared an initial regulatory flexibility analysis (IRFA) for the proposed rule and convened a Small Business Advocacy Review Panel to obtain advice and recommendations of representatives of the regulated small entities in accordance with section 609(b) of the RFA (*see* 66 FR 40324). A detailed discussion of the Panel's advice and recommendations is found in Docket ID No. OAR–2003–0003 (formerly Docket No. A–94–52). A summary of the panel's recommendations is presented below.

We have also prepared a FRFA for today's rule. The FRFA addresses the issues raised by public comments on the IRFA. The FRFA is available in the docket and is summarized below.

Section 112 of the CAA requires us to list categories and subcategories of major sources and, in some cases, area sources of HAP and to establish NESHAP for the listed source categories and subcategories. The Reinforced Plastic Composites Production source category (major sources only) was included on the initial list of source categories published on July 16, 1992 (57 FR 31576). Major sources of HAP are those that have the potential to emit greater than 10 tpy of any one HAP or 25 tpy of any combination of HAP.

The objective of the final rule is to apply standards based on MACT to all major sources in this source category. The criteria used to establish MACT are contained in section 112(d) of the CAA.

We received several comments on the economic analysis for the proposed rule. However, these comments related to the general analysis methodology and were mainly focused on the above-the-floor requirements. These requirements did not impact any small businesses in our analysis. We had no comments specifically in the IRFA.

Based on SBA size definitions and reported sales and employment data, we identified 279 of the 357 companies owning reinforced plastic composites facilities as small businesses. Although small businesses represent almost 80 percent of the companies within the source category, they are expected to incur 53 percent of the total industry compliance costs of $21.5 million. The average total annual compliance cost is projected to be $40,000 per small company, compared to the industry average of $60,000 per company. Under the final standards, the mean annual compliance cost, as a share of sales, for small businesses is 0.8 percent, and the median is 0.5 percent, with a range of 0.01 to 9.6 percent. We estimate that 24 percent of small businesses (or 67 firms) may experience an impact greater than 1 percent of sales, and 5 percent of small businesses (or 14 firms) may experience an impact greater than 3 percent of sales.

We also performed an economic impact analysis (EIA) that accounted for firm behavior to provide an estimate of the facility and market impacts of the final rule. This industry is characterized by profit margins of 3 to 4 percent. Small businesses were found to have higher per-unit production costs under baseline conditions and incur slightly higher per-unit compliance costs. As a result of these factors, the economic analysis indicates that 12 percent of facilities owned by small business are at risk of closure because of the final rule. Note that this number is slightly higher then the estimate at proposal, which was 10 percent. This change is not due to any change in stringency of the rule as applied to small businesses. It is due to the reduction in stringency of the rule for large businesses.

Although any facility closures are cause for concern, the number of facilities at risk for closure would be the same if the final rule required only the MACT floor level of control for all facilities. The MACT floor is the least stringent level allowed by statute.

The proposed rule contained significant accommodations for small businesses where requirements were more stringent then the MACT floor for existing sources. Since these above-the-floor requirements for existing sources have been eliminated in the final rule for all process/product groupings except centrifugal casting and continuous lamination/casting, these accommodations for small business are no longer necessary.

Other accommodations originally included to aid small businesses were extended to all businesses at proposal and have been retained in the final NESHAP.

In the proposed rule, there were different HAP emissions thresholds above which an existing facility had to comply with more stringent above-the-floor requirements of 95 percent capture and control. This threshold was 250 tpy of HAP emissions for small businesses and 100 tpy for large businesses. In the final rule, we have removed the above-the-floor capture and control requirements for existing sources, except for those with centrifugal casting or continuous lamination/casting, and we have established a single threshold of 100 tpy for these existing sources, whether they are small or large businesses. Based on our analysis, setting the threshold at 100 tpy for these sources, rather than retaining the proposed 100 tpy for large businesses and 250 tpy for small businesses, does not result in any additional impacts on small businesses. This is because we have no facilities that emit over 100 tpy, but less than 250 tpy, of HAP from centrifugal casting or continuous lamination/casting processes, and are small businesses.

The reporting and recordkeeping requirements for these small businesses include initial notifications, startup notifications and compliance reports. These requirements were discussed in more detail under the discussion of the Paperwork Reduction Act above. We estimate that 301 existing facilities owned by small businesses will be impacted by these requirements, and 53 new facilities owned by small businesses will be impacted in the first 3 years. The professional skills required to complete these reports include the ability to calculate HAP emissions and resin use and read and follow report format guidance. All facilities impacted by the final rule are predicted to have personnel with the necessary skills because they would need these skills to comply with other regulatory requirements, such as Toxic Release Inventory (TRI) reporting.

Provisions to minimize the reporting and recordkeeping requirements on small business have been incorporated into the final rule. These provisions include allowing the facility to substantiate resin and gel coat HAP contents using MSDS rather than requiring testing of each resin and gel coat; use of resin purchase records to determine resin use; and exemption of facilities that can demonstrate that all their resin and gel coats comply with the required HAP content limits from the requirement to keep records of resin use and calculate HAP emissions factor averages. These provisions have also been extended to all companies subject to today's final NESHAP.

These facilities may also be subject to the NESHAP being developed for plastic parts and products. There should be no duplication of effort as a result of the Reinforced Plastic Composites NESHAP and the Plastic Parts and Products NESHAP being developed because the Reinforced Plastic Composites NESHAP will cover different operations. Facilities subject to the final rule are also subject to HAP emissions estimate reporting under the TRI requirements. In the final rule, we could determine no ways to combine TRI and the reporting requirements of the NESHAP because the objectives and statutory authorities of these requirements are different.

As indicated above, we have incorporated significant alternatives into the final rule to minimize the impact on small businesses but still meet the objectives of the CAA.

As required by section 609(b) of the RFA, EPA conducted outreach to small entities and convened a SBAR panel to review advice and recommendations from representatives of the small entities that potentially would be subject to the proposed rule requirements.

Consistent with RFA/SBREFA requirements, the panel evaluated the assembled materials and small-entity comments on issues related to the elements of the IRFA. A copy of the panel report is included in the docket.

The panel considered numerous regulatory flexibility options in response to concerns raised by the small entity representatives. The major concerns included the affordability and technical feasibility of add-on controls, the resin and gel coat HAP contents required to meet some of the MACT floors, and the regulatory treatment of specialty products.

These are the major panel recommendations and EPA's response in today's final rule:

- Recommend setting higher thresholds for small businesses than EPA had initially considered for requirements to use add-on controls.

Response: In today's action, EPA has removed the requirements for add-on controls for open molding, pultrusion, SMC and BMC manufacturing, and mixing operations at existing sources. We are retaining this above-the-floor requirement for centrifugal casting and continuous lamination/casting operations at existing sources and setting a single threshold of 100 tpy applicable to both small and large businesses. Setting a common threshold at 100 tpy does not increase the impacts on any small business because we identified no small-business owned sources that are impacted as the result of the decision to set a single threshold. Also, the original reason for setting different existing source thresholds for small versus large businesses were the impacts of the capital cost of add-on controls for open molding, pultrusion, SMC and BMC manufacturing, and mixing. Because existing sources that have these operations are no longer subject to any above-the-floor add-on control requirements, the original reason for having the different thresholds no longer exists.

The following recommendations were developed for small businesses, but were extended to both large and small business in the proposed rule and in the final rule.

- Recommend setting the new source floor for small-owned sources at the level of the existing source floor.

Response: Today's final rule includes this provision.

- Recommend establishing separate floors for specialty products.

Response: Today's final rule includes provisions for special products.

- Explore pollution-prevention alternatives to add-on controls.

Response: The EPA did explore this possibility with industry sources. We could not devise a workable pollution-prevention alternative to include in the proposed rule and requested comment. The only comments received on a pollution-prevention alternative were for the pultrusion process/product grouping. In the final rule, we have incorporated a new pollution-prevention technology recommended in the comments as a compliance alternative for pultrusion operations.

- Recommend allowing individual facilities to use the same resin in all resin application processes.

Response: Today's final rule includes this provision.

- Reconsider the resin HAP content requirement for tooling resins.

Response: We requested additional information on tooling resins

subsequent to proposal. Based on information we received, the floor for manual application of tooling resins was made less stringent. The available data still indicate that the floor for mechanical tooling resins in the proposed rule was appropriate.

• Recommend separate floors for white/off-white gel coats and other pigmented gel coats.

Response: Today's final rule includes this provision.

• Reconsider the Agency's estimates of the cost of add-on controls.

Response: We conducted a thorough review of our costs for add-on controls and made significant revisions to the cost estimates. As a result, the add-on control requirements have been removed for open molding, pultrusion, SMC and BMC manufacturing and mixing operations at existing sources.

• Recommend grouping high-strength applications with corrosion-resistant operations.

Response: Today's final rule includes this provision.

As contemplated by Section 212 of SBREFA, EPA is also preparing a small entity compliance guide to help small entities comply with this rule. This guide will be made available on EPA's air toxics website, *http://www.epa.gov/ttn/atw/* by April 21, 2004.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 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 a 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 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.

The EPA has determined that the 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 1 year. The total cost to the private sector is approximately $21.5 million per year for existing sources and $7.7 million per year for new sources. The final rule contains no mandates affecting State, local, or Tribal governments. Thus, today's final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

In adopting the final rule, we have chosen regulatory alternatives that are the minimum mandated by the CAA with one exception. For existing centrifugal casting and continuous lamination/casting operations that emit over 100 tpy from these operations, we have chosen a regulatory alternative of 95 percent capture and control, rather than the minimum level of control required under the CAA. We choose this alternative because it results in additional HAP emissions reductions from these processes with a cost per ton of HAP reductions we consider to be reasonable.

We have determined that the final 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."

The 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. No reinforced plastic composites production facilities subject to the final NESHAP are owned by State or local governments. Therefore, State and local governments will not have any direct compliance costs resulting from the final rule. Furthermore, the final NESHAP do not require these governments to take on any new responsibilities. Therefore, Executive Order 13132 does not apply to the final 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 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." The 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, because we are not aware of any Indian tribal governments or communities affected by the final rule. Thus, Executive Order 13175 does not apply to the final 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 Executive Order 12866, and (2) concerns an environmental health or safety risk that we have 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. The 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. The 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 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. We determined that the overall energy demand for operations in the Reinforced Plastic Composites Production source category could increase by 10 million standard cubic feet per year of natural gas, and 0.6 million kilowatt hours of electricity per year as a result of the final rule. These are not significant adverse effects under the Executive Order.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act (NTTAA) of 1995 (Pub. L. No. 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement 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, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to the OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. The EPA cites in this rule the EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 18, 25, 25A, 204, and 204B, C, D, E. Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods. No applicable voluntary consensus standards were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 204, 204B–E. The search and review results have been documented and are placed in Docket ID No. OAR–2003–0003 (formerly Docket No. A–94–52).

Three voluntary consensus standards were identified as acceptable alternatives to EPA test methods for the purposes of this rule.

The voluntary consensus standard ASME PTC 19.10–1981–Part 10, "Flue and Exhaust Gas Analyses," is cited in this rule for its manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas. This part of ASME PTC 19.10–1981–Part 10 is an acceptable alternative to Method 3B.

The voluntary consensus standard, ASTM D6420–99, "Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry (GC/MS)," is appropriate in the cases described below for inclusion in the final rule, in addition to the currently available EPA Method 18, codified at 40 CFR part 60, appendix A.

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 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 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 is citing ASTM D6420–99 in subpart WWWW of part 63. 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 EPA requested comments on proposed compliance demonstration requirements in the proposed rule, and specifically invited the public to identify potentially applicable voluntary consensus standards. The only comment we received on voluntary consensus standards was that we should allow the use of the vapor suppressant effectiveness test protocol developed by the CFA to determine vapor suppressant effectiveness. We have reviewed the information supplied by the commenter and have incorporated this test method, "Vapor Suppressant Effectiveness Test Protocol," into the final rule as appendix A to subpart WWWW of 40 CFR part 63.

The search for emissions measurement procedures identified 13 additional voluntary consensus standards potentially applicable to the final rule. The EPA determined that 11 of these 13 standards were impractical alternatives to EPA test methods for the purposes of this rulemaking. Therefore, EPA will not adopt these standards today. The reasons for this determination for the 11 methods are in the docket.

The following two voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of this rulemaking because they are under development by a voluntary consensus body: ASME/BSR MFC 13M, "Flow Measurement by Velocity Traverse," for EPA Method 2 (and possibly 1); and ASME/BSR MFC 12M, "Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters," for EPA Method 2.

Section 63.5850 and Table 6 to subpart WWWW of part 63 list the EPA testing methods included in the final rule. Under §§ 63.7(f) and 63.8(f) of subpart A of the General Provisions, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any of the EPA testing methods, performance specifications, or procedures.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the 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 United States. The EPA will submit a report containing the 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 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). The final rule will be effective on April 21, 2003.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous air pollutants, Incorporation by reference, Reporting and recordkeeping requirements, and Volatile organic compounds.

Dated: February 28, 2003.

Christine Todd Whitman,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of the 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.*

■ 2. Section 63.14 is amended by adding paragraph (b)(29) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(b) * * *

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

* * * * *

■ 3. Part 63 is amended by adding subpart WWWW to read as follows:

Subpart WWWW—National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production

Sec.

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What This Subpart Covers

§ 63.5780 What is the purpose of this subpart?

This subpart establishes national emissions standards for hazardous air pollutants (NESHAP) for reinforced plastic composites production. This subpart also establishes requirements to demonstrate initial and continuous compliance with the hazardous air pollutants (HAP) emissions standards.

§ 63.5785 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a reinforced plastic composites production facility that is located at a major source of HAP emissions. Reinforced plastic composites production is limited to operations in which reinforced and/or nonreinforced plastic composites or plastic molding compounds are manufactured using thermoset resins and/or gel coats that contain styrene to produce plastic composites. The resins and gel coats may also contain materials designed to enhance the chemical, physical, and/or thermal properties of the product. Reinforced plastic composites production also includes cleaning, mixing, HAP-containing materials storage, and repair operations associated with the production of plastic composites.

(b) You are not subject to this subpart if your facility only repairs reinforced plastic composites. Repair includes the non-routine manufacture of individual components or parts intended to repair a larger item as defined in § 63.5935

(c) You are not subject to this subpart if your facility is a research and development facility as defined in section 112(c)(7) of the Clean Air Act (CAA).

(d) You are not subject to this subpart if your reinforced plastic composites operations use less than 1.2 tons per year (tpy) of thermoset resins and gel coats that contain styrene combined.

§ 63.5787 What if I also manufacture fiberglass boats or boat parts?

(a) If your source meets the applicability criteria in § 63.5785, and is not subject to the Boat Manufacturing NESHAP (40 CFR part 63, subpart VVVV), you are subject to this subpart regardless of the final use of the parts you manufacture.

(b) If your source is subject to 40 CFR part 63, subpart VVVV, and all the reinforced plastic composites you manufacture are used in manufacturing your boats, you are not subject to this subpart.

(c) If you are subject to 40 CFR part 63, subpart VVVV, and meet the applicability criteria in § 63.5785, and produce reinforced plastic composites that are not used in fiberglass boat manufacture at your facility, all operations associated with the manufacture of the reinforced plastic composites parts that are not used in fiberglass boat manufacture at your facility are subject to this subpart, except as noted in paragraph (d) of this section.

(d) Facilities potentially subject to both this subpart and 40 CFR part 63, subpart VVVV may elect to have the operations in paragraph (c) of this section covered by 40 CFR part 63, subpart VVVV, in lieu of this subpart, if they can demonstrate that this will not result in any organic HAP emissions increase compared to complying with this subpart.

§ 63.5790 What parts of my plant does this subpart cover?

(a) This subpart applies to each new or existing affected source at reinforced plastic composites production facilities.

(b) The affected source consists of all parts of your facility engaged in the following operations: Open molding, closed molding, centrifugal casting, continuous lamination, continuous casting, polymer casting, pultrusion, sheet molding compound (SMC) manufacturing, bulk molding compound (BMC) manufacturing, mixing, cleaning of equipment used in reinforced plastic composites manufacture, HAP-containing materials storage, and repair operations on parts you also manufacture.

(c) The following operations are specifically excluded from any requirements in this subpart: Application of mold sealing and release agents, mold stripping and cleaning, repair of parts that you did not manufacture, including non-routine manufacturing of parts, personal activities that are not part of the manufacturing operations (such as hobby shops on military bases), prepreg materials as defined in § 63.5935, non-gel coat surface coatings, repair or production materials that do not contain resin or gel coat, and research and development operations as defined in section 112(c)(7) of the CAA.

(d) Production resins that must meet military specifications are allowed to meet the organic HAP limit contained in that specification. In order for this exemption to be used, you must supply to the permitting authority the specifications certified as accurate by the military procurement officer, and those specifications must state a requirement for a specific resin, or a specific resin HAP content. Production resins for which this exemption is used must be applied with nonatomizing resin application equipment unless you can demonstrate this is infeasible. You must keep a record of the resins for which you are using this exemption.

§ 63.5795 How do I know if my reinforced plastic composites production facility is a new affected source or an existing affected source?

(a) A reinforced plastic composites production facility is a new affected source if it meets all the criteria in paragraphs (a)(1) and (2) of this section.

(1) You commence construction of the affected source after August 2, 2001.

(2) You commence construction, and no other reinforced plastic composites production affected source exists at that site.

(b) For the purposes of this subpart, an existing affected source is any affected source that is not a new affected source.

Calculating Organic HAP Emissions Factors for Open Molding and Centrifugal Casting

§ 63.5796 What are the organic HAP emissions factor equations in Table 1 to this subpart, and how are they used in this subpart?

Emissions factors are used in this subpart to determine compliance with certain organic HAP emissions limits in Tables 3 and 5 to this subpart. You may use the equations in Table 1 to this subpart to calculate your emissions factors. Equations are available for each open molding operation and centrifugal casting operation and have units of pounds of organic HAP emitted per ton (lb/ton) of resin or gel coat applied. These equations are intended to provide a method for you to demonstrate compliance without the need to conduct for a HAP emissions test. In lieu of these equations, you can elect to use site-specific organic HAP emissions factors to demonstrate compliance provided your site-specific organic HAP

emissions factors are incorporated in the facility's air emissions permit and are based on actual facility HAP emissions test data. You may also use the organic HAP emissions factors calculated using the equations in Table 1 to this subpart, combined with resin and gel coat use data, to calculate your organic HAP emissions.

63.5797 How do I determine the organic HAP content of my resins and gel coats?

In order to determine the organic HAP content of resins and gel coats, you may rely on information provided by the material manufacturer, such as manufacturer's formulation data and material safety data sheets (MSDS), using the procedures specified in paragraphs (a) through (c) of this section, as applicable.

(a) Include in the organic HAP total each organic HAP that is present at 0.1 percent by mass or more for Occupational Safety and Health Administration-defined carcinogens, as specified in 29 CFR 1910.1200(d)(4) and at 1.0 percent by mass or more for other organic HAP compounds.

(b) If the organic HAP content is provided by the material supplier or manufacturer as a range, you must use the upper limit of the range for determining compliance. If a separate measurement of the total organic HAP content, such as an analysis of the material by EPA Method 311 of appendix A to 40 CFR part 63, exceeds the upper limit of the range of the total organic HAP content provided by the material supplier or manufacturer, then you must use the measured organic HAP content to determine compliance.

(c) If the organic HAP content is provided as a single value, you may use that value to determine compliance. If a separate measurement of the total organic HAP content is made and is less than 2 percentage points higher than the value for total organic HAP content provided by the material supplier or manufacturer, then you still may use the provided value to demonstrate compliance. If the measured total organic HAP content exceeds the provided value by 2 percentage points or more, then you must use the measured organic HAP content to determine compliance.

§ 63.5798 What if I want to use, or I manufacture, an application technology (new or existing) whose organic HAP emissions characteristics are not represented by the equations in Table 1 to this subpart?

If you wish to use a resin or gel coat application technology (new or existing), whose emission characteristics are not represented by the equations in Table 1 to this subpart, you may use the procedures in paragraphs (a) or (b) of this section to establish an organic HAP emissions factor. This organic HAP emissions factor may then be used to determine compliance with the emission limits in this subpart, and to calculate facility organic HAP emissions.

(a) Perform a organic HAP emissions test to determine a site-specific organic HAP emissions factor using the test procedures in § 63.5850.

(b) Submit a petition to the Administrator for administrative review of this subpart. This petition must contain a description of the resin or gel coat application technology and supporting organic HAP emissions test data obtained using EPA test methods or their equivalent. The emission test data should be obtained using a range of resin or gel coat HAP contents to demonstrate the effectiveness of the technology under the different conditions, and to demonstrate that the technology will be effective at different sites. We will review the submitted data, and, if appropriate, update the equations in Table 1 to this subpart.

§ 63.5799 How do I calculate my facility's organic HAP emissions on a tpy basis for purposes of determining which paragraphs of § 63.5805 apply?

To calculate your facility's organic HAP emissions in tpy for purposes of determining which paragraphs in § 63.5805 apply to you, you must use the procedures in either paragraph (a) of this section for new facilities prior to startup, or paragraph (b) of this section for existing facilities and new facilities after startup. You are not required to calculate or report emissions under this section if you are an existing facility that does not have centrifugal casting or continuous lamination/casting operations, or a new facility that does not have any of the following operations: Open molding, centrifugal casting, continuous lamination/casting, pultrusion, SMC and BMC manufacturing, and mixing. Emissions calculation and emission reporting procedures in other sections of this subpart still apply. Calculate organic HAP emissions prior to any add-on control device, and do not include organic HAP emissions from any resin or gel coat used in operations subject to the Boat Manufacturing NESHAP, 40 CFR part 63, subpart VVVV, or from the manufacture of large parts as defined in § 63.5805(d)(2). For centrifugal casting operations at existing facilities, do not include any organic HAP emissions where resin or gel coat is applied to an open centrifugal mold using open molding application techniques. Table 1 and the Table 1 footnotes to this subpart present more information on calculating centrifugal casting organic HAP emissions. The timing and reporting of these calculations is discussed in paragraph (c) of this section.

(a) For new facilities prior to startup, calculate a weighted average organic HAP emissions factor for the operations specified in § 63.5805(b) and (d) on a lbs/ton of resin and gel coat basis. Base the weighted average on your projected operation for the 12 months subsequent to facility startup. Multiply the weighted average organic HAP emissions factor by projected resin use over the same period. You may calculate your organic HAP emissions factor based on the factors in Table 1 to this subpart, or you may use any HAP emissions factor approved by us, such as factors from the Compilation of Air Pollutant Emissions Factors, Volume I: Stationary Point and Area Sources (AP–42), or organic HAP emissions test data from similar facilities.

(b) For existing facilities and new facilities after startup, you may use the procedures in either paragraph (b)(1) or (2) of this section. If the emission factors for an existing facility have changed over the period of time prior to their initial compliance date due to incorporation of pollution-prevention control techniques, existing facilities may base the average emission factor on their operations as they exist on the compliance date. If an existing facility has accepted an enforceable permit limit of less than 100 tons per year of HAP, and can demonstrate that they will operate at that level subsequent to the compliance date, the they can be deemed to be below the 100 tpy threshold.

(1) *Use a calculated emission factor.* Calculate a weighted average organic HAP emissions factor on a lbs/ton of resin and gel coat basis. Base the weighted average on the prior 12 months of operation. Multiply the weighted average organic HAP emissions factor by resin and gel coat use over the same period. You may calculate this organic HAP emissions factor based on the equations in Table 1 to this subpart, or you may use any organic HAP emissions factor approved by us, such as factors from AP–42, or site-specific organic HAP emissions factors if they are supported by HAP emissions test data.

(2) *Conduct performance testing.* Conduct performance testing using the test procedures in § 63.5850 to determine a site-specific organic HAP emissions factor in units of lbs/ton of resin and gel coat used. Conduct the test

under conditions expected to result in the highest possible organic HAP emissions. Multiply this factor by annual resin and gel coat use to determine annual organic HAP emissions. This calculation must be repeated and reported annually.

(c) Existing facilities must initially perform this calculation based on their 12 months of operation prior to April 21, 2003, and include this information with their initial notification report. Existing facilities must repeat the calculation based on their resin and gel coat use in the 12 months prior to their initial compliance date, and submit this information with their initial compliance report. After their initial compliance date, existing and new facilities must recalculate organic HAP emissions over the 12-month period ending June 30 or December 31, whichever date is the first date following their compliance date specified in § 63.5800. Subsequent calculations should cover the periods in the semiannual compliance reports.

Compliance Dates and Standards

§ 63.5800 When do I have to comply with this subpart?

You must comply with the standards in this subpart by the dates specified in Table 2 to this subpart. Facilities meeting a organic HAP emissions standard based on a 12-month rolling average must begin collecting data on the compliance date in order to demonstrate compliance.

§ 63.5805 What standards must I meet to comply with this subpart?

You must meet the requirements of paragraphs (a) through (h) of this section that apply to you. You may elect to comply using any options to meeting these standards described in §§ 63.5810 through 63.5830. Use the procedures in § 63.5799 to determine if you meet or exceed the 100 tpy threshold.

(a) If you have an existing facility that does not have any centrifugal casting or continuous lamination/casting operations, or an existing facility that does have centrifugal casting or continuous lamination/casting operations, but the combination of all centrifugal casting and continuous lamination/casting operations emit less than 100 tpy of HAP, you must meet the annual average organic HAP emissions limits in Table 3 to this subpart and the work practice standards in Table 4 to this subpart that apply to you.

(b) If you have an existing facility that emits 100 tpy or more of HAP from the combination of all centrifugal casting and continuous lamination/casting operations, you must reduce the total organic HAP emissions from these operations by at least 95 percent by weight and meet any applicable work practice standards in Table 4 to this subpart that apply to you. Operations other than centrifugal casting, and continuous lamination/casting, must meet the requirements in Tables 3 and 4 to this subpart. As an alternative to meeting 95 percent by weight, you may meet the organic HAP emissions limits in Table 5 to this subpart. If you have a continuous lamination/casting operation, that operation may alternatively meet a organic HAP emissions limit of 1.47 lbs/ton of neat resin plus and neat gel coat plus applied. For centrifugal casting, the percent reduction requirement does not apply to organic HAP emissions that occur during resin application onto an open centrifugal casting mold using open molding application techniques.

(c) If you have a new facility that emits less than 100 tpy of HAP from the combination of all open molding, centrifugal casting, continuous lamination/casting, pultrusion, SMC manufacturing, mixing, and BMC manufacturing, you must meet the annual average organic HAP emissions limits in Table 3 to this subpart and the work practice standards in Table 4 to this subpart that apply to you.

(d)(1) Except as provided in paragraph (d)(2) of this section, if you have a new facility that emits 100 tpy or more of HAP from the combination of all open molding, centrifugal casting, continuous lamination/casting, pultrusion, SMC manufacturing, mixing, and BMC manufacturing, you must reduce the total organic HAP emissions from these operations by at least 95 percent by weight and meet any applicable work practice standards in Table 4 to this subpart that apply to you. As an alternative to meeting 95 percent by weight, you may meet the organic HAP emissions limits in Table 5 to this subpart. If you have a continuous lamination/casting operation, that operation may alternatively meet a organic HAP emissions limit of 1.47 lbs/ton of neat resin plus and neat gel coat plus applied.

(2)(i) If your new facility manufactures large reinforced plastic composites parts using open molding or pultrusion operations, the specific open molding and pultrusion operations used to produce large parts are not required to reduce HAP emissions by 95 weight percent, but must meet the emission limits in Table 3 to this subpart.

(ii) A large open molding part is defined as a part that, when the final finished part is enclosed in the smallest rectangular six-sided box into which the part can fit, the total interior volume of the box exceeds 250 cubic feet, or any interior sides of the box exceed 50 square feet.

(iii) A large pultruded part is a part that exceeds an outside perimeter of 24 inches or has more than 350 reinforcements.

(e) If you have a new or existing facility subject to paragraphs (a) or (c) of this section at their initial compliance date, that subsequently meets or exceeds the 100 tpy threshold in any calendar year, you must notify your permitting authority in your compliance report. You may at the same time request a one-time exemption from the requirements of paragraphs (b) or (d) of this section in your compliance report if you can demonstrate all of the following:

(1) The exceedance of the threshold was due to circumstances that will not to be repeated.

(2) The average annual organic HAP emissions from the potentially affected operations for the last 3 years were below 100 tpy.

(3) Projected organic HAP emissions for the next calendar year are below 100 tpy, based on projected resin and gel coat use and the HAP emission factors calculated according to the procedures in § 63.5799

(f) If you apply for an exemption in paragraph (e) of this section, and subsequently exceed the HAP emission thresholds specified in paragraphs (a) or (c) of this section over the next 12-month period, you must notify the permitting authority in your semi-annual report, the exemption is removed, and your facility must comply with paragraphs (b) or (d) of this section within 3 years from the time your organic HAP emissions first exceeded the threshold.

(g) If you have repair operations subject to this subpart as defined in § 63.5785, these repair operations must meet the requirements in Tables 3 and 4 to this subpart, and are not required to meet the 95 percent organic HAP emissions reduction requirements in paragraphs (b) or (d) of this section.

(h) If you use an add-on control device to comply with this subpart, you must meet all requirements contained in 40 CFR part 63, subpart SS.

Options for Meeting Standards

§ 63.5810 What are my options for meeting the standards for open molding and centrifugal casting operations at new and existing sources?

You must use one of the following methods in paragraphs (a) through (d) of this section to meet the standards in § 63.5805. When you are complying with an emission limit in Tables 3 or 5

to this subpart, you may use any control method that reduces organic HAP emissions, including reducing resin and gel coat organic HAP content, changing to nonatomized mechanical application, covered curing techniques, and routing part or all of your emissions to an add-on control. The necessary calculations must be completed within 30 days after the end of each month. You may switch between the compliance options in paragraphs (a) through (d) of this section. When you change to an option based on a 12-month rolling average, you must base the average on the previous 12 months of data calculated using the compliance option you are currently using unless you were using the compliant materials option in paragraph (d) of this section. In this case, you must immediately begin collecting resin and gel coat use data and demonstrate compliance 12 months after changing options.

(a) *Meet the individual organic HAP emissions limits for each operation.* Demonstrate that you meet the individual organic HAP emissions limits for each open molding operation and for each centrifugal casting operation type in Tables 3, or 5 to this subpart that apply to you. This is done in two steps. First, determine an organic HAP factor for each individual resin and gel coat, application method, and control method you use in a particular operation. Second, calculate, for each particular operation type, a weighted average of those organic HAP emissions factors based on resin and gel coat use. Your calculated organic HAP emissions factor must either be at or below the applicable organic HAP emissions limit in Tables 3 or 5 to this subpart based on a 12-month rolling average. Use the procedures described in paragraphs (a)(1) through (3) of this section to calculate average organic HAP emissions factors for each of your operations.

(1) Calculate your actual organic HAP emissions factor for each different process stream within each operation type. A process stream is defined as each individual combination of resin or gel coat, application technique, and control technique. Process streams within operations types are considered different from each other if any of the following three characteristics vary: The neat resin plus or neat gel coat plus organic HAP content, the application technique, or the control technique. You must calculate organic HAP emissions factors for each different process stream by using the appropriate equations in Table 1 to this subpart for open molding and for centrifugal casting, or site-specific organic HAP emissions factors discussed in § 63.5796. If you want to use vapor suppressants to meet the organic HAP emissions limit for open molding, you must determine the vapor suppressant effectiveness by conducting testing according to the procedures specified of appendix A to subpart WWWW of 40 CFR part 63. If you want to use an add-on control device to meet the organic HAP emissions limit, you must determine the add-on control factor by conducting capture and control efficiency testing, using the procedures specified in § 63.5850. The organic HAP emissions factor calculated from the equations in Table 1 to this subpart, or site-specific emissions factors, is multiplied by the add-on control factor to calculate the organic HAP emissions factor after control. Use Equation 1 of this section to calculate the add-on control factor used in the organic HAP emissions factor equations.

$$\text{Add-on Control Factor} = 1 - \frac{\text{\% Control Efficiency}}{100} \qquad \text{(Eq. 1)}$$

Where:

Percent Control Efficiency=a value calculated from organic HAP emissions test measurements made according to the requirements of § 63.5850 to this subpart

(2) Calculate your actual operation organic HAP emissions factor for the last 12 months for each open molding operation type and for each centrifugal casting operation type by calculating the weighted average of the individual process stream organic HAP emissions factors within each respective operation. To do this, sum the product of each individual organic HAP emissions factor calculated in paragraph (a)(1) of this section and the amount of neat resin plus and neat gel coat plus usage that correspond to the individual factors and divide the numerator by the total amount of neat resin plus and neat gel coat plus used in that operation type. Use Equation 2 of this section to calculate your actual organic HAP emissions factor for each open molding operation type and each centrifugal casting operation type.

$$\text{Actual Operation Organic HAP Emissions Factor} = \frac{\sum_{i=1}^{n} (\text{Actual Process Stream EF}_i * \text{Material}_i)}{\sum_{i=1}^{n} \text{Material}_i} \qquad \text{(Eq. 2)}$$

Where:

Actual Process Stream EF_i=actual organic HAP emissions factor for process stream i, lbs/ton

$Material_i$=neat resin plus or neat gel coat plus used during the last 12 calendar months for process stream i, tons

n=number of process streams where you calculated an organic HAP emissions factor

(3) Compare each organic HAP emissions factor calculated in paragraph (b)(2) of this section with its corresponding organic HAP emissions limit in Tables 3 or 5 to this subpart. If all emissions factors are equal to or less than their corresponding emission limits, then you are in compliance.

(b) *HAP Emissions factor averaging option.* Demonstrate each month that you meet each weighted average of the organic HAP emissions limits in Tables 3 or 5 to this subpart that apply to you. When using this option, you must demonstrate compliance with the weighted average organic HAP emissions limit for all your open molding operations, and then separately demonstrate compliance with the weighted average organic HAP emissions limit for all your centrifugal casting operations. Open molding operations and centrifugal casting

operations may not be averaged with each other.

(1) Each month calculate the weighted average organic HAP emissions limit for all open molding operations and the weighted average organic HAP emissions limit for all centrifugal casting operations for your facility for the last 12-month period to determine the organic HAP emissions limit you must meet. To do this, multiply the individual organic HAP emissions limits in Tables 3 or 5 to this subpart for each open molding (centrifugal casting) operation type by the amount of neat resin plus or neat gel coat plus used in the last 12 months for each open molding (centrifugal casting) operation type, sum these results, and then divide this sum by the total amount of neat resin plus and neat gel coat plus used in open molding (centrifugal casting) over the last 12 months. Use Equation 3 of this section to calculate the weighted average organic HAP emissions limit for all open molding operations and separately for all centrifugal casting operations.

$$\text{Weighted Average Emission Limit} = \frac{\sum_{i=1}^{n}(EL_i * \text{Material}_i)}{\sum_{i=1}^{n}\text{Material}_i} \quad \text{(Eq. 3)}$$

Where:

EL_i=organic HAP emissions limit for operation type i, lbs/ton from Tables 3, 5 or 7 to this subpart

Material_i=neat resin plus or neat gel coat plus used during the last 12-month period for operation type i, tons

n=number of operations

(2) Each month calculate your actual weighted average organic HAP emissions factor for open molding and centrifugal casting. To do this, multiply your actual open molding (centrifugal casting) operation organic HAP emissions factors and the amount of neat resin plus and neat gel coat plus used in each open molding (centrifugal casting) operation type, sum the results, and divide this sum by the total amount of neat resin plus and neat gel coat plus used in open molding (centrifugal casting) operations. You must calculate your actual individual HAP emissions factors for each operation type as described in paragraphs (a)(1) and (2) of this section. Use Equation 4 of this section to calculate your actual weighted average organic HAP emissions factor.

$$\text{Actual Weighted Average Organic HAP Emissions Factor} = \frac{\sum_{i=1}^{n}(\text{Actual Operation EF}_i * \text{Material}_i)}{\sum_{i=1}^{n}\text{Material}_i} \quad \text{(Eq. 4)}$$

Where:

Actual Individual EF_i=Actual organic HAP emissions factor for operation type i, lbs/ton

Material_i=neat resin plus or neat gel coat plus used during the last 12 calendar months for operation type i, tons

n=number of operations

(3) Compare the values calculated in paragraphs (b)(1) and (2) of this section. If each 12-month rolling average organic HAP emissions factor is less than or equal to the corresponding 12-month rolling average organic HAP emissions limit, then you are in compliance.

(c) *If you have multiple operation types, meet the organic HAP emissions limit for one operation type, and use the same resin(s) for all operations of that resin type.* If you have more than one operation type, you may meet the emission limit for one of those operations, and use the same resin(s) in all other open molding and centrifugal casting operations.

(1) This option is limited to resins of the same type. The resin types for which this option may be used are noncorrosion-resistant, corrosion-resistant and/or high strength, and tooling.

(2) For any combination of manual resin application, mechanical resin application, filament application, or centrifugal casting, you may elect to meet the organic HAP emissions limit for any one of these operations and use that operation's same resin in all of the resin operations listed in this paragraph. Table 7 to this subpart presents the possible combinations based on a facility selecting the application process that results in the highest allowable organic HAP content resin. If your resin organic HAP content is below the applicable values shown in Table 7 to this subpart, you are in compliance.

(3) You may also use a weighted average organic HAP content for each operation described in paragraph (c)(2) of this section. Calculate the weighted average organic HAP content monthly. Use Equation 2 in § 63.5810(a)(2) except substitute organic HAP content for organic HAP emissions factor. You are in compliance if the weighted average organic HAP content based on the last 12 months of resin use is less than or equal to the applicable organic HAP contents in Table 7 to this subpart.

(4) You may simultaneously use the averaging provisions in paragraph (b) of this section to demonstrate compliance for any operations and/or resins you do not include in your compliance demonstrations is paragraphs (c)(2) and (3) of this section. However, any resins for which you claim compliance under the option in paragraphs (c)(2) and (3) of this section may not be included in any of the averaging calculations described in paragraphs (a) or (b) of this section used for resins for which you are not claiming compliance under this option.

(d) Use resins and gel coats that do not exceed the maximum organic HAP contents shown in Table 3 to this subpart.

§ 63.5820 What are my options for meeting the standards for continuous lamination/casting operations?

You must use one or more of the options in paragraphs (a) through (d) of this section to meet the standards in § 63.5805. Use the calculation

procedures in §§ 63.5865 through 63.5890.

(a) *Compliant line option.* Demonstrate that each continuous lamination line and each continuous casting line complies with the applicable standard.

(b) *Averaging option.* Demonstrate that all continuous lamination and continuous casting lines combined, comply with the applicable standard.

(c) *Add-on control device option.* If your operation must meet the 58.5 weight percent organic HAP emissions reduction limit in Table 3 to this subpart, you have the option of demonstrating that you achieve 95 percent reduction of all wet-out area organic HAP emissions.

(d) *Combination option.* Use any combination of options in paragraphs (a) and (b) of this section or, for affected sources at existing facilities, any combination of options in paragraphs (a), (b), and (c) of this section (in which one or more lines meet the standards on their own, two or more lines averaged together meet the standards, and one or more lines have their wet-out areas controlled to a level of 95 percent).

§ 63.5830 What are my options for meeting the standards for pultrusion operations subject to the 60 weight percent organic HAP emissions reductions requirement?

You must use one or more of the options in paragraphs (a) through (e) of this section to meet the 60 weight percent organic HAP emissions limit in Table 3 to this subpart, as required in § 63.5805.

(a) Achieve an overall reduction in organic HAP emissions of 60 weight percent by capturing the organic HAP emissions and venting them to a control device or any combination of control devices. Conduct capture and destruction efficiency testing as specified in 63.5850 to this subpart to determine the percent organic HAP emissions reduction.

(b) Design, install, and operate wet area enclosures and resin drip collection systems on pultrusion machines that meet the criteria in paragraphs (b)(1) through (10) of this section.

(1) The enclosure must cover and enclose the open resin bath and the forming area in which reinforcements are pre-wet or wet-out and moving toward the die(s). The surfaces of the enclosure must be closed except for openings to allow material to enter and exit the enclosure.

(2) For open bath pultrusion machines with a radio frequency pre-heat unit, the enclosure must extend from the beginning of the resin bath to within 12.5 inches or less of the entrance of the radio frequency pre-heat unit. If the stock that is within 12.5 inches or less of the entrance to the radio frequency pre-heat unit has any drip, it must be enclosed. The stock exiting the radio frequency pre-heat unit is not required to be in an enclosure if the stock has no drip between the exit of the radio frequency pre-heat unit to within 0.5 inches of the entrance of the die.

(3) For open bath pultrusion machines without a radio frequency pre-heat unit, the enclosure must extend from the beginning of the resin bath to within 0.5 inches or less of the die entrance.

(4) For pultrusion lines with a pre-wet area prior to direct die injection, the enclosure must extend from the point at which the resin is applied to the reinforcement to within 12.5 inches or less of the entrance of the die(s). If the stock that is within 12.5 inches or less of the entrance to the die has any drip, it must be enclosed.

(5) The total open area of the enclosure must not exceed two times the cross sectional area of the puller window(s) and must comply with the requirements in paragraphs (b)(5)(i) through (iii) of this section.

(i) All areas that are open need to be included in the total open area calculation with the exception of access panels, doors, and/or hatches that are part of the enclosure.

(ii) The area that is displaced by entering reinforcement or exiting product is considered open.

(iii) Areas that are covered by brush covers are considered closed.

(6) Open areas for level control devices, monitoring devices, agitation shafts, and fill hoses must have no more than 1.0 inch clearance.

(7) The access panels, doors, and/or hatches that are part of the enclosure must close tightly. Damaged access panels, doors, and/or hatches that do not close tightly must be replaced.

(8) The enclosure may not be removed from the pultrusion line, and access panels, doors, and/or hatches that are part of the enclosure must remain closed whenever resin is in the bath, except for the time period discussed in paragraph (b)(9) of this section.

(9) The maximum length of time the enclosure may be removed from the pultrusion line or the access panels, doors, and/or hatches and may be open, is 30 minutes per 8 hour shift, 45 minutes per 12 hour shift, or 90 minutes per day if the machine is operated for 24 hours in a day. The time restrictions do not apply if the open doors or panels do not cause the limit of two times the puller window area to be exceeded. Facilities may average the times that access panels, doors, and/or hatches are open across all operating lines. In that case the average must not exceed the times shown in this paragraph (b)(9). All lines included in the average must have operated the entire time period being averaged.

(10) No fans, blowers, and/or air lines may be allowed within the enclosure. The enclosure must not be ventilated.

(c) Use direct die injection pultrusion machines with resin drip collection systems that meet all the criteria specified in paragraphs (c)(1) through (3) of this section.

(1) All the resin that is applied to the reinforcement is delivered directly to the die.

(2) No exposed resin is present, except at the face of the die.

(3) Resin drip is captured in closed piping and recycled directly to the resin injection chamber.

(d) Use a preform injection system that meets the definition in § 63.5935

(e) Use any combination of options in paragraphs (a) through (d) of this section in which different pultrusion lines comply with different options described in paragraphs (a) through (d) of this section, and

(1) Each individual pultrusion machine meets the 60 percent reduction requirement, or

(2) The weighted average reduction based on resin throughout of all machines combined is 60 percent. For purposes of the average percent reduction calculation, wet area enclosures reduce organic HAP emissions by 60 percent, and direct die injection and preform injection reduce organic HAP emissions by 90 percent.

General Compliance Requirements

§ 63.5835 What are my general requirements for complying with this subpart?

(a) You must be in compliance at all times with the work practice standards in Table 4 to this subpart, as well as the organic HAP emissions limits in Tables 3, or 5, or the organic HAP content limits in Table 7 to this subpart, as applicable, that you are meeting without the use of add-on controls.

(b) You must be in compliance with all organic HAP emissions limits in this subpart that you meet using add-on controls, except during periods of startup, shutdown, and malfunction.

(c) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(d) You must develop and implement a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3) for any organic

HAP emissions limits you meet using an add-on control.

Testing and Initial Compliance Requirements

§ 63.5840 By what date must I conduct a performance test or other initial compliance demonstration?

You must conduct performance tests, performance evaluations, design evaluations, capture efficiency testing, and other initial compliance demonstrations by the compliance date specified in Table 2 to this subpart, with three exceptions. Open molding and centrifugal casting operations that elect to meet a organic HAP emissions limit on a 12-month rolling average must initiate collection of the required data on the compliance date, and demonstrate compliance 1 year after the compliance date. New sources that use add-on controls to initially meet compliance must demonstrate compliance within 180 days after their compliance date.

§ 63.5845 When must I conduct subsequentperformance tests?

You must conduct a performance test every 5 years following the initial performance test for any standard you meet with an add-on control device.

§ 63.5850 How do I conduct performance tests, performance evaluations, and design evaluations?

(a) If you are using any add-on controls to meet a organic HAP emissions limit in this subpart, you must conduct each performance test, performance evaluation, and design evaluation in 40 CFR part 63, subpart SS, that applies to you. The basic requirements for performance tests, performance evaluations, and design evaluations are presented in Table 6 to this subpart.

(b) Each performance test must be conducted according to the requirements in § 63.7(e)(1) and under the specific conditions that 40 CFR part 63, subpart SS, specifies.

(c) Each performance evaluation must be conducted according to the requirements in § 63.8(e) as applicable and under the specific conditions that 40 CFR part 63, subpart SS, specifies.

(d) You may not conduct performance tests or performance evaluations during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(e) You must conduct the control device performance test using the emission measurement methods specified in paragraphs (e)(1) through (5) of this section.

(1) Use either Method 1 or 1A of appendix A to 40 CFR part 60, as appropriate, to select the sampling sites.

(2) Use Method 2, 2A, 2C, 2D, 2F or 2G of appendix A to 40 CFR part 60, as appropriate, to measure gas volumetric flow rate.

(3) Use Method 18 of appendix A to 40 CFR part 60 to measure organic HAP emissions or use Method 25A of appendix A to 40 CFR part 60 to measure total gaseous organic emissions as a surrogate for total organic HAP emissions. If you use Method 25A, you must assume that all gaseous organic emissions measured as carbon are organic HAP emissions. If you use Method 18 and the number of organic HAP in the exhaust stream exceeds five, you must take into account the use of multiple chromatographic columns and analytical techniques to get an accurate measure of at least 90 percent of the total organic HAP mass emissions. Do not use Method 18 to measure organic HAP emissions from a combustion device; use instead Method 25A and assume that all gaseous organic mass emissions measured as carbon are organic HAP emissions.

(4) You may use American Society for Testing and Materials (ASTM) D6420–99 (available for purchase from at least one of the following addresses: 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959; or University Microfilms International, 300 North Zeeb Road, Ann Arbor, MI 48106.) in lieu of Method 18 of 40 CFR part 60, appendix A, under the conditions specified in paragraphs (c)(4)(i) through (iii) of this section.

(i) If the target compound(s) is 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.

(ii) If the target compound(s) is not listed in Section 1.1 of ASTM D6420–99, but is potentially detected by mass spectrometry, an additional system continuing calibration check after each run, as detailed in Section 10.5.3 of ASTM D6420–99, must be followed, met, documented, and submitted with the performance test report even if you do not use a moisture condenser or the compound is not considered soluble.

(iii) If a minimum of one sample/analysis cycle is completed at least every 15 minutes.

(5) Use the procedures in EPA Method 3B of appendix A to 40 CFR part 60 to determine an oxygen correction factor if required by § 63.997(e)(2)(iii)(C). You may use American Society of Mechanical Engineers (ASME) PTC 19–10–1981–Part 10 (available for purchase from ASME, P.O. Box 2900, 22 Law Drive, Fairfield, New Jersey, 07007–2900, or online at *www.asme.org/catalog*) as an alternative to EPA Method 3B of appendix A to 40 CFR part 60.

(f) The control device performance test must consist of three runs and each run must last at least 1 hour. The production conditions during the test runs must represent normal production conditions with respect to the types of parts being made and material application methods. The production conditions during the test must also represent maximum potential emissions with respect to the organic HAP content of the materials being applied and the material application rates.

(g) If you are using a concentrator/oxidizer control device, you must test the combined flow upstream of the concentrator, and the combined outlet flow from both the oxidizer and the concentrator to determine the overall control device efficiency. If the outlet flow from the concentrator and oxidizer are exhausted in separate stacks, you must test both stacks simultaneously with the inlet to the concentrator to determine the overall control device efficiency.

(h) During the test, you must also monitor and record separately the amounts of production resin, tooling resin, pigmented gel coat, clear gel coat, and tooling gel coat applied inside the enclosure that is vented to the control device.

§ 63.5855 What are my monitor installation and operation requirements?

You must monitor and operate all add-on control devices according to the procedures in 40 CFR part 63, subpart SS.

§ 63.5860 How do I demonstrate initial compliance with the standards?

(a) You demonstrate initial compliance with each organic HAP emissions standard in paragraphs (a) through (h) of § 63.5805 that applies to you by using the procedures shown in Tables 8 and 9 to this subpart.

(b) If using an add-on control device to demonstrate compliance, you must also establish each control device operating limit in 40 CFR part 63, subpart SS, that applies to you.

Emission Factor, Percent Reduction, and Capture Efficiency Calculation Procedures for Continuous Lamination/Casting Operations

§ 63.5865 What data must I generate to demonstrate compliance with the standards for continuous lamination/casting operations?

(a) For continuous lamination/casting affected sources complying with a percent reduction requirement, you must generate the data identified in

Tables 10 and 11 to this subpart for each data requirement that applies to your facility.

(b) For continuous lamination/casting affected sources complying with a lbs/ton limit, you must generate the data identified in Tables 11 and 12 to this subpart for each data requirement that applies to your facility.

§ 63.5870 How do I calculate annual uncontrolled and controlled organic HAP emissions from my wet-out area(s) and from my oven(s) for continuous lamination/casting operations?

To calculate your annual uncontrolled and controlled organic HAP emissions from your wet-out areas and from your ovens, you must develop uncontrolled and controlled wet-out area and uncontrolled and controlled oven organic HAP emissions estimation equations or factors to apply to each formula applied on each line, determine how much of each formula for each end product is applied each year on each line, and assign uncontrolled and controlled wet-out area and uncontrolled and controlled oven organic HAP emissions estimation equations or factors to each formula. You must determine the overall capture efficiency using the procedures in § 63.5850 to this subpart.

(a) To develop uncontrolled and controlled organic HAP emissions estimation equations and factors, you must, at a minimum, do the following, as specified in paragraphs (a)(1) through (6) of this section:

(1) Identify each end product and the thickness of each end product produced on the line. Separate end products into the following end product groupings, as applicable: corrosion-resistant gel coated end products, noncorrosion-resistant gel coated end products, corrosion-resistant nongel coated end products, and noncorrosion-resistant nongel coated end products. This step creates end product/thickness combinations.

(2) Identify each formula used on the line to produce each end product/thickness combination. Identify the amount of each such formula applied per year. Rank each formula used to produce each end product/thickness combination according to usage within each end product/thickness combination.

(3) For each end product/thickness combination being produced, select the formula with the highest usage rate for testing.

(4) If not already selected, also select the worst-case formula (likely to be associated with the formula with the highest organic HAP content, type of HAP, application of gel coat, thin product, low line speed, higher resin table temperature) amongst all formulae. (You may use the results of the worst-case formula test for all formulae if desired to limit the amount of testing required.)

(5) For each formula selected for testing, conduct at least one test (consisting of three runs). During the test, track information on organic HAP content and type of HAP, end product thickness, line speed, and resin temperature on the wet-out area table.

(6) Using the test results, develop uncontrolled and controlled organic HAP emissions estimation equations (or factors) or series of equations (or factors) that best fit the results for estimating uncontrolled and controlled organic HAP emissions, taking into account the organic HAP content and type of HAP, end product thickness, line speed, and resin temperature on the wet-out area table.

(b) In lieu of using the method specified in paragraph (a) of this section for developing uncontrolled and controlled organic HAP emissions estimation equations and factors, you may either method specified in paragraphs (b)(1) and (2) of this section, as applicable.

(1) For either uncontrolled or controlled organic HAP emissions estimates, you may use previously established, facility-specific organic HAP emissions equations or factors, provided they allow estimation of both wet-out area and oven organic HAP emissions, where necessary, and have been approved by your permitting authority. If a previously established equation or factor is specific to the wet-out area only, or to the oven only, then you must develop the corresponding uncontrolled or controlled equation or factor for the other organic HAP emissions source.

(2) For uncontrolled (controlled) organic HAP emissions estimates, you may use controlled (uncontrolled) organic HAP emissions estimates and control device destruction efficiency to calculate your uncontrolled (controlled) organic HAP emissions provided the control device destruction efficiency was calculated at the same time you collected the data to develop your facility's controlled (uncontrolled) organic HAP emissions estimation equations and factors.

(c) Assign to each formula an uncontrolled organic HAP emissions estimation equation or factor based on the end product/thickness combination for which that formula is used.

(d)(1) To calculate your annual uncontrolled organic HAP emissions from wet-out areas that do not have any capture and control and from wet-out areas that are captured by an enclosure but are vented to the atmosphere and not to a control device, multiply each formula's annual usage by its appropriate organic HAP emissions estimation equation or factor and sum the individual results.

(2) To calculate your annual uncontrolled organic HAP emissions that escape from the enclosure on the wet-out area, multiply each formula's annual usage by its appropriate uncontrolled organic HAP emissions estimation equation or factor, sum the individual results, and multiply the summation by 1 minus the percent capture (expressed as a fraction).

(3) To calculate your annual uncontrolled oven organic HAP emissions, multiply each formula's annual usage by its appropriate uncontrolled organic HAP emissions estimation equation or factor and sum the individual results.

(4) To calculate your annual controlled organic HAP emissions, multiply each formula's annual usage by its appropriate organic HAP emissions estimation equation or factor and sum the individual results to obtain total annual controlled organic HAP emissions.

(e) Where a facility is calculating both uncontrolled and controlled organic HAP emissions estimation equations and factors, you must test the same formulae. In addition, you must develop both sets of equations and factors from the same tests.

§ 63.5875 How do I determine the capture efficiency of the enclosure on my wet-out area and the capture efficiency of my oven(s) for continuous lamination/casting operations?

(a) The capture efficiency of a wet-out area enclosure is assumed to be 100 percent if it meets the design and operation requirements for a permanent total enclosure (PTE) specified in EPA Method 204 of appendix M to 40 CFR part 51. If a PTE does not exist, then a temporary total enclosure must be constructed and verified using EPA Method 204, and capture efficiency testing must be determined using EPA Methods 204B through E of appendix M to 40 CFR part 51.

(b) The capture efficiency of an oven is to be considered 100 percent, provided the oven is operated under negative pressure.

§ 63.5880 How do I determine how much neat resin plus is applied to the line and how much neat gel coat plus is applied to the line for continuous lamination/casting operations?

Use the following procedures to determine how much neat resin plus and neat gel coat plus is applied to the line each year.

(a) Track formula usage by end product/thickness combinations.

(b) Use in-house records to show usage. This may be either from automated systems or manual records.

(c) Record daily the usage of each formula/end product combination on each line. This is to be recorded at the end of each run (*i.e.*, when a changeover in formula or product is made) and at the end of each shift.

(d) Sum the amounts from the daily records to calculate annual usage of each formula/end product combination by line.

§ 63.5885 How do I calculate percent reduction to demonstrate compliance for Continuous Lamination/Casting Operations?

You may calculate percent reduction using any of the methods in paragraphs (a) through (d) of this section.

(a) *Compliant line option.* If all of your wet-out areas have PTE that meet the requirements of EPA Method 204 of appendix M of 40 CFR part 51, and all of your wet-out area organic HAP emissions and oven organic HAP emissions are vented to an add-on control device, use Equation 1 of this section to demonstrate compliance. In all other situations, use Equation 2 of this section to demonstrate compliance.

$$PR = \frac{(Inlet) - (Outlet)}{(Inlet)} \times 100 \qquad \text{(Eq. 1)}$$

Where:

PR=percent reduction

Inlet=HAP emissions entering the control device, lbs per year

Outlet=HAP emissions exiting the control device to the atmosphere, lbs per year

$$PR = \frac{(WAE_u + O_u) - (WAE_c + O_c)}{(WAE_u + O_u)} \times 100 \qquad \text{(Eq. 2)}$$

Where:

PR=percent reduction

WAE_u=uncontrolled wet-out area organic HAP emissions, lbs per year

O_u=uncontrolled oven organic HAP emissions, lbs per year

WAE_c=controlled wet-out area organic HAP emissions, lbs per year

O_c=controlled oven organic HAP emissions, lbs per year

(b) *Averaging option.* Use Equation 3 of this section to calculate percent reduction.

$$PR = \frac{\left(\sum_{i=1}^{m} WAE_{ui} + \sum_{j=1}^{n} O_{uj}\right) - \left(\sum_{i=1}^{o} WAE_{ci} + \sum_{j=1}^{p} O_{cj}\right)}{\left(\sum_{i=1}^{m} WAE_{ui} + \sum_{j=1}^{n} O_{uj}\right)} \times 100 \qquad \text{(Eq. 3)}$$

Where:

PR=percent reduction

WAE_{ui}=uncontrolled organic HAP emissions from wet-out area i, lbs per year

O_{uj}=uncontrolled organic HAP emissions from oven j, lbs per year

WAE_{ci}=controlled organic HAP emissions from wet-out area i, lbs per year

O_{cj}=controlled organic HAP emissions from oven j, lbs per year

i=number of wet-out areas

j=number of ovens

m=number of wet-out areas uncontrolled

n=number of ovens uncontrolled

o=number of wet-out areas controlled

p=number of ovens controlled

(c) *Add-on control device option.* Use Equation 1 of this section to calculate percent reduction.

$$E = \frac{WAE_u + WAE_c + O_u + O_c}{(R + G)} \qquad \text{(Eq. 1)}$$

Where:

E=HAP emissions factor in lbs/ton of resin and gel coat

WAE_u=uncontrolled wet-out area organic HAP emissions, lbs per year

WAE_c=controlled wet-out area organic HAP emissions, lbs per year

O_u=uncontrolled oven organic HAP emissions, lbs per year

O_c=controlled oven organic HAP emissions, lbs per year

R=total usage of neat resin plus, tpy

G=total usage of neat gel coat plus, tpy

(b) *Averaging option.* Use Equation 2 of this section to demonstrate compliance.

(d) *Combination option.* Use Equations 1 through 3 of this section, as applicable, to calculate percent reduction.

§ 63.5890 How do I calculate a organic HAP emissions factor to demonstrate compliance for continuous lamination/casting operations?

(a) *Compliant line option.* Use Equation 1 of this section to calculate a organic HAP emissions factor in lbs/ton.

$$E = \frac{\sum_{i=1}^{m} WAE_{ui} + \sum_{i=1}^{o} WAE_{ci} + \sum_{j=1}^{n} O_{uj} + \sum_{j=1}^{p} O_{cj}}{(R+G)} \quad \text{(Eq. 2)}$$

Where:
E=HAP emissions factor in lbs/ton of resin and gel coat
WAE_{ui}=uncontrolled organic HAP emissions from wet-out area i, lbs per year
WAE_{ci}=controlled organic HAP emissions from wet-out area i, lbs per year
O_{uj}=uncontrolled organic HAP emissions from oven j, lbs per year
O_{cj}=controlled organic HAP emissions from oven j, lbs per year
i=number of wet-out areas
j=number of ovens
m=number of wet-out areas uncontrolled
n=number of ovens uncontrolled
o=number of wet-out areas controlled
p=number of ovens controlled
R=total usage of neat resin plus, tpy
G=total usage of neat gel coat plus, tpy

(c) *Combination option.* Use Equations 1 and 2 of this section, as applicable, to demonstrate compliance.

Continuous Compliance Requirements

§ 63.5895 How do I monitor and collect data to demonstrate continuous compliance?

(a) During production, you must collect and keep a record of data as indicated in 40 CFR part 63, subpart SS, if you are using an add-on control device.

(b) You must monitor and collect data as specified in paragraphs (b)(1) through (4) of this section.

(1) Except for monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must conduct all monitoring in continuous operation (or collect data at all required intervals) at all times that the affected source is operating.

(2) You may not use data recorded during monitoring malfunctions, associated repairs, and required quality assurance or control activities for purposes to this subpart, including data averages and calculations, or fulfilling a minimum data availability requirement, if applicable. You must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

(3) At all times, you must maintain necessary parts for routine repairs of the monitoring equipment.

(4) A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring equipment to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(c) You must collect and keep records of resin and gel coat use, organic HAP content, and operation where the resin is used if you are meeting any organic HAP emissions limits based on an organic HAP emissions limit in Tables 3 or 5 to this subpart. You must collect and keep records of resin and gel coat use, organic HAP content, and operation where the resin is used if you are meeting any organic HAP content limits in Table 7 to this subpart if you are averaging organic HAP contents. Resin use records may be based on purchase records if you can reasonably estimate how the resin is applied. The organic HAP content records may be based on MSDS or on resin specifications supplied by the resin supplier.

(d) If you initially demonstrate that all resins and gel coats individually meet the applicable organic HAP emissions limits, or organic HAP content limits, then resin and gel coat use records are not required. However, you must include a statement in each compliance report that all resins and gel coats still meet the organic HAP limits for compliant resins and gel coats shown in Tables 3 or 7 to this subpart. If after this initial demonstration, you change to a higher organic HAP resin or gel coat, or increase the resin or gel coat organic HAP content, or change to a higher-emitting resin or gel coat application method, then you must either again demonstrate that all resins and gel coats still meet the applicable organic HAP emissions limits, or begin collecting resin and gel coat use records and calculate compliance on a 12-month rolling average.

(e) For each of your pultrusion machines, you must record all times that wet area enclosures doors or covers are open and there is resin present in the resin bath.

§ 63.5900 How do I demonstrate continuous compliance with the standards?

(a) You must demonstrate continuous compliance with each standard in § 63.5805 that applies to you according to the methods specified in paragraphs (a)(1) through (3) of this section.

(1) Compliance with organic HAP emissions limits for sources using add-on control devices is demonstrated following the procedures in 40 CFR part 63, subpart SS. Sources using add-on controls may also use continuous emissions monitors to demonstrate continuous compliance as an alternative to control parameter monitoring.

(2) Compliance with organic HAP emissions limits is demonstrated by maintaining a organic HAP emissions factor value less than or equal to the appropriate organic HAP emissions limit listed in Tables 3, or 5 to this subpart, on a 12-month rolling average, or by including in each compliance report a statement that all resins and gel coats meet the appropriate organic HAP emissions limits, as discussed in § 63.5895(d).

(3) Compliance with organic HAP content limits in Table 7 to this subpart is demonstrated by maintaining an average organic HAP content value less than or equal to the appropriate organic HAP contents listed in Table 7 to this subpart, on a 12-month rolling average, or by including in each compliance report a statement that all resins and gel coats individually meet the appropriate organic HAP content limits, as discussed in § 63.5895(d).

(4) Compliance with the work practice standards in Table 4 to this subpart is demonstrated by performing the work practice required for your operation.

(b) You must report each deviation from each standard in § 63.5805 that applies to you. The deviations must be reported according to the requirements in § 63.5910.

(c) Except as provided in paragraph (d) of this section, during periods of startup, shutdown or malfunction, you must meet the organic HAP emissions limits and work practice standards that apply to you.

(d) When you use an add-on control device to meet standards in § 63.5805, you are not required to meet those standards during periods of startup, shutdown, or malfunction, but you must operate your affected source in accordance with the startup, shutdown, and malfunction plan.

(e) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of malfunction for those affected sources and standards specified in paragraph (d) of this section are not violations if you demonstrate to the

Administrator's satisfaction that you were operating in accordance with the startup, shutdown, and malfunction plan. The Administrator will determine whether deviations that occur during a period of startup, shutdown, and malfunction are violations, according to the provisions in § 63.6(e).

Notifications, Reports, and Records

§ 63.5905 What notifications must I submit and when?

(a) You must submit all of the notifications in Table 13 to this subpart that apply to you by the dates specified in Table 13 to this subpart. The notifications are described more fully in 40 CFR part 63, subpart A, referenced in Table 13 to this subpart.

(b) If you change any information submitted in any notification, you must submit the changes in writing to the Administrator within 15 calendar days after the change.

§ 63.5910 What reports must I submit and when?

(a) You must submit each report in Table 14 to this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report by the date specified in Table 14 to this subpart and according to paragraphs (b)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.5800 and ending on June 30 or December 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in § 63.5800.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date that is specified for your affected source in § 63.5800.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting requirements pursuant to 40 CFR part 70 or 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to § 70.6 (a)(3)(iii)(A) or § 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section.

(c) The compliance report must contain the information in paragraphs (c)(1) through (6) of this section:

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of the report and beginning and ending dates of the reporting period.

(4) If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).

(5) If there are no deviations from any organic HAP emissions limitations (emissions limit and operating limit) that apply to you, and there are no deviations from the requirements for work practice standards in Table 4 to this subpart, a statement that there were no deviations from the organic HAP emissions limitations or work practice standards during the reporting period.

(6) If there were no periods during which the continuous monitoring system (CMS), including a continuous emissions monitoring system (CEMS) and an operating parameter monitoring system were out of control, as specified in § 63.8(c)(7), a statement that there were no periods during which the CMS was out of control during the reporting period.

(d) For each deviation from a organic HAP emissions limitation (*i.e.*, emissions limit and operating limit) and for each deviation from the requirements for work practice standards that occurs at an affected source where you are not using a CMS to comply with the organic HAP emissions limitations or work practice standards in this subpart, the compliance report must contain the information in paragraphs (c)(1) through (4) of this section and in paragraphs (d)(1) and (2) of this section. This includes periods of startup, shutdown, and malfunction.

(1) The total operating time of each affected source during the reporting period.

(2) Information on the number, duration, and cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

(e) For each deviation from a organic HAP emissions limitation (*i.e.*, emissions limit and operating limit) occurring at an affected source where you are using a CMS to comply with the organic HAP emissions limitation in this subpart, you must include the information in paragraphs (c)(1) through (4) of this section and in paragraphs (e)(1) through (12) of this section. This includes periods of startup, shutdown, and malfunction.

(1) The date and time that each malfunction started and stopped.

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

(3) The date, time, and duration that each CMS was out of control, including the information in § 63.8(c)(8).

(4) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction, or during another period.

(5) A summary of the total duration of the deviation during the reporting period and the total duration as a percent of the total source operating time during that reporting period.

(6) A breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(7) A summary of the total duration of CMS downtime during the reporting period and the total duration of CMS downtime as a percent of the total source operating time during that reporting period.

(8) An identification of each organic HAP that was monitored at the affected source.

(9) A brief description of the process units.

(10) A brief description of the CMS.

(11) The date of the latest CMS certification or audit.

(12) A description of any changes in CMS, processes, or controls since the last reporting period.

(f) You must report if you have exceeded the 100 tpy organic HAP emissions threshold if that exceedance would make your facility subject to § 63.5805(b) or (d). Include with this report any request for an exemption under § 63.5805(e). If you receive an exemption under § 63.5805(e) and subsequently exceed the 100 tpy organic HAP emissions threshold, you must report this exceedance as required in § 63.5805(f).

(g) Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by § 70.6(a)(3)(iii)(A) or § 71.6(a)(3)(iii)(A). If an affected source submits a compliance report pursuant to Table 14 to this subpart along with, or as part of, the semiannual monitoring report required by § 70.6(a)(3)(iii)(A) or § 71.6(a)(3)(iii)(A), and the compliance report includes all required information concerning deviations from any organic HAP emissions limitation (including any operating limit) or work practice requirement in this subpart, submission of the compliance report shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permitting authority.

(h) Submit compliance reports and startup, shutdown, and malfunction reports based on the requirements in Table 14 to this subpart, and not based on the requirements in § 63.999.

§ 63.5915 What records must I keep?

(a) You must keep the records listed in paragraphs (a)(1) through (3) of this section.

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(3) Records of performance tests, design, and performance evaluations as required in § 63.10(b)(2).

(b) If you use an add-on control device, you must keep all records required in 40 CFR part 63, subpart SS, to show continuous compliance with this subpart.

(c) You must keep all data, assumptions, and calculations used to determine organic HAP emissions factors or average organic HAP contents for operations listed in Tables 3, 5, and 7 to this subpart.

(d) You must keep a certified statement that you are in compliance with the work practice requirements in Table 4 to this subpart, as applicable.

(e) For a new or existing continuous lamination/casting operation, you must keep the records listed in paragraphs (e)(1) through (4) of this section, when complying with the percent reduction and/or lbs/ton requirements specified in paragraphs (a) through (d) of § 63.5805.

(1) You must keep all data, assumptions, and calculations used to determine percent reduction and/or lbs/ton as applicable;

(2) You must keep a brief description of the rationale for the assignment of an equation or factor to each formula;

(3) When using facility-specific organic HAP emissions estimation equations or factors, you must keep all data, assumptions, and calculations used to derive the organic HAP emissions estimation equations and factors and identification and rationale for the worst-case formula; and

(4) For all organic HAP emissions estimation equations and organic HAP emissions factors, you must keep documentation that the appropriate permitting authority has approved them.

§ 63.5920 In what form and how long must I keep my records?

(a) You must maintain all applicable records in such a manner that they can be readily accessed and are suitable for inspection according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record onsite for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records offsite for the remaining 3 years.

(d) You may keep records in hard copy or computer readable form including, but not limited to, paper, microfilm, computer floppy disk, magnetic tape, or microfiche.

Other Requirements and Information

§ 63.5925 What parts of the General Provisions apply to me?

Table 15 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

§ 63.5930 Who implements and enforces this subpart?

(a) This subpart can be administered by us, the EPA, or a delegated authority such as your State, local, or tribal agency. If the EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency has the authority to administer and enforce this subpart. You should contact your EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are not delegated.

(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) Approval of alternatives to the organic HAP emissions standards in § 63.5805 under § 63.6(g).

(2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.5935 What definitions apply to this subpart?

Terms used in this subpart are defined in the CAA, in 40 CFR 63.2, and in this section as follows:

Atomized mechanical application means application of resin or gel coat with spray equipment that separates the liquid into a fine mist. This fine mist may be created by forcing the liquid under high pressure through an elliptical orifice, bombarding a liquid stream with directed air jets, or a combination of these techniques.

Bulk molding compound (BMC) means a putty-like molding compound containing resin(s) in a form that is ready to mold. In addition to resins, BMC may contain catalysts, fillers, and reinforcements. Bulk molding compound can be used in compression molding and injection molding operations to manufacture reinforced plastic composites products.

BMC manufacturing means a process that involves the preparation of BMC.

Centrifugal casting means a process for fabricating cylindrical composites, such as pipes, in which composite materials are positioned inside a rotating hollow mandrel and held in place by centrifugal forces until the part is sufficiently cured to maintain its physical shape.

Charge means the amount of SMC or BMC that is placed into a compression or injection mold necessary to complete one mold cycle.

Cleaning means removal of composite materials, such as cured and uncured resin from equipment, finished surfaces, floors, hands of employees, or any other surfaces.

Clear production gel coat means an unpigmented, quick-setting resin used to improve the surface appearance and/

or performance of composites. It can be used to form the surface layer of any composites other than those used for molds in tooling operations.

Closed molding means a grouping of processes for fabricating composites in a way that HAP-containing materials are not exposed to the atmosphere except during the material loading stage (*e.g.*, compression molding, injection molding, and resin transfer molding). Processes where the mold is covered with plastic (or equivalent material) prior to resin application, and the resin is injected into the covered mold are also considered closed molding.

Composite means a shaped and cured part produced by using composite materials.

Composite materials means the raw materials used to make composites. The raw materials include styrene containing resins. They may also include gel coat, monomer, catalyst, pigment, filler, and reinforcement.

Compression molding means a closed molding process for fabricating composites in which composite materials are placed inside matched dies that are used to cure the materials under heat and pressure without exposure to the atmosphere. The addition of mold paste or in-mold coating is considered part of the closed molding process. The composite materials used in this process are generally SMC or BMC.

Compression/injection molding means a grouping of processes that involves the use of compression molding and/or injection molding.

Continuous casting means a continuous process for fabricating composites in which composite materials are placed on an in-line conveyor belt to produce cast sheets that are cured in an oven.

Continuous lamination means a continuous process for fabricating composites in which composite materials are typically sandwiched between plastic films, pulled through compaction rollers, and cured in an oven. This process is generally used to produce flat or corrugated products on an in-line conveyor.

Continuous lamination/casting means a grouping of processes that involves the use of continuous lamination and/or continuous casting.

Controlled emissions means those organic HAP emissions that are vented from a control device to the atmosphere.

Corrosion-resistant gel coat means a gel coat used on a product made with a corrosion-resistant resin that has a corrosion-resistant end-use application.

Corrosion-resistant end-use applications means applications where the product is manufactured specifically for an application that requires a level of chemical inertness or resistance to chemical attack above that required for typical reinforced plastic composites products. These applications include, but are not limited to, chemical processing and storage; pulp and paper production; sewer and wastewater treatment; power generation; potable water transfer and storage; food and drug processing; pollution or odor control; metals production and plating; semiconductor manufacturing; petroleum production, refining, and storage; mining; textile production; nuclear materials storage; swimming pools; and cosmetic production, as well as end-use applications that require high strength resins.

Corrosion-resistant industry standard includes the following standards: ASME RTP–1 or Sect. X; ASTM D5364, D3299, D4097, D2996, D2997, D3262, D3517, D3754, D3840, D4024, D4160, D4161, D4162, D4184, D3982, or D3839; ANSI/AWWA C950; UL 215, 1316 or 1746, IAPMO PS–199, or written customer requirements for resistance to specified chemical environments.

Corrosion-resistant product means a product made with a corrosion-resistant resin and is manufactured to a corrosion-resistant industry standard, or a food contact industry standard, or is manufactured for corrosion-resistant end-use applications involving continuous or temporary chemical exposures.

Corrosion-resistant resin means a resin that either:

(1) Displays substantial retention of mechanical properties when undergoing ASTM C–581 coupon testing, where the resin is exposed for 6 months or more to one of the following materials: Material with a pH $\geq$ 12.0 or $\leq$ 3.0, oxidizing or reducing agents, organic solvents, or fuels or additives as defined in 40 CFR 79.2. In the coupon testing, the exposed resin needs to demonstrate a minimum of 50 percent retention of the relevant mechanical property compared to the same resin in unexposed condition. In addition, the exposed resin needs to demonstrate an increased retention of the relevant mechanical property of at least 20 percentage points when compared to a similarly exposed general-purpose resin. For example, if the general-purpose resin retains 45 percent of the relevant property when tested as specified above, then a corrosion-resistant resin needs to retain at least 65 percent (45 percent plus 20 percent) of its property. The general-purpose resin used in the test needs to have an average molecular weight of greater than 1,000, be formulated with a 1:2 ratio of maleic anhydride to phthalic anhydride and 100 percent diethylene glycol, and a styrene content between 43 to 48 percent; or

(2) Complies with industry standards that require specific exposure testing to corrosive media, such as UL 1316, UL 1746, or ASTM F–1216.

Doctor box means the box or trough on an SMC machine into which the liquid resin paste is delivered before it is metered onto the carrier film.

Filament application means an open molding process for fabricating composites in which reinforcements are fed through a resin bath and wound onto a rotating mandrel. The materials on the mandrel may be rolled out or worked by using nonmechanical tools prior to curing. Resin application to the reinforcement on the mandrel by means other than the resin bath, such as spray guns, pressure-fed rollers, flow coaters, or brushes is not considered filament application.

Filled Resin means that fillers have been added to a resin such that the amount of inert substances is at least 10 percent by weight of the total resin plus filler mixture. Filler putty made from a resin is considered a filled resin.

Fillers means inert substances dispersed throughout a resin, such as calcium carbonate, alumina trihydrate, hydrous aluminum silicate, mica, feldspar, wollastonite, silica, and talc. Materials that are not considered to be fillers are glass fibers or any type of reinforcement and microspheres.

Fire retardant gel coat means a gel coat used for products for which low-flame spread/low-smoke resin is used.

Fluid impingement technology means a spray gun that produces an expanding non-misting curtain of liquid by the impingement of low-pressure uninterrupted liquid streams.

Food contact industry standard means a standard related to food contact application contained in Food and Drug Administration's regulations at 21 CFR 177.2420.

Gel Coat means a quick-setting resin used to improve surface appearance and/or performance of composites. It can be used to form the surface layer of any composites other than those used for molds in tooling operations.

Gel coat application means a process where either clear production, pigmented production, white/off-white or tooling gel coat is applied.

HAP-containing materials storage means an ancillary process which involves keeping HAP-containing materials, such as resins, gel coats, catalysts, monomers, and cleaners, in containers or bulk storage tanks for any

length of time. Containers may include small tanks, totes, vessels, and buckets.

High Performance gel coat means a gel coat used on products for which National Science Foundation, United States Department of Agriculture, ASTM, durability, or other property testing is required.

High strength gel coat means a gel coat applied to a product that requires high strength resin.

High strength resins means polyester resins which have a casting tensile strength of 10,000 pounds per square inch or more and which are used for manufacturing products that have high strength requirements such as structural members and utility poles.

Injection molding means a closed molding process for fabricating composites in which composite materials are injected under pressure into a heated mold cavity that represents the exact shape of the product. The composite materials are cured in the heated mold cavity.

Low Flame Spread/Low Smoke Products means products that meet the following requirements. The products must meet both the applicable flame spread requirements and the applicable smoke requirements. Interior or exterior building application products must meet an ASTM E–84 Flame Spread Index of less than or equal to 25, and Smoke Developed Index of less than or equal to 450, or pass National Fire Protection Association 286 Room Corner Burn Test with no flash over and total smoke released not exceeding 1000 meters square. Mass transit application products must meet an ASTM E–162 Flame Spread Index of less than or equal to 35 and ASTM E662 Smoke Density Ds @ 1.5 minutes less than or equal to 100 and Ds @ 4 minutes less than to equal to 200. Duct application products must meet ASTM E084 Flame Spread Index less than or equal to 25 and Smoke Developed Index less than or equal to 50 on the interior and/or exterior of the duct.

Manual resin application means an open molding process for fabricating composites in which composite materials are applied to the mold by pouring or by using hands and nonmechanical tools, such as brushes and rollers. Materials are rolled out or worked by using nonmechanical tools prior to curing. The use of pressure-fed rollers and flow coaters to apply resin is not considered manual resin application.

Mechanical resin application means an open molding process for fabricating composites in which composite materials (except gel coat) are applied to the mold by using mechanical tools such as spray guns, pressure-fed rollers, and flow coaters. Materials are rolled out or worked by using nonmechanical tools prior to curing.

Mixing means the blending or agitation of any HAP-containing materials in vessels that are 5.00 gallons (18.9 liters) or larger. Mixing may involve the blending of resin, gel coat, filler, reinforcement, pigments, catalysts, monomers, and any other additives.

Mold means a cavity or matrix into or onto which the composite materials are placed and from which the product takes its form.

Neat gel coat means the resin as purchased for the supplier, but not including any inert fillers.

Neat gel coat plus means neat gel coat plus any organic HAP-containing materials that are added to the gel coat by the supplier or the facility, excluding catalysts and promoters. Neat gel coat plus does include any additions of styrene or methyl methacrylate monomer in any form, including in catalysts and promoters.

Neat resin means the resin as purchased from the supplier, but not including any inert fillers.

Neat resin plus means neat resin plus any organic HAP-containing materials that are added to the resin by the supplier or the facility. Neat resin plus does not include any added filler, reinforcements, catalysts, or promoters. Neat resin does include any additions of styrene or methyl methacrylate monomer in any form, including in catalysts and promoters.

Nonatomized mechanical application means the use of application tools other than brushes to apply resin and gel coat where the application tool has documentation provided by its manufacturer or user that this design of the application tool has been organic HAP emissions tested, and the test results showed that use of this application tool results in organic HAP emissions that are no greater than the organic HAP emissions predicted by the applicable nonatomized application equation(s) in Table 1 to this subpart. In addition, the device must be operated according to the manufacturer's directions, including instructions to prevent the operation of the device at excessive spray pressures. Examples of nonatomized application include flow coaters, pressure fed rollers, and fluid impingement spray guns.

Noncorrosion-resistant resin means any resin other than a corrosion-resistant resin or a tooling resin.

Noncorrosion-resistant product means any product other than a corrosion-resistant product or a mold.

Non-routine manufacture means that you manufacture parts to replace worn or damaged parts of a reinforced plastic composites product, or a product containing reinforced plastic composite parts, that was originally manufactured in another facility. For a part to qualify as non-routine manufacture, it must be used for repair or replacement, and the manufacturing schedule must be based on the current or anticipated repair needs of the reinforced plastic composites product, or a product containing reinforced plastic composite parts.

Operation means a specific process typically found at a reinforced plastic composites facility. Examples of operations are noncorrosion-resistant manual resin application, corrosion-resistant mechanical resin application, pigmented gel coat application, mixing and HAP-containing materials storage.

Operation group means a grouping of individual operations based primarily on mold type. Examples are open molding, closed molding, and centrifugal casting.

Open molding means a process for fabricating composites in a way that HAP-containing materials are exposed to the atmosphere. Open molding includes processes such as manual resin application, mechanical resin application, filament application, and gel coat application. Open molding also includes application of resins and gel coats to parts that have been removed from the open mold.

Pigmented gel coat means a gel coat that has a color, but does not contain 10 percent of more titanium dioxide by weight. It can be used to form the surface layer of any composites other than those used for molds in tooling operations.

Polymer casting means a process for fabricating composites in which composite materials are ejected from a casting machine or poured into an open, partially open, or closed mold and cured. After the composite materials are poured into the mold, they are not rolled out or worked while the mold is open. The composite materials may or may not include reinforcements. Products produced by the polymer casting process include cultured marble products and polymer concrete.

Preform Injection means a form of pultrusion where liquid resin is injected to saturate reinforcements in an enclosed system containing one or more chambers with openings only large enough to admit reinforcements. Resin, which drips out of the chamber(s) during the process, is collected in closed piping or covered troughs and then into a covered reservoir for recycle.

Resin storage vessels, reservoirs, transfer systems, and collection systems are covered or shielded from the ambient air. Preform injection differs from direct die injection in that the injection chambers are not directly attached to the die.

Prepreg materials means reinforcing fabric received precoated with resin which is usually cured through the addition of heat.

Pultrusion means a continuous process for manufacturing composites that have a uniform cross-sectional shape. The process consists of pulling a fiber-reinforcing material through a resin impregnation chamber or bath and through a shaping die, where the resin is subsequently cured. There are several types of pultrusion equipment, such as open bath, resin injection, and direct die injection equipment.

Repair means application of resin or gel coat to a part to correct a defect, where the resin or gel coat application occurs after the part has gone through all the steps of its typical production process, or the application occurs outside the normal production area. For purposes of this subpart, rerouting a part back through the normal production line, or part of the normal production line, is not considered repair.

Resin transfer molding means a process for manufacturing composites whereby catalyzed resin is transferred or injected into a closed mold in which fiberglass reinforcement has been placed.

Sheet molding compound (SMC) means a ready-to-mold putty-like molding compound that contains resin(s) processed into sheet form. The molding compound is sandwiched between a top and a bottom film. In addition to resin(s), it may also contain catalysts, fillers, chemical thickeners, mold release agents, reinforcements, and other ingredients. Sheet molding compound can be used in compression molding to manufacture reinforced plastic composites products.

Shrinkage controlled resin means a resin that when promoted, catalyzed, and filled according to the resin manufacturer's recommendations demonstrates less than 0.3 percent linear shrinkage when tested according to ASTM D2566.

SMC manufacturing means a process which involves the preparation of SMC.

Tooling gel coat means a gel coat that is used to form the surface layer of molds. Tooling gel coats generally have high heat distortion temperatures, low shrinkage, high barcol hardness, and high dimensional stability.

Tooling resin means a resin that is used to produce molds. Tooling resins generally have high heat distortion temperatures, low shrinkage, high barcol hardness, and high dimensional stability.

Uncontrolled oven organic HAP emissions means those organic HAP emissions emitted from the oven through closed vent systems to the atmosphere and not to a control device. These organic HAP emissions do not include organic HAP emissions that may escape into the workplace through the opening of panels or doors on the ovens or other similar fugitive organic HAP emissions in the workplace.

Uncontrolled wet-out area organic HAP emissions means any or all of the following: Organic HAP emissions from wet-out areas that do not have any capture and control, organic HAP emissions that escape from wet-out area enclosures, and organic HAP emissions from wet-out areas that are captured by an enclosure but are vented to the atmosphere and not to an add-on control device.

Unfilled means that there has been no addition of fillers to a resin or that less than 10 percent of fillers by weight of the total resin plus filler mixture has been added.

Vapor suppressant means an additive, typically a wax, that migrates to the surface of the resin during curing and forms a barrier to seal in the styrene and reduce styrene emissions.

Vapor-suppressed resin means a resin containing a vapor suppressant added for the purpose of reducing styrene emissions during curing.

White and off-white gel coat means a gel coat that contains 10 percent of more titanium dioxide by weight.

TABLE 1 TO SUBPART WWWW OF PART 63—EQUATIONS TO CALCULATE ORGANIC HAP EMISSIONS FACTORS FOR SPECIFIC OPEN MOLDING AND CENTRIFUGAL CASTING PROCESS STREAMS

[As required in §§ 63.5796, 63.5799(a)(1) and (b), and 63.5810(a)(1), to calculate organic HAP emissions factors for specific open molding and centrifugal casting process streams you must use the equations in the following table:]

If your operation type is a new or existing . . .	And you use . . .	With . . .	Use this organic HAP Emissions Factor (EF) Equation for materials with less than 33 percent organic HAP (19 percent organic HAP for nonatomized gel coat) [1 2 3] . . .	Use this organic HAP Emissions Factor (EF) Equation for materials with 33 percent or more organic HAP (19 percent for nonatomized gel coat) [1 2 3] . . .
1. Open molding operation	a. Manual resin application	i. Nonvapor-suppressed resin.	EF = 0.126 × % HAP × 2000.	EF = ((0.286 × %HAP) − 0.0529) × 2000
		ii. Vapor-suppressed resin	EF = 0.126 × % HAP × 2000 × (1 − (0.5 × VSE factor)).	EF = ((0.286 × %HAP) − 0.0529) × 2000 × (1 − (0.5 × VSE factor))
		iii. Vacuum bagging/ closed-mold curing with roll out.	EF = 0.126 × % HAP × 2000 × 0.8.	EF = ((0.286 × %HAP) − 0.0529) × 2000 × 0.8
		iv. Vacuum bagging/ closed-mold curing without roll-out.	EF = (0.126 × % HAP × 2000 × 0.5.	EF = ((0.286 × %HAP) − 0.0529) × 2000 × 0.5
	b. Atomized mechanical resin application.	i. Nonvapor-suppressed resin.	EF = 0.169 × %HAP × 2000.	EF = ((0.714 × %HAP) − 0.18) × 2000
		ii. Vapor-suppressed resin	EF = 0.169 × %HAP × 2000 × (1 − (0.45 × VSE factor)).	EF = ((0.714 × %HAP) − 0.18) × 2000 × (1 − (0.45 × VSE factor))

TABLE 1 TO SUBPART WWWW OF PART 63—EQUATIONS TO CALCULATE ORGANIC HAP EMISSIONS FACTORS FOR SPECIFIC OPEN MOLDING AND CENTRIFUGAL CASTING PROCESS STREAMS—Continued

[As required in §§ 63.5796, 63.5799(a)(1) and (b), and 63.5810(a)(1), to calculate organic HAP emissions factors for specific open molding and centrifugal casting process streams you must use the equations in the following table:]

If your operation type is a new or existing . . .	And you use . . .	With . . .	Use this organic HAP Emissions Factor (EF) Equation for materials with less than 33 percent organic HAP (19 percent organic HAP for nonatomized gel coat) [1 2 3] . . .	Use this organic HAP Emissions Factor (EF) Equation for materials with 33 percent or more organic HAP (19 percent for nonatomized gel coat) [1 2 3] . . .
		iii. Vacuum bagging/ closed-mold curing with roll-out.	EF = 0.169 × %HAP × 2000 × 0.85.	EF = ((0.714 × %HAP) − 0.18) × 2000 × 0.85
		iv. Vacuum bagging/ closed-mold curing without roll-out.	EF = 0.169 × %HAP × 2000 × 0.55.	EF = ((0.714 × %HAP) − 0.18) × 2000 × 0.55
	c. Nonatomized mechanical resin application.	v. Nonvapor-suppressed resin.	EF = 0.107 × %HAP × 2000.	EF = ((0.157 × %HAP) − 0.0165) × 2000
		vi. Vapor-suppressed resin	EF = 0.107 × %HAP × 2000 × (1 − (0.45 × VSE factor)).	EF = ((0.157 × %HAP) − 0.0165) × 2000 × (1 − (0.45 × VSE factor))
		vii. Closed-mold curing with roll-out.	EF = 0.107 × %HAP × 2000 × 0.85.	EF = ((0.157 × %HAP) − 0.0165) × 2000 × 0.85
		viii. Vacuum bagging/ closed-mold curing without roll-out.	EF = 0.107 × %HAP × 2000 × 0.55.	EF = ((0.157 × %HAP) − 0.0165) × 2000 × 0.55
	d. Atomized mechanical resin application with robotic or automated spray control [4].	Nonvapor-suppressed resin.	EF = 0.169 × %HAP × 2000 × 0.77.	EF = 0.77 × ((0.714 × %HAP) − 0.18) × 2000
	e. Filament application [5]	i. Nonvapor-suppressed resin.	EF = 0.184 × %HAP × 2000.	EF = ((0.2746 × %HAP) − 0.0298) × 2000
		ii. Vapor-suppressed resin	EF = 0.12 × %HAP × 2000	EF = ((0.2746 × %HAP) − 0.0298) × 2000 × 0.65
	f. Atomized spray gel coat application.	Nonvapor-suppressed gel coat.	EF = 0.446 × %HAP × 2000.	EF = ((1.03646 × %HAP) − 0.195) × 2000.
	g. Nonatomized spray gel coat application.	Nonvapor-suppressed gel coat.	EF = 0.185 × %HAP × 2000.	EF = ((0.4506 × %HAP) − 0.0505) × 2000.
	h. Manual gel coat application [6].	Nonvapor-suppressed gel coat.	EF = 0.126 × % HAP × 2000 (for emissions estimation only, see footnote 6).	EF = ((0.286 × %HAP) − 0.0529) × 2000 (for emissions estimation only, see footnote 6)
2. Centrifugal casting operations. [7 8].	Heated air blown through molds.	Nonvapor-suppressed resin.	EF = 0.558 × (%HAP) × 2000.	EF = 0.558 × (%HAP) × 2000.
	Vented molds, but air vented through the molds is not heated.	Nonvapor-suppressed resin.	EF = 0.026 × (%HAP) × 2000.	EF = 0.026 × (%HAP) × 2000.

Footnotes to Table 1

[1] To obtain the organic HAP emissions factor value for an operation with an add-on control device multiply the EF above by the add-on control factor calculated using Equation 1 of § 63.5810. The organic HAP emissions factors have units of lbs of organic HAP per ton of resin or gel coat applied.

[2] Percent HAP means total weight percent of organic HAP (styrene, methyl methacrylate, and any other organic HAP) in the resin or gel coat prior to the addition of fillers, catalyst, and promoters. Input the percent HAP as a decimal, *i.e.* 33 percent HAP should be input as 0.33, not 33.

[3] The VSE factor means the percent reduction in organic HAP emissions expressed as a decimal measured by the VSE test method of appendix A to this subpart.

[4] This equation is based on a organic HAP emissions factor equation developed for mechanical atomized controlled spray. It may only be used for automated or robotic spray systems with atomized spray. All spray operations using hand held spray guns must use the appropriate mechanical atomized or mechanical nonatomized organic HAP emissions factor equation. Automated or robotic spray systems using nonatomized spray should use the appropriate nonatomized mechanical resin application equation.

[5] Applies only to filament application using an open resin bath. If resin is applied manually or with a spray gun, use the appropriate manual or mechanical application organic HAP emissions factor equation.

[6] Do not use this equation for determining compliance with emission limits in Tables 3 or 5 to this subpart. To determine compliance with emission limits you must treat all gel coat as if it were applied as part of your gel coat spray application operations. If you apply gel coat by manual techniques only, you must treat the gel coat as if it were applied with atomized spray and use Equation 1.f. to determine compliance with the appropriate emission limits in Tables 3 or 5 to this subpart. To estimate emissions from manually applied gel coat, you may either include the gel coat quantities you apply manually with the quantities applied using spray, or use this equation to estimate emissions from the manually applied portion of your gel coat.

[7] These equations are for centrifugal casting operations where the mold is vented during spinning. Centrifugal casting operations where the mold is completely sealed after resin injection are considered to be closed molding operations.

[8] If a centrifugal casting operation uses mechanical or manual resin application techniques to apply resin to an open centrifugal casting mold, use the appropriate open molding equation with covered cure and no rollout to determine an emission factor for operations prior to the closing of the centrifugal casting mold. If the closed centrifugal casting mold is vented during spinning, use the appropriate centrifugal casting equation to calculate an emission factor for the portion of the process where spinning and cure occur. If a centrifugal casting operation uses mechanical or manual resin application techniques to apply resin to an open centrifugal casting mold, and the mold is then closed and is not vented, treat the entire operation as open molding with covered cure and no rollout to determine emission factors.

TABLE 2 TO SUBPART WWWW OF PART 63.—COMPLIANCE DATES FOR NEW AND EXISTING REINFORCED PLASTIC COMPOSITES FACILITIES

[As required in §§ 63.5800 and 63.5840 you must demonstrate compliance with the standards by the dates in the following table:]

If your facility is . . .	And . . .	Then you must comply by this date . . .
1. An existing source	a. Is a major source on or before the publication date of this subpart.	i. April 21, 2006, or ii. You must accept and meet an enforceable HAP emissions limit below the major source threshold prior to April 21, 2006.
2. An existing source that is an area source	Becomes a major source after the publication date of this subpart.	3 years after becoming a major source or April 21, 2006, whichever is later.
3. An existing source, and emits less than 100 tpy of organic HAP from the combination of all centrifugal casting and continuous lamination/casting operations at the time of initial compliance with this subpart.	Subsequently increases its actual organic HAP emissions to 100 tpy or more from these operations, which requires that the facility must now comply with the standards in § 63.5805(b).	3 years of the date your semi-annual compliance report indicates your facility meets or exceeds the 100 tpy threshold.
4. A new source	Is a major source at startup	Upon startup or April 21, 2003, whichever is later.
5. A new source	Is an area source at startup and becomes a major source.	Immediately upon becoming a major source.
6. A new source, and emits less than 100 tpy of organic HAP from the combination of all open molding, centrifugal casting, continuous lamination/casting, pultrusion, SMC and BMC manufacturing, and mixing operations at the time of initial compliance with this subpart.	Subsequently increases its actual organic HAP emissions to 100 tpy or more from the combination of these operations, which requires that the facility must now meet the standards in § 63.5805(d).	3 years from the date that your semi-annual compliance report indicates your facility meets or exceeds the 100 tpy threshold.

TABLE 3 TO SUBPART WWWW OF PART 63.—ORGANIC HAP EMISSIONS LIMITS FOR EXISTING OPEN MOLDING SOURCES, NEW OPEN MOLDING SOURCES EMITTING LESS THAN 100 TPY OF HAP, AND NEW AND EXISTING CENTRIFUGAL CASTING AND CONTINUOUS LAMINATION/CASTING SOURCES THAT EMIT LESS THAN 100 TPY OF HAP

[As required in §§ 63.5796, 63.5805 (a) through (c) and (g), 63.5810(a), (b), and (d), 63.5820(c), 63.5830, 63.5835(a), 63.5895(c) and (d), 63.5900(a)(2), and 63.5915(c), you must meet the appropriate organic HAP emissions limits in the following table:]

If your operation type is . . .	And you use . . .	Your organic HAP emissions limit is[1] . . .	And the highest organic HAP content for a compliant resin or gel coat is[2] . . .
1. Open molding—corrosion-resistant and/or high strength (CR/HS).	a. Mechanical resin application	112 lb/ton	46.2 with nonatomized resin application.
	b. Filament application	171 lb/ton	42.0.
	c. Manual resin application	123 lb/ton	40.0.
2. Open molding—non-CR/HS	a. Mechanical resin application	87 lb/ton	38.4 with nonatomized resin application.
	b. Filament application	188 lb/ton	45.0.
	c. Manual resin application	87 lb/ton	33.6.
3. Open molding—tooling	a. Mechanical resin application	254 lb/ton	43.0 with atomized application, 91.4 with nonatomized application.
	b. Manual resin application	157 lb/ton	45.9.
4. Open molding—low-flame spread/low-smoke products.	a. Mechanical resin application	497 lb/ton	60.0.
	b. Filament application	270 lb/ton	60.0.
	c. Manual resin application	238 lb/ton	60.0.
5. Open molding—shrinkage controlled resins.	a. Mechanical resin application	354 lb/ton	50.0.
	b. Filament application	215 lb/ton	50.0.
	c. Manual resin application	180 lb/ton	50.0.
6. Open molding—gel coat[3]	a. Tooling gel coating	437 lb/ton	40.0.
	b. White/off white pigmented gel coating.	267 lb/ton	30.0.
	c. All other pigmented gel coating	377 lb/ton	37.0.
	d. CR/HS or high performance gel coat.	605 lb/ton	48.0.
	e. Fire retardant gel coat	854 lb/ton	60.0.
	f. Clear production gel coat	522 lb/ton	44.0.

TABLE 3 TO SUBPART WWWW OF PART 63.—ORGANIC HAP EMISSIONS LIMITS FOR EXISTING OPEN MOLDING SOURCES, NEW OPEN MOLDING SOURCES EMITTING LESS THAN 100 TPY OF HAP, AND NEW AND EXISTING CENTRIFUGAL CASTING AND CONTINUOUS LAMINATION/CASTING SOURCES THAT EMIT LESS THAN 100 TPY OF HAP—Continued

[As required in §§ 63.5796, 63.5805 (a) through (c) and (g), 63.5810(a), (b), and (d), 63.5820(c), 63.5830, 63.5835(a), 63.5895(c) and (d), 63.5900(a)(2), and 63.5915(c), you must meet the appropriate organic HAP emissions limits in the following table:]

If your operation type is . . .	And you use . . .	Your organic HAP emissions limit is [1] . . .	And the highest organic HAP content for a compliant resin or gel coat is [2] . . .
7. Centrifugal casting—CR/HS [4] [5]	N/A	25 lb/ton	48.0.
8. Centrifugal casting—non-CR/HS [4] [5].	N/A	20 lb/ton	37.5.
9. Pultrusion [6]	N/A	Reduce total organic HAP emissions by at least 60 weight percent.	NA.
10. Continuous lamination/casting	N/A	Reduce total organic HAP emissions by at least 58.5 weight percent or not exceed a organic HAP emissions limit of 15.7 lbs of organic HAP per ton of neat resin plus and neat gel coat plus.	NA.

Footnotes to Table 3

[1] Organic HAP emissions limits for open molding and centrifugal casting are expressed as lb/ton. You must be at or below these values based on a 12-month rolling average.

[2] A compliant resin or gel coat means that if its organic HAP content is used to calculate an organic HAP emissions factor, the factor calculated does not exceed the appropriate organic HAP emissions limit shown in the table.

[3] These limits are for spray application of gel coat. Manual gel coat application must be included as part of spray gel coat application for compliance purposes using the same organic HAP emissions factor equation and organic HAP emissions limit. If you only apply gel coat with manual application, treat the manually applied gel coat as if it were applied with atomized spray for compliance determinations.

[4] Centrifugal casting operations where the mold is not vented during spinning and cure are considered to be closed molding and are not subject to any emissions limit. Centrifugal casting operations where the mold is not vented during spinning and cure, and the resin is applied to the open centrifugal casting mold using mechanical or manual open molding resin application techniques are considered to be open molding operations and the appropriate open molding emission limits apply.

[5] Centrifugal casting operations where the mold is vented during spinning and the resin is applied to the open centrifugal casting mold using mechanical or manual open molding resin application techniques, use the appropriate centrifugal casting emission limit to determine compliance. Calculate your emission factor using the appropriate centrifugal casting emission factor in Table 1 to this subpart, or a site specific emission factor as discussed in § 63.5796.

[6] Pultrusion machines that produce parts with 1000 or more reinforcements and a cross sectional area of 60 inches or more are not subject to this requirement. Their requirement is the work practice of air flow management which is described in Table 4 to this subpart.

TABLE 4 TO SUBPART WWWW OF PART 63.—WORK PRACTICE STANDARDS

[As required in §§ 63.5805 (a) through (d) and (g), 63.5835(a), 63.5900(a)(3), 63.5910(c)(5), and 63.5915(d), you must meet the appropriate work practice standards in the following table:]

For . . .	You must . . .
1. A new or existing closed molding operation using compression/injection molding.	Uncover, unwrap or expose only one charge per mold cycle per compression/injection molding machine. For machines with multiple molds, one charge means sufficient material to fill all molds for one cycle. For machines with robotic loaders, no more than one charge may be exposed prior to the loader. For machines fed by hoppers, sufficient material may be uncovered to fill the hopper. Hoppers must be closed when not adding materials. Materials may be uncovered to feed to slitting machines. Materials must be recovered after slitting.
2. A new or existing cleaning operation	Not use cleaning solvents that contain HAP, except that styrene may be used as a cleaner in closed systems, and organic HAP containing cleaners may be used to clean cured resin from application equipment. Application equipment includes any equipment that directly contacts resin.
3. A new or existing materials HAP-containing materials storage operation.	Keep containers that store HAP-containing materials closed or covered except during the addition or removal of materials. Bulk HAP-containing materials storage tanks may be vented as necessary for safety.
4. An existing or new SMC manufacturing operation.	Close or cover the resin delivery system to the doctor box on each SMC manufacturing machine. The doctor box itself may be open.
5. An existing or new SMC manufacturing operation.	Use a nylon containing film to enclose SMC.
6. An existing or new mixing or BMC manufacturing operation.	Use mixer covers with no visible gaps present in the mixer covers, except that gaps of up to 1 inch are permissible around mixer shafts and any required instrumentation.
7. An existing mixing or BMC manufacturing operation.	Close any mixer vents when actual mixing is occurring, except that venting is allowed during addition of materials, or as necessary prior to adding materials or opening the cover for safety.
8. A new or existing mixing or BMC manufacturing operation [1].	Keep the mixer covers closed while actual mixing is occurring except when adding materials or changing covers to the mixing vessels.

TABLE 4 TO SUBPART WWWW OF PART 63.—WORK PRACTICE STANDARDS—Continued

[As required in §§ 63.5805 (a) through (d) and (g), 63.5835(a), 63.5900(a)(3), 63.5910(c)(5), and 63.5915(d), you must meet the appropriate work practice standards in the following table:]

For . . .	You must . . .
9. A new or existing pultrusion operation manufacturing parts with 1,000 or more reinforcements and a cross section area of 60 square inches or more that is not subject to the 95 percent organic HAP emission reduction requirement.	i. Not allow vents from the building ventilation system, or local or portable fans to blow directly on or across the wet-out area(s), ii. Not permit point suction of ambient air in the wet-out area(s) unless that air is directed to a control device, iii. Use devices such as deflectors, baffles, and curtains when practical to reduce air flow velocity across the wet-out area(s), iv. Direct any compressed air exhausts away from resin and wet-out area(s), v. convey resin collected from drip-off pans or other devices to reservoirs, tanks, or sumps via covered troughs, pipes, or other covered conveyance that shields the resin from the ambient air, vi. Cover all reservoirs, tanks, sumps, or HAP-containing materials storage vessels except when they are being charged or filled, and vii. Cover or shield from ambient air resin delivery systems to the wet-out area(s) from reservoirs, tanks, or sumps where practical.

[1] Containers of 5 gallons or less may be open when active mixing is taking place, or during periods when they are in process (*i.e.*, they are actively being used to apply resin). For polymer casting mixing operations, containers with a surface area of 500 square inches or less may be open while active mixing is taking place.

TABLE 5 TO SUBPART WWWW OF PART 63.—ALTERNATIVE ORGANIC HAP EMISSIONS LIMITS FOR OPEN MOLDING, CENTRIFUGAL CASTING, AND SMC MANUFACTURING OPERATIONS WHERE THE STANDARD IS BASED ON A 95 PERCENT REDUCTION REQUIREMENT

[As specified in §§ 63.5796, 63.5805(b) and (d), 63.5810(a) and (b), 63.5835(a), 63.5895(c), 63.5900(a)(2), and 63.5915(c), as an alternative to the 95 percent organic HAP emissions reductions requirement, you may meet the appropriate organic HAP emissions limits in the following table:]

If your operation type is . . .	And you use . . .	LYour organic HAP emissions limit is a[1]. . .
1. Open molding—corrosion-resistant and/or high strength (CR/HS).	a. Mechanical resin application	6 lb/ton.
	b. Filament application	9 lb/ton.
	c. Manual resin application	7 lb/ton.
2. Open molding—non-CR/HS	a. mechanical resin application	13 lb/ton.
	b. Filament application	10 lb/ton.
	c. Manual resin application	5 lb/ton.
3. Open molding—tooling	a. Mechanical resin application	13 lb/ton.
	b. Manual resin application	8 lb/ton.
4. Open molding—low flame spread/low smoke products	a. Mechanical resin application	25 lb/ton.
	b. Filament application	14 lb/ton.
	c. Manual resin application	12 lb/ton.
5. Open molding—shrinkage controlled resins	a. Mechanical resin application	18 lb/ton.
	b. Filament application	11 lb/ton.
	c. Manual resin application	9 lb/ton.
6. Open molding—gel coat[2]	a. Tooling gel coating	22 lb/ton.
	b. White/off white pigmented gel coating	22 lb/ton.
	c. All other pigmented gel coating	19 lb/ton.
	d. CR/HS or high performance gel coat	31 lb/ton.
	e. Fire retardant gel coat	43 lb/ton.
	f. Clear production gel coat	27 lb/ton.
7. Centrifugal casting—CR/HS[3,4]	A vent system that moves heated air through the mold	27 lb/ton.
8. Centrifugal casting—non-CR/HS[3,4]	A vent system that moves heated air through the mold	21 lb/ton.
7. Centrifugal casting—CR/HS[3,4]	A vent system that moves ambient air through the mold	2 lb/ton.
8. Centrifugal casting—non-CR/HS[3,4]	A vent system that moves ambient air through the mold	1 lb/ton.
9. SMC Manufacturing	N/A	2.4 lb/ton.

[1] Organic HAP emissions limits for open molding and centrifugal casting expressed as lb/ton are calculated using the equations shown in Table 1 to this subpart. You must be at or below these values based on a 12-month rolling average.

[2] These limits are for spray application of gel coat. Manual gel coat application must be included as part of spray gel coat application for compliance purposes using the same organic HAP emissions factor equation and organic HAP emissions limit. If you only apply gel coat with manual application, treat the manually applied gel coat as if it were applied with atomized spray for compliance determinations.

[3] Centrifugal casting operations where the mold is not vented during spinning and cure are considered to be closed molding and are not subject to any emissions limit. Centrifugal casting operations where the mold is not vented during spinning and cure, and the resin is applied to the open centrifugal casting mold using mechanical or manual open molding resin application techniques are considered to be open molding operations and the appropriate open molding emission limits apply.

[4] Centrifugal casting operations where the mold is vented during spinning and the resin is applied to the open centrifugal casting mold using mechanical or manual open molding resin application techniques, use the appropriate centrifugal casting emission limit to determine compliance. Calculate your emission factor using the appropriate centrifugal casting emission factor in Table 1 to this subpart, or a site specific emission factor as discussed in § 63.5796.

TABLE 6 TO SUBPART WWWW OF PART 63—BASIC REQUIREMENTS FOR PERFORMANCE TESTS, PERFORMANCE EVALUATIONS, AND DESIGN EVALUATIONS FOR NEW AND EXISTING SOURCES USING ADD-ON CONTROL DEVICES

[As required in § 63.5850 you must conduct performance tests, performance evaluations, and design evaluation according to the requirements in the following table:]

For . . .	You must . . .	Using . . .	According to the following requirements . . .
1. Each enclosure used to collect and route organic HAP emissions to an add-on control device that is a PTE.	Meet the requirements for a PTE	EPA method 204 of appendix M of 40 CFR part 51.	Enclosures that meet the requirements of EPA Method 204 of appendix M of 40 CFR part 51 for a PTE are assumed to have a capture efficiency of 100%. Note that the criteria that all access doors and windows that are not treated as natural draft openings shall be closed during routine operation of the process is not intended to require that these doors and windows be closed at all times. It means that doors and windows must be closed any time that you are not actually moving parts or equipment through them. Also, any styrene retained in hollow parts and liberated outside the PTE is not considered to be a violation of the EPA Method 204 criteria.
2. Each enclosure used to collect and route organic HAP emissions to an add-on control device that is not a PTE.	a. Determine the capture efficiency of each enclosure used to capture organic HAP emissions sent to an add-on control device.	i. EPA methods 204B through E of appendix M of 40 CFR part 51, or	(1) Enclosures that do not meet the requirements for a PTE must determine the capture efficiency by constructing a temporary total enclosure according to the requirements of EPA Method 204 of appendix M of 40 CFR part 51 and measuring the mass flow rates of the organic HAP in the exhaust streams going to the atmosphere and to the control device. Test runs for EPA Methods 204B through E of appendix M of 40 CFR part 51 must be at least 3 hours.
		ii. An alternative test method that meets the requirements in 40 CFR part 51, appendix M.	(1) The alternative test method must the data quality objectives and lower confidence limit approaches for alternative capture efficiency protocols requirements contained in 40 CFR part 63 subpart KK, appendix A.
3. Each control device used to comply with a percent reduction requirement, or a organic HAP emissions limit.	Determine the control efficiency of each control device used to control organic HAP emissions.	The test methods specified in § 63.5850 to this subpart.	Testing and evaluation requirements are contained in 40 CFR part 63, subpart SS, and § 63.5850 to this subpart.
4. Determining organic HAP emission factors for any operation.	Determine the mass organic HAP emissions rate.	The test methods specified in § 63.5850 to this subpart.	Testing and evaluation requirements are contained in 40 CFR part 63, subpart SS, and § 63.5850 to this subpart.

TABLE 7 TO SUBPART WWWW OF PART 63.—OPTIONS ALLOWING USE OF THE SAME RESIN ACROSS DIFFERENT OPERATIONS THAT USE THE SAME RESIN TYPE

[As required in §§ 63.5810(a) through (d), 63.5835(a), 63.5895(c), and 63.5900(a)(2), when electing to use the same resin(s) for multiple resin application methods you may use any resin(s) with an organic HAP contents less than or equal to the values shown in the following table, or any combination of resins whose weighted average organic HAP content based on a 12-month rolling average is less than or equal to the values shown the following table:]

If your facility has the following resin type and application method . . .	The highest resin weight percent organic HAP content, or weighted average weight percent organic HAP content, you can use for . . .	Is . . .
1. CR/HS resins, centrifugal casting	a. CR/HS mechanical	48.0
	b. CR/HS filament application	48.0
	c. CR/HS manual	48.0
2. CR/HS resins, nonatomized mechanical	a. CR/HS filament application	46.2
	b. CR/HS manual	46.2
3. CR/HS resins, filament application	CR/HS manual	42.0
4. Non-CR/HS resins, filament application	a. non-CR/HS mechanical	45.0
	b. non-CR/HS manual	45.0
	c. non-CR/HS centrifugal casting	45.0
5. Non-CR/HS resins, nonatomized mechanical	a. Non-CR/HS manual	38.4
	b. non-CR/HS centrifugal casting	38.4
6. Non-CR/HS resins, centrifugal casting	Non-CR/HS manual	37.5
7. Tooling resins, nonatomized mechanical	Tooling manual	91.4
8. Tooling resins, manual	Tooling atomized mechanical	45.9

TABLE 8 TO SUBPART WWWW OF PART 63.—INITIAL COMPLIANCE WITH ORGANIC HAP EMISSIONS LIMITS

[As required in § 63.5860(a), you must demonstrate initial compliance with organic HAP emissions limits as specified in the following table:]

For . . .	That must meet the following organic HAP emissions limit . . .	You have demonstrated initial compliance if . . .
1. Open molding and centrifugal casting operations.	a. An organic HAP emissions limit shown in Tables 3 or 5 to this subpart, or an organic HAP content limit shown in Table 7 to this subpart.	i. You have met the appropriate organic HAP emissions limits for these operations as calculated using the procedures in § 63.5810 on a 12-month rolling average 1 year after the appropriate compliance date, or ii. You demonstrate by using the appropriate values in Tables 3, or 7 to this subpart that all resins and gel coats considered individually meet the appropriate organic HAP contents, or iii. You demonstrate by using the appropriate values in Table 7 to this subpart that the weighted average of all resins and gel coats for each resin type and application method meet the appropriate organic HAP contents.
2. Open molding, centrifugal casting, continuous lamination/casting, SMC and BMC manufacturing, and mixing operations.	a. Reduce total organic HAP emissions, by at least 95 percent by weight.	Total organic HAP emissions, based on the results of the capture efficiency and destruction efficiency testing specified in Table 6 to this subpart, are reduced by at least 95 percent by weight.
3. Continuous lamination/casting operations	a. Reduce total organic HAP emissions by at least 58.5 weight percent, or.	Total organic HAP emissions, based on the results of the capture efficiency and destruction efficiency testing specified in Table 6 to this subpart and the calculation procedures specified in §§ 63.5865 through 63.5890, are reduced by at least 58.5 percent by weight.
	b. Not exceed an HAP emissions limit of 15.7 lbs of organic HAP per ton of neat resin plus and neat gel coat plus.	Total organic HAP emissions, based on the results of the capture efficiency and destruction efficiency testing specified in Table 6 to this subpart and the calculation procedures specified in §§ 63.5865 through 63.5890, do not exceed 15.7 lbs of organic HAP per ton of neat resin plus and neat gel coat plus.

TABLE 8 TO SUBPART WWWW OF PART 63.—INITIAL COMPLIANCE WITH ORGANIC HAP EMISSIONS LIMITS—Continued

[As required in § 63.5860(a), you must demonstrate initial compliance with organic HAP emissions limits as specified in the following table:]

For . . .	That must meet the following organic HAP emissions limit . . .	You have demonstrated initial compliance if . . .
4. Continuous lamination/casting operations	a. Reduce total organic HAP emissions by at least 95 weight percent or	Total organic HAP emissions, based on the results of the capture efficiency and destruction efficiency testing specified in Table 6 to this subpart, and the calculation procedures specified in §§ 63.5865 through 63.5890, are reduced by at least 95 percent by weight.
	b. Not exceed an organic HAP emissions limit of 1.47 lbs of organic HAP per ton of neat resin plus and neat gel coat plus.	Total organic HAP emissions, based on the results of the capture efficiency and destruction efficiency testing specified in Table 6 and the calculation procedures specified in §§ 63.5865 through 63.5890, do not exceed 1.47 lbs of organic HAP per ton of neat resin plus and neat gel coat plus.
5. Pultrusion operations	a. Reduce total organic HAP emissions by at least 60 percent by weight.	i. Total organic HAP emissions, based on the results of the capture efficiency and add-on control device destruction efficiency testing specified in Table 6 to this subpart, are reduced by at least 60 percent by weight and ii. As part of the notification of initial compliance status, the owner/operator submits a certified statement that all pultrusion lines not controlled with an add-on control device are using direct die injection, preform injection, and/or wet-area enclosures that meet the criteria of § 63.5830.
6. Pultrusion operations	a. Reduce total organic HAP emissions by at least 95 percent by weight.	i. Total organic HAP emissions, based on the results of the capture efficiency and add-on control device destruction efficiency testing specified in Table 6 to this subpart, are reduced by at least 95 percent by weight.

TABLE 9 TO SUBPART WWWW OF PART 63.—INITIAL COMPLIANCE WITH WORK PRACTICE STANDARDS

[As required in § 63.5860(a), you must demonstrate initial compliance with work practice standards as specified in the following table:]

For . . .	That must meet the following standard . . .	You have demonstrated initial compliance if . . .
1. A new or existing closed or molding operation using compression/injection molding.	Uncover, unwrap or expose only one charge per mold cycle per compression/injection molding machine. For machines with multiple molds, one charge means sufficient material to fill all molds for one cycle. For machines with robotic loaders, no more than one charge may be exposed prior to the loader. For machines fed by hoppers, sufficient material may be uncovered to fill the hopper. Hoppers must be closed when not adding materials. Materials may be uncovered to feed to slitting machines. Materials must be recovered after slitting.	The owner operator submits a certified statement in the notice of compliance status that only one charge is uncovered, unwrapped or exposed per mold cycle per compression/injection molding machine, or prior to the loader, hoppers are closed except when adding materials, and materials are recovered after slitting.
2. A new or existing cleaning operation	Not use cleaning solvents that contain HAP, except that styrene may be used in closed systems, and organic HAP containing materials may be used to clean cured resin from application equipment. Application equipment includes any equipment that directly contacts resin between storage and applying resin to the mold or reinforcement.	The owner or operator submits a certified statement in the notice of compliance status that all cleaning materials, except styrene contained in closed systems, or materials used to clean cured resin from application equipment contain no HAP.
3. A new or existing materials HAP-containing materials storage operation.	Keep containers that store HAP-containing materials closed or covered except during the addition or removal of materials. Bulk HAP-containing materials storage tanks may be vented as necessary for safety.	The owner or operator submits a certified statement in the notice of compliance status that all HAP-containing storage containers are kept closed or covered except when adding or removing materials, and that any bulk storage tanks are vented only as necessary for safety.

TABLE 9 TO SUBPART WWWW OF PART 63.—INITIAL COMPLIANCE WITH WORK PRACTICE STANDARDS—Continued

[As required in § 63.5860(a), you must demonstrate initial compliance with work practice standards as specified in the following table:]

For . . .	That must meet the following standard . . .	You have demonstrated initial compliance if . . .
4. An existing or new SMC manufacturing operation.	Close or cover the resin delivery system to the doctor box on each SMC manufacturing machine. The doctor box itself may be open.	The owner or operator submits a certified statement in the notice of compliance status that the resin delivery system is closed or covered.
5. An existing or new SMC manufacturing operation.	Use a nylon containing film to enclose SMC.	The owner or operator submits a certified statement in the notice of compliance status that a nylon-containing film is used to enclose SMC.
6. An existing or new mixing or BMC manufacturing operation.	Use mixer covers with no visible gaps present in the mixer covers, except that gaps of up to 1 inch are permissible around mixer shafts and any required instrumentation.	The owner or operator submits a certified statement in the notice of compliance status that mixer covers are closed during mixing except when adding materials to the mixers, and that gaps around mixer shafts and required instrumentation are less than 1 inch.
7. An existing mixing or BMC manufacturing operation.	Not actively vent mixers to the atmosphere while the mixing agitator is turning, except that venting is allowed during addition of materials, or as necessary prior to adding materials for safety.	The owner or operator submits a certified statement in the notice of compliance status that mixers are not actively vented to the atmosphere when the agitator is turning, except when adding materials or as necessary for safety.
8. A new or existing mixing or BMC manufacturing operation.	Keep the mixer covers closed during mixing except when adding materials to the mixing vessels.	The owner or operator submits a certified statement in the notice of compliance status that mixers closed except when adding materials to the mixing vessels.
9. A new or existing pultrusion operation manufacturing parts with 1000 or more reinforcements and a cross section area of 60 square inches or more that is not subject to the 95 percent organic HAP emission reduction requirement.	i. Not allow vents from the building ventilation system, or local or portable fans to blow directly on or across the wet-out area(s), ii. not permit point suction of ambient air in the wet-out area(s) unless that air is directed to a control device, iii. use devices such as deflectors, baffles, and curtains when practical to reduce air flow velocity across wet-out area(s), iv. direct any compressed air exhausts away from resin and wet-out area(s), v. convey resin collected from drip-off pans or other devices to reservoirs, tanks, or sumps via covered troughs, pipes, or other covered conveyance that shields the resin from the ambient air, vi. cover all reservoirs, tanks, sumps, or HAP-containing materials storage vessels except when they are being charged or filled, and vii. cover or shield from ambient air resin delivery systems to the wet-out area(s) from reservoirs, tanks, or sumps where practical.	The owner or operator submits a certified statement in the notice of compliance status that they have complied with all the requirements listed in the 9.i through 9.vii.

TABLE 10 TO SUBPART WWWW OF PART 63.—DATA REQUIREMENTS FOR NEW AND EXISTING CONTINUOUS LAMINATION LINES AND CONTINUOUS CASTING LINES COMPLYING WITH A PERCENT REDUCTION LIMIT ON A PER LINE BASIS

[As required in § 63.5865(a), in order to comply with a percent reduction limit for continuous lamination lines and continuous casting lines you must determine the data in the following table:]

For each line where the wet-out area . . .	And the oven . . .	You must determine . . .
1. Has an enclosure that is not a permanent total enclosure (PTE) and the captured organic HAP emissions are controlled by an add-on control device.	a. Is uncontrolled	i. Annual uncontrolled wet-out area organic HAP emissions, ii. Annual controlled wet-out area organic HAP emissions, iii. Annual uncontrolled oven organic HAP emissions, iv. The capture efficiency of the wet-out area enclosure, v. The destruction efficiency of the add-on control device, and vi. The amount of neat resin plus and neat gel coat plus applied.

TABLE 10 TO SUBPART WWWW OF PART 63.—DATA REQUIREMENTS FOR NEW AND EXISTING CONTINUOUS LAMINATION LINES AND CONTINUOUS CASTING LINES COMPLYING WITH A PERCENT REDUCTION LIMIT ON A PER LINE BASIS—Continued

[As required in § 63.5865(a), in order to comply with a percent reduction limit for continuous lamination lines and continuous casting lines you must determine the data in the following table:]

For each line where the wet-out area . . .	And the oven . . .	You must determine . . .
2. Has an enclosure that is a PTE and the captured organic HAP emissions are controlled by an add-on control device.	a. Is uncontrolled	i. Annual uncontrolled wet-out area organic HAP emissions, ii. Annual controlled wet-out area organic HAP emissions, iii. Annual uncontrolled oven organic HAP emissions, iv. That the wet-out area enclosure meets the requirements of EPA Method 204 of appendix M to 40 CFR part 51 for a PTE, v. The destruction efficiency of the add-on control device, and vi. The amount of neat resin plus and neat gel coat plus applied.
3. Is uncontrolled	a. Is controlled by an add-on control device	i. Annual uncontrolled wet-out area organic HAP emissions, ii. Annual uncontrolled oven organic HAP emissions, iii. Annual controlled oven organic HAP emissions, iv. The capture efficiency of the oven, v. the destruction efficiency of the add-on control device, and vi. the amount of neat resin plus and neat gel coat plus applied.
4. Has an enclosure that is not a PTE and the captured organic HAP emissions are controlled by an add-on control device.	a. Is controlled by an add-on control device	i. Annual uncontrolled wet-out area organic HAP emissions, ii. Annual controlled wet-out area organic HAP emissions, iii. Annual uncontrolled oven organic HAP emissions, iv. Annual controlled oven organic HAP emissions; v. The capture efficiency of the wet-out area enclosure, vi. Inlet organic HAP emissions to the add-on control device, vii. Outlet organic HAP emissions from the add-on control device, and viii. The amount of neat resin plus and neat gel coat plus applied.
5. Has an enclosure that is a PTE and the captured organic HAP emissions are controlled by an add-on control device.	a. Is controlled by an add-on control device	i. That the wet-out area enclosure meets the requirements of EPA Method 204 of appendix M to 40 CFR part 51 for a PTE, ii. The capture efficiency of the oven, and iii. The destruction efficiency of the add-on control device.

TABLE 11 TO SUBPART WWWW OF PART 63.—DATA REQUIREMENTS FOR NEW AND EXISTING CONTINUOUS LAMINATION AND CONTINUOUS CASTING LINES COMPLYING WITH A PERCENT REDUCTION LIMIT OR A LBS/TON LIMIT ON AN AVERAGING BASIS

[As required in § 63.5865, in order to comply with a percent reduction limit or a lbs/ton limit on an averaging basis for continuous lamination lines and continuous casting lines you must determine the data in the following table:]

For each . . .	That . . .	You must determine . . .
1. Wet-out area	Is uncontrolled	Annual uncontrolled wet-out area organic HAP emissions.
2. Wet-out area	a. Has an enclosure that is not a PTE	i. The capture efficiency of the enclosure, and ii. Annual organic HAP emissions that escape the enclosure.
3. Wet-out area	Has an enclosure that is a PTE	That the enclosure meets the requirements of EPA Method 204 of appendix M to 40 CFR part 51 for a PTE.
4. Oven	Is uncontrolled	Annual uncontrolled oven organic HAP emissions.

TABLE 11 TO SUBPART WWWW OF PART 63.—DATA REQUIREMENTS FOR NEW AND EXISTING CONTINUOUS LAMINATION AND CONTINUOUS CASTING LINES COMPLYING WITH A PERCENT REDUCTION LIMIT OR A LBS/TON LIMIT ON AN AVERAGING BASIS—Continued

[As required in §63.5865, in order to comply with a percent reduction limit or a lbs/ton limit on an averaging basis for continuous lamination lines and continuous casting lines you must determine the data in the following table:]

For each . . .	That . . .	You must determine . . .
5. Line	a. Is controlled or uncontrolled	i. The amount of neat resin plus applied, and ii. The amount of neat gel coat plus applied.
6. Add-on control device		i. Total annual inlet organic HAP emissions, and total annual outlet organic HAP emissions.

TABLE 12 TO SUBPART WWWW OF PART 63.—DATA REQUIREMENTS FOR NEW AND EXISTING CONTINUOUS LAMINATION LINES AND CONTINUOUS CASTING LINES COMPLYING WITH A LBS/TON ORGANIC HAP EMISSIONS LIMIT ON A PER LINE BASIS

[As required in §63.5865(b), in order to comply with a lbs/ton organic HAP emissions limit for continuous lamination lines and continuous casting lines you must determine the data in the following table:]

For each line where the wet- out area . . .	And the oven . . .	You must determine . . .
1. Is uncontrolled	a. Is uncontrolled	i. Annual uncontrolled wet-out area organic HAP emissions, ii. Annual uncontrolled oven organic HAP emissions, and iii. Annual neat resin plus and neat gel coat plus applied.
2. Has an enclosure that is not a PTE and the captured organic HAP emissions are controlled by an add-on control device.	a. Is uncontrolled	i. Annual uncontrolled wet-out area organic HAP emissions, ii. Annual controlled wet-out area organic HAP emissions, iii. Annual uncontrolled oven organic HAP emissions, iv. The capture efficiency of the wet-out area enclosure, v. The destruction efficiency of the add-on control device, and vi. The amount of neat resin plus and neat gel coat plus applied.
3. Has an enclosure that is a PTE, and the captured organic HAP emissions are controlled by an add-on control device.	a. Is uncontrolled	i. Annual uncontrolled wet-out area organic HAP emissions, ii. Annual controlled wet-out area organic HAP emissions, iii. Annual uncontrolled oven organic HAP emissions, iv. That the wet-out area enclosure meets the requirements of EPA Method 204 of appendix M to 40 CFR part 51 for a PTE, v. The destruction efficiency of the add-on control device, and vi. The amount of neat resin plus and neat gel coat plus applied.
4. Is uncontrolled	a. Is controlled by an add-on control device	i. Annual uncontrolled wet-out area organic HAP emissions, ii. Annual uncontrolled oven organic HAP emissions, iii. Annual controlled oven organic HAP emissions, iv. The capture efficiency of the oven, v. The destruction efficiency of the add-on control device, and vi. The amount of neat resin plus and neat gel coat plus applied.
5. Has an enclosure that is not a PTE and the captured organic HAP emissions are controlled by an add-on control device.	a. Is controlled by an add-on control device	i. Annual uncontrolled wet-out area organic HAP emissions, ii. Annual controlled wet-out area organic HAP emissions, iii. Annual uncontrolled oven organic HAP emissions,

TABLE 12 TO SUBPART WWWW OF PART 63.—DATA REQUIREMENTS FOR NEW AND EXISTING CONTINUOUS LAMINATION LINES AND CONTINUOUS CASTING LINES COMPLYING WITH A LBS/TON ORGANIC HAP EMISSIONS LIMIT ON A PER LINE BASIS—Continued

[As required in § 63.5865(b), in order to comply with a lbs/ton organic HAP emissions limit for continuous lamination lines and continuous casting lines you must determine the data in the following table:]

For each line where the wet- out area . . .	And the oven . . .	You must determine . . .
6. Has an enclosure that is a PTE, and the captured organic HAP emissions are controlled by add-on control device.	a. Is controlled by an add-on control device ...	iv. Annual controlled oven organic HAP emissions, v. The capture efficiency of the wet-out area enclosure, vi. The capture efficiency of the oven, vii. The destruction efficiency of the add-on control device, and viii. The amount of neat resin plus and neat gel coat plus applied. i. That the wet-out area enclosure meets the requirements of EPA Method 204 of appendix M to 40 CFR part 51 for a PTE, ii. The capture efficiency of the oven, iii. Inlet organic HAP emissions to the an add-on control device, and iv. Outlet organic HAP emissions from the add-on control device.

TABLE 13 TO SUBPART WWWW OF PART 63.—APPLICABILITY AND TIMING OF NOTIFICATIONS

[As required in § 63.5905(a), you must determine the applicable notifications and submit them by the dates shown in the following table:]

If your facility . . .	You must submit . . .	By this date . . .
1. Is an existing source subject to this subpart	An Initial Notification containing the information specified in § 63.9(b)(2).	No later than the dates specified in § 63.9(b)(2).
2. Is a new source subject to this subpart	The notifications specified in § 63.9(b)(4) and (5).	No later than the dates specified § 63.9(b)(4) and (5).
3. Qualifies for a compliance extension as specified in § 63.9(c).	A request for a compliance extension as specified in § 63.9(c).	No later than the dates specified in § 63.6(i).
4. Is complying with organic HAP emissions limit averaging provisions.	A Notification of Compliance Status as specified in § 63.9(h).	No later than 1 year plus 30 days after your facility's compliance date.
5. Is complying with organic HAP content limits, application equipment requirements, or organic HAP emissions limit other than organic HAP emissions limit averaging.	A Notification of Compliance Status as specified in § 63.9(h).	No later than 30 calendar days after your facility's compliance date.
6. Is complying by using an add-on control device.	a. A notification of intent to conduct a performance test as specified in § 63.9(e).	No later than the date specified in § 63.9(e).
	b. A notification of the date for the CMS performance evaluation as specified in § 63.9(g).	The date of submission of notification of intent to conduct a performance test.
	c. A Notification of Compliance Status as specified in § 63.9(h).	No later than 60 calendar days after the completion of the add-on control device performance test and CMS performance evaluation.

TABLE 14 TO SUBPART WWWW OF PART 63.—REQUIREMENTS FOR REPORTS

[As required in § 63.5910(a), (b), (g), and (h), you must submit reports on the schedule shown in the following table:]

You must submit a(n)	The report must contain . . .	You must submit the report . . .
1. Compliance report	a. A statement that there were no deviations during that reporting period if there were no deviations from any emission limitations (emission limit, operating limit, opacity limit, and visible emission limit) that apply to you and there were no deviations from the requirements for work practice standards in Table 4 to this subpart that apply to you. If there were no periods during which the CMS, including CEMS, and operating parameter monitoring systems, was out of control as specified in § 63.8(c)(7), the report must also contain a statement that there were no periods during which the CMS was out of control during the reporting period.	Semiannually according to the requirements in § 63.5910(b).

TABLE 14 TO SUBPART WWWW OF PART 63.—REQUIREMENTS FOR REPORTS—Continued

[As required in § 63.5910(a), (b), (g), and (h), you must submit reports on the schedule shown in the following table:]

You must submit a(n)	The report must contain . . .	You must submit the report . . .
	b. The information in § 63.5910(d) if you have a deviation from any emission limitation (emission limit, operating limit, or work practice standard) during the reporting period. If there were periods during which the CMS, including CEMS, and operating parameter monitoring systems, was out of control, as specified in § 63.8(c)(7), the report must contain the information in § 63.5910(e).	Semiannually according to the requirements in § 63.5910(b).
	c. The information in § 63.10(d)(5)(i) if you had a startup, shutdown or malfunction during the reporting period, and you took actions consistent with your startup, shutdown, and malfunction plan.	Semiannually according to the requirements in § 63.5910(b).
2. An immediate startup, shutdown, and malfunction report if you had a startup, shutdown, or malfunction during the reporting period that is not consistent with your startup, shutdown, and malfunction plan.	a. Actions taken for the event	By fax or telephone within 2 working days after starting actions inconsistent with the plan.
	b. The information in § 63.10(d)(5)(ii)	By letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority. (§ 63.10(d)(5)(ii)).

TABLE 15 TO SUBPART WWWW OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS (SUBPART A) TO SUBPART WWWW OF PART 63

[As specified in § 63.5925, the parts of the General Provisions which apply to you are shown in the following table:]

The general provisions reference . . .	That addresses . . .	And applies to subpart WWWW of part 63 . . .	Subject to the following additional information . . .
§ 63.1(a)(1)	General applicability of the general provisions.	Yes	Additional terms defined in subpart WWWW of Part 63, when overlap between subparts A and WWWW of Part 63 of this part, subpart WWWW of Part 63 takes precedence.
§ 63.1(a)(2) through (4)	General applicability of the general provisions.	Yes.	
§ 63.1(a)(5)	Reserved	No.	
§ 63.1(a)(6)	General applicability of the general provisions.	Yes.	
§ 63.1(a)(7) through (9)	Reserved	No.	
§ 63.1(a)(10) through (14)	General applicability of the general provisions.	Yes.	
§ 63.1(b)(1)	Initial applicability determination	Yes	Subpart WWWW of Part 63 clarifies the applicability in§§ 63.5780 and 63.5785.
§ 63.1(b)(2)	Reserved	No..	
§ 63.1(b)(3)	Record of the applicability determination	Yes.	
§ 63.1(c)(1)	Applicability of this part after a relevant standard has been set under this part.	Yes	Subpart WWWW of Part 63 clarifies the applicability of each paragraph of subpart A to sources subject to subpart WWWW of Part 63.
§ 63.1(c)(2)	Title V operating permit requirement	Yes	All major affected sources are required to obtain a title V operating permit. Area sources are not subject to subpart WWWW of Part 63.
§ 63.1(c)(3) and (4)	Reserved	No.	
§ 63.1(c)(5)	Notification requirements for an area source that increases HAP emissions to major source levels.	Yes.	
§ 63.1(d)	Reserved	No.	
§ 63.1(e)	Applicability of permit program before a relevant standard has been set under this part.	Yes.	
§ 63.2	Definitions	Yes	Subpart WWWW of Part 63 defines terms in § 63.5935. When overlap between subparts A and WWWW of Part 63 occurs, you must comply with the subpart WWWW of Part 63 definitions, which take precedence over the subpart A definitions.

TABLE 15 TO SUBPART WWWW OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS (SUBPART A) TO SUBPART WWWW OF PART 63—Continued

[As specified in § 63.5925, the parts of the General Provisions which apply to you are shown in the following table:]

The general provisions reference . . .	That addresses . . .	And applies to subpart WWWW of part 63 . . .	Subject to the following additional information . . .
§ 63.3	Units and abbreviations	Yes	Other units and abbreviations used in subpart WWWW of Part 63 are defined in subpart WWWW of Part 63.
§ 63.4	Prohibited activities and circumvention	Yes	§ 63.4(a)(3) through (5) is reserved and does not apply.
§ 63.5(a)(1) and (2)	Applicability of construction and reconstruction.	Yes	Existing facilities do not become reconstructed under subpart WWWW of Part 63.
§ 63.5(b)(1)	Relevant standards for new sources upon construction.	Yes	Existing facilities do not become reconstructed under subpart WWWW of Part 63.
§ 63.5(b)(2)	Reserved	No.	
§ 63.5(b)(3)	New construction/reconstruction	Yes	Existing facilities do not become reconstructed under subpart WWWW of Part 63.
§ 63.5(b)(4)	Construction/reconstruction notification	Yes	Existing facilities do not become reconstructed under subpart WWWW of Part 63.
§ 63.5(b)(5)	Reserved	No.	
§ 63.5(b)(6)	Equipment addition or process change	Yes	Existing facilities do not become reconstructed under subpart WWWW of Part 63.
§ 63.5(c)	Reserved	No.	
§ 63.5(d)(1)	General application for approval of construction or reconstruction.	Yes	Existing facilities do not become reconstructed under subpart WWWW of Part 63.
§ 63.5(d)(2)	Application for approval of construction	Yes.	
§ 63.5(d)(3)	Application for approval of reconstruction	No.	
§ 63.5(d)(4)	Additional information	Yes.	
§ 63.5(e)(1) through (5)	Approval of construction or reconstruction.	Yes.	
§ 63.5(f)(1) and (2)	Approval of construction or reconstruction based on prior State preconstruction review.	Yes.	
§ 63.6(a)(1)	Applicability of compliance with standards and maintenance requirements.	Yes.	
§ 63.6(a)(2)	Applicability of area sources that increase HAP emissions to become major sources.	Yes.	
§ 63.6(b)(1) through (5)	Compliance dates for new and reconstructed sources.	Yes	Subpart WWWW of Part 63 clarifies compliance dates in § 63.5800.
§ 63.6(b)(6)	Reserved	No.	
§ 63.6(b)(7)	Compliance dates for new operations or equipment that cause an area source to become a major source.	Yes	New operations at an existing facility are not subject to new source standards.
§ 63.6(c)(1) and (2)	Compliance dates for existing sources	Yes	Subpart WWWW of Part 63 clarifies compliance dates in § 63.5800.
§ 63.6(c)(3) and (4)	Reserved	No.	
§ 63.6(c)(5)	Compliance dates for existing area sources that become major.	Yes	Subpart WWWW of Part 63 clarifies compliance dates in § 63.5800.
§ 63.6(d)	Reserved	No.	
§ 63.6(e)(1) and (2)	Operation & maintenance requirements	Yes.	
§ 63.6(e)(3)	Startup, shutdown, and malfunction plan and recordkeeping.	Yes	Subpart WWWW of Part 63 requires a startup, shutdown, and malfunction plan only for sources using add-on controls.
§ 63.6(f)(1)	Compliance except during periods of startup, shutdown, and malfunction.	No	Subpart WWWW of Part 63 requires compliance during periods of startup, shutdown, and malfunction, except startup, shutdown, and malfunctions for sources using add-on controls.
§ 63.6(f)(2) and (3)	Methods for determining compliance	Yes.	
§ 63.6(g)(1) through (3)	Alternative standard	Yes.	
§ 63.6(h)	Opacity and visible emission Standards	No	Subpart WWWW of Part 63 does not contain opacity or visible emission standards.
§ 63.6(i)(1) through (14)	Compliance extensions	Yes.	

TABLE 15 TO SUBPART WWWW OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS (SUBPART A) TO SUBPART WWWW OF PART 63—Continued

[As specified in § 63.5925, the parts of the General Provisions which apply to you are shown in the following table:]

The general provisions reference . . .	That addresses . . .	And applies to subpart WWWW of part 63 . . .	Subject to the following additional information . . .
§ 63.6(i)(15)	Reserved	No.	
§ 63.6(i)(16)	Compliance extensions	Yes.	
§ 63.6(j)	Presidential compliance exemption	Yes.	
§ 63.7(a)(1)	Applicability of performance testing requirements.	Yes.	
§ 63.7(a)(2)	Performance test dates	No	Subpart WWWW of Part 63initial compliance requirements are in § 63.5840.
§ 63.7(a)(3)	CAA Section 114 authority	Yes.	
§ 63.7(b)(1)	Notification of performance test	Yes.	
§ 63.7(b)(2)	Notification rescheduled performance test.	Yes.	
§ 63.7(c)	Quality assurance program, including test plan.	Yes	Except that the test plan must be submitted with the notification of the performance test.
§ 63.7(d)	Performance testing facilities	Yes.	
§ 63.7(e)	Conditions for conducting performance tests.	Yes	Performance test requirements are contained in § 63.5850. Additional requirements for conducting performance tests for continuous lamination/casting are included in § 63.5870.
§ 63.7(f)	Use of alternative test method	Yes.	
§ 63.7(g)	Performance test data analysis, recordkeeping, and reporting.	Yes.	
§ 63.7(h)	Waiver of performance tests	Yes.	
§ 63.8(a)(1) and (2)	Applicability of monitoring requirements	Yes.	
§ 63.8(a)(3)	Reserved	No.	
§ 63.8(a)(4)	Monitoring requirements when using flares.	Yes.	
§ 63.8(b)(1)	Conduct of monitoring exceptions	Yes.	
§ 63.8(b)(2) and (3)	Multiple effluents and multiple monitoring systems.	Yes.	
§ 63.8(c)(1)	Compliance with CMS operation and maintenance requirements.	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(c)(2) and (3)	Monitoring system installation	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(c)(4)	CMS requirements	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(c)(5)	Continuous Opacity Monitoring System (COMS) minimum procedures.	No	Subpart WWWW of Part 63 does not contain opacity standards.
§ 63.8(c)(6) through (8)	CMS calibration and periods CMS is out of control.	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(d)	CMS quality control program, including test plan and all previous versions.	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(e)(1)	Performance evaluation of CMS	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(e)(2)	Notification of performance evaluation	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(e)(3) and (4)	CMS requirements/alternatives	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(e)(5)(i)	Reporting performance evaluation results	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(e)(5)(ii)	Results of COMS performance evaluation.	No	Subpart WWWW of Part 63 does not contain opacity standards.
§ 63.8(f)(1) through (3)	Use of an alternative monitoring method	Yes.	
§ 63.8(f)(4)	Request to use an alternative monitoring method.	Yes.	
§ 63.8(f)(5)	Approval of request to use an alternative monitoring method.	Yes.	

TABLE 15 TO SUBPART WWWW OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS (SUBPART A) TO SUBPART WWWW OF PART 63—Continued

[As specified in § 63.5925, the parts of the General Provisions which apply to you are shown in the following table:]

The general provisions reference . . .	That addresses . . .	And applies to subpart WWWW of part 63 . . .	Subject to the following additional information . . .
§ 63.8(f)(6)	Request for alternative to relative accuracy test and associated records.	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(g)(1) through (5)	Data reduction	Yes.	
§ 63.9(a)(1) through (4)	Notification requirements and general information.	Yes.	
§ 63.9(b)(1)	Initial notification applicability	Yes.	
§ 63.9(b)(2)	Notification for affected source with initial startup before effective date of standard.	Yes.	
§ 63.9(b)(3)	Reserved	No.	
§ 63.9(b)(4)(i)	Notification for a new or reconstructed major affected source with initial startup after effective date for which an application for approval of construction or reconstruction is required.	Yes.	
§ 63.9(b)(4)(ii) through (iv)	Reserved	No.	
§ 63.9(b)(4)(v)	Notification for a new or reconstructed major affected source with initial startup after effective date for which an application for approval of construction or reconstruction is required.	Yes	Existing facilities do not become reconstructed under subpart WWWW of Part 63.
§ 63.9(b)(5)	Notification that you are subject to this subpart for new or reconstructed affected source with initial startup after effective date and for which an application for approval of construction or reconstruction is not required.	Yes	Existing facilities do not become reconstructed under subpart WWWW of Part 63.
§ 63.9(c)	Request for compliance extension	Yes.	
§ 63.9(d)	Notification of special compliance requirements for new source.	Yes.	
§ 63.9(e)	Notification of performance test	Yes.	
§ 63.9(f)	Notification of opacity and visible emissions observations.	No	Subpart WWWW of Part 63 does not contain opacity or visible emission standards.
§ 63.9(g)(1)	Additional notification requirements for sources using CMS.	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.9(g)(2)	Notification of compliance with opacity emission standard.	No	Subpart WWWW of Part 63 does not contain opacity emission standards.
§ 63.9(g)(3)	Notification that criterion to continue use of alternative to relative accuracy testing has been exceeded.	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.9(h)(1) through (3)	Notification of compliance status	Yes.	
§ 63.9(h)(4)	Reserved	No.	
§ 63.9(h)(5) and (6)	Notification of compliance status	Yes.	
§ 63.9(i)	Adjustment of submittal deadlines	Yes.	
§ 63.9(j)	Change in information provided	Yes.	
§ 63.10(a)	Applicability of recordkeeping and reporting.	Yes.	
§ 63.10(b)(1)	Records retention	Yes.	
§ 63.10(b)(2)(i) through (v)	Records related to startup, shutdown, and malfunction.	Yes	Only applies to facilities that use an add-on control device.
§ 63.10(b)(2)(vi) through (xi)	CMS records, data on performance tests, CMS performance evaluations, measurements necessary to determine conditions of performance tests, and performance evaluations.	Yes.	
§ 63.10(b)(2)(xii)	Record of waiver of recordkeeping and reporting.	Yes.	
§ 63.10(b)(2)(xiii)	Record for alternative to the relative accuracy test.	Yes.	
§ 63.10(b)(2)(xiv)	Records supporting initial notification and notification of compliance status.	Yes.	
§ 63.10(b)(3)	Records for applicability determinations	Yes.	
§ 63.10(c)(1)	CMS records	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.

TABLE 15 TO SUBPART WWWW OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS (SUBPART A) TO SUBPART WWWW OF PART 63—Continued

[As specified in § 63.5925, the parts of the General Provisions which apply to you are shown in the following table:]

The general provisions reference . . .	That addresses . . .	And applies to subpart WWWW of part 63 . . .	Subject to the following additional information . . .
§ 63.10(c)(2) through (4)	Reserved	No.	
§ 63.10(c)(5) through (8)	CMS records	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.10(c)(9)	Reserved	No.	
§ 63.10(c)(10) through (15)	CMS records	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.10(d)(1)	General reporting requirements	Yes.	
§ 63.10(d)(2)	Report of performance test results	Yes.	
§ 63.10(d)(3)	Reporting results of opacity or visible emission observations.	No	Subpart WWWW of Part 63 does not contain opacity or visible emission standards.
§ 63.10(d)(4)	Progress reports as part of extension of compliance.	Yes.	
§ 63.10(d)(5)	Startup, shutdown, and malfunction reports.	Yes	Only applies if you use an add-on control device.
§ 63.10(e)(1) through (3)	Additional reporting requirements for CMS.	Yes	This section applies if you have an add-on control device and elect to use a CEM to demonstrate continuous compliance with an emission limit.
§ 63.10(e)(4)	Reporting COMS data	No	Subpart WWWW of Part 63 does not contain opacity standards.
§ 63.10(f)	Waiver for recordkeeping or reporting	Yes.	
§ 63.11	Control device requirements	Yes	Only applies if you elect to use a flare as a control device.
§ 63.12	State authority and delegations	Yes.	
§ 63.13	Addresses of State air pollution control agencies and EPA Regional Offices.	Yes.	
§ 63.14	Incorporations by reference	Yes.	
§ 63.15	Availability of information and confidentiality.	Yes.	

Appendix A to Subpart WWWW—Test Method for Determining Vapor Suppressant Effectiveness

1. Scope and Application

1.1 *Applicability.* If a facility is using vapor suppressants to reduce hazardous air pollutant (HAP) emissions, the organic HAP emission factor equations in Table 1 to this subpart require that the vapor suppressant effectiveness factor be determined. The vapor suppressant effectiveness factor is then used as one of the inputs into the appropriate organic HAP emission factor equation. The vapor suppressant effectiveness factor test is not intended to quantify overall volatile emissions from a resin, nor to be used as a stand-alone test for emissions determination. This test is designed to evaluate the performance of film forming vapor suppressant resin additives. The results of this test are used only in combination with the organic HAP emissions factor equations in Table 1 to this subpart to generate emission factors.

1.1.1 The open molding process consists of application of resin and reinforcements to the mold surface, followed by a manual rollout process to consolidate the laminate, and the curing stage where the laminate surface is not disturbed. Emission studies have shown that approximately 50 percent to 55 percent of the emissions occur while the resin is being applied to the mold. Vapor suppressants have little effect during this portion of the lamination process, but can have a significant effect during the curing stage. Therefore, if a suppressant is 100 percent effective, the overall emissions from the process would be reduced by 45 percent to 50 percent, representing the emissions generated during the curing stage. In actual practice, vapor suppressant effectiveness will be less than 100 percent and the test results determine the specific effectiveness in terms of the vapor suppressant effectiveness factor. This factor represents the effectiveness of a specific combination of suppressant additive and resin formulation.

1.1.2 A resin manufacturer may supply a molder with a vapor-suppressed resin, and employ this test to provide the molder with the vapor suppressant effectiveness factor for that combination of resin and vapor suppressant. The factor qualifies the effectiveness of the vapor suppressant when the resin is tested in the specific formulation supplied to the molder. The addition of fillers or other diluents by the molder may impact the effectiveness of the vapor suppressant. The formulation, including resin/glass ratio and filler content, used in the test should be similar to the formulation to be used in production. The premise of this method is to compare laminate samples made with vapor suppressant additive and made without the additive. The difference in emissions between the two yields the vapor suppressant effectiveness factor.

1.1.3 The method uses a mass balance determination to establish the relative loss of the volatile component from unsaturated polyester or vinyl ester resins, with and without vapor suppressant additives. The effectiveness of a specific vapor suppressant and resin mixture is determined by comparing the relative volatile weight losses from vapor suppressed and non-suppressed resins. The volatile species are not separately analyzed. While the species contained in the volatile component are not determined, an extended listing of potential monomer that may be contained in unsaturated polyester or vinyl ester resins is provided in Table 1.1. However, most polyester and vinyl ester resin formulations presently used by the composites industry only contain styrene monomer.

TABLE 1.1.—LIST OF MONOMERS POTENTIALLY PRESENT IN UNSATURATED POLYESTER/VINYL ESTER RESINS

Monomer	CAS No.
Styrene	100–42–5.
Vinyl toluene	25013–15–4.
Methyl methacrylate	80–62–6.
Alpha methyl styrene	98–83–9.

TABLE 1.1.—LIST OF MONOMERS POTENTIALLY PRESENT IN UNSATURATED POLYESTER/VINYL ESTER RESINS—Continued

Monomer	CAS No.
Para methyl styrene	Vinyl toluene isomer.
Chlorostyrene	1331–28–8.
Diallyl phthalate	131–17–9.
Other volatile monomers	Various.

2. Summary of Method

2.1 Differences in specific resin and suppressant additive chemistry affect the performance of a vapor suppressant. The purpose of this method is to quantify the effectiveness of a specific combination of vapor suppressant and unsaturated polyester or vinyl ester resin as they are to be used in production. This comparative test quantifies the loss of volatiles from a fiberglass reinforced laminate during the roll-out and curing emission phases, for resins formulated with and without a suppressant additive. A criterion for this method is the testing of a non-vapor suppressed resin system and testing the same resin with a vapor suppressant. The two resins are as identical as possible with the exception of the addition of the suppressant to one. The exact formulation used for the test will be determined by the in-use production requirements. Each formulation of resin, glass, fillers, and additives is developed to meet particular customer and or performance specifications.

2.2 The result of this test is used as an input factor in the organic HAP emissions factor equations in Table 1 to this subpart, which allows these equations to predict emissions from a specific combination of resin and suppressant. This test does not provide an emission rate for the entire lamination process.

3. Definitions and Acronyms

3.1 Definitions

3.1.1 *Vapor suppressant.* An additive that inhibits the evaporation of volatile components in unsaturated polyester or vinyl ester resins.

3.1.2 *Unsaturated polyester resin.* A thermosetting resin commonly used in composites molding.

3.1.3 *Unsaturated vinyl ester resin.* A thermosetting resin used in composites molding for corrosion resistant and high performance applications.

3.1.4 *Laminate.* A combination of fiber reinforcement and a thermoset resin.

3.1.5 *Chopped strand mat.* Glass fiber reinforcement with random fiber orientation.

3.1.6 *Initiator.* A curing agent added to an unsaturated polyester or vinyl ester resin.

3.1.7 *Resin application roller.* A tool used to saturate and compact a wet laminate.

3.1.8 *Gel time.* The time from the addition of initiator to a resin to the state of resin gelation.

3.1.9 *Filled resin system.* A resin, which includes the addition of inert organic or inorganic materials to modify the resin properties, extend the volume and to lower the cost. Fillers include, but are not limited to; mineral particulates; microspheres; or organic particulates. This test is not intended to be used to determine the vapor suppressant effectiveness of a filler.

3.1.10 *Material safety data sheet.* Data supplied by the manufacturer of a chemical product, listing hazardous chemical components, safety precautions, and required personal protection equipment for a specific product.

3.1.11 *Tare(ed).* Reset a balance to zero after a container or object is placed on the balance; that is to subtract the weight of a container or object from the balance reading so as to weigh only the material placed in the container or on the object.

3.1.12 *Percent glass.* The specified glass fiber weight content in a laminate. It is usually determined by engineering requirements for the laminate.

3.2 Acronyms:

3.2.1 *VS*—vapor suppressed or vapor suppressant.

3.2.2 *NVS*—non-vapor suppressed.

3.2.3 *VSE*—vapor suppressant effectiveness.

3.2.4 *VSE Factor*—vapor suppressant effectiveness, factor used in the equations in Table 1 to this subpart.

3.2.5 *CSM*—chopped strand mat.

3.2.6 *MSDS*—material safety data sheet.

4. Interferences

There are no identified interferences which affect the results of this test.

5. Safety

Standard laboratory safety procedures should be used when conducting this test. Refer to specific MSDS for handling precautions.

6. Equipment and Supplies

Note: Mention of trade names or specific products or suppliers does not constitute an endorsement by the Environmental Protection Agency.

6.1 Required Equipment.

6.1.1 Balance enclosure.[1]

6.1.2 Two (2) laboratory balances—accurate to ±0.01g.[2]

6.1.3 Stop watch or balance data recording output to data logger with accuracy ±1 second.[3]

6.1.4 Thermometer—accurate to ±2.0°F(±1.0°C).[4]

6.1.5 A lipped pan large enough to hold the cut glass without coming into contact with the vertical sides, e.g. a pizza pan.[5]

6.1.6 Mylar film sufficient to cover the bottom of the pan.[6]

6.1.7 Tape to keep the Mylar from shifting in the bottom of the pan.[7]

6.1.8 Plastic tri-corner beakers of equivalent—250 ml to 400 ml capacity.[8]

6.1.9 Eye dropper or pipette.[9]

6.1.10 Disposable resin application roller, 3/16"–3/4" diameter × 3"–6" roller length.[10]

6.1.11 Hygrometer or psychrometer[11] accurate to ±5 percent

6.1.12 Insulating board, (Teflon, cardboard, foam board etc.) to prevent the balance from becoming a heat sink.[12]

6.2 Optional Equipment.

6.2.1 Laboratory balance—accurate to ±.01g with digital output, such as an RS–232 bi-directional interface[13] for use with automatic data recording devices.

6.2.2 Computer with recording software configured to link to balance digital output. Must be programmed to record data at the minimum intervals required for manual data acquisition.

6.3 Supplies.

6.3.1 Chopped strand mat—1.5 oz/ft.[2] [14]

7. Reagents and Standards

7.1 *Initiator.* The initiator type, brand, and concentration will be specified by resin manufacturer, or as required by production operation.

7.2 Polyester or vinyl ester resin.

7.3 Vapor suppressant additive.

8. Sample Collection, Preservation, and Storage

This test method involves the immediate recording of data during the roll out and curing phases of the lamination process during each test run. Samples are neither collected, preserved, nor stored.

9. Quality Control

Careful attention to the prescribed test procedure, routing equipment calibration, and replicate testing are the quality control activities for this test method. Refer to the procedures in section 11. A minimum of six test runs of a resin system without a suppressant and six test runs of the same resin with a suppressant shall be performed for each resin and suppressant test combination.

10. Calibration and Standardization

10.1 The laboratory balances, stopwatch, hygrometer and thermometer shall be maintained in a state of calibration prior to testing and thereafter on a scheduled basis as determined by the testing laboratory. This shall be accomplished by using certified calibration standards.

10.2 Calibration records shall be maintained for a period of 3 years.

11. Test Procedure

11.1 Test Set-up.

11.1.1 The laboratory balance is located in an enclosure to prevent fluctuations in balance readings due to localized air movement. The front of enclosure is open to permit work activity, but positioned so that local airflow will not effect balance readings. The ambient temperature is determined by suspending the thermometer at a point inside the enclosure.

11.1.2 The bottom of the aluminum pan is covered with the Mylar film. The film is held in position with tape or by friction between the pan and the film.

11.1.3 The resin and pan are brought to room temperature. This test temperature must be between 70°F and 80°F. The testing temperature cannot vary more than ±2°F during the measurement of test runs. Temperature shall be recorded at the same time weight is recorded on suppressed and non-suppressed test data sheets, shown in Table 17.1.

11.1.4 The relative humidity may not change more than ±15 percent during the test runs. This is determined by recording the relative humidity in the vicinity of the test

chamber at the beginning and end of an individual test run. This data is recorded on the test data sheets shown in Table 17.1.

11.1.5 Two plies of nominal 1.5 oz/ft^2 chopped strand mat (CSM) are cut into a square or rectangle with the minimum surface area of 60 square inches (*i.e.* a square with a side dimension of 7.75 inches).

11.1.6 The appropriate resin application roller is readily available.

11.2 Resin Gel Time/Initiator Percentage

11.2.1 Previous testing has indicated that resin gel time influences the emissions from composite production. The testing indicated that longer the gel times led to higher emissions. There are a number of factors that influence gel time including initiator type, initiator brand, initiator level, temperature and resin additives. Under actual usage conditions a molder will adjust the initiator to meet a gel time requirement. In this test procedure, the vapor suppressed and non-vapor suppressed resin systems will be adjusted to the same gel time by selecting the appropriate initiator level for each.

11.2.2 All test runs within a test will be processed in a manner that produces the same resin gel time ±2 minutes. To facilitate the resin mixing procedure, master batches of resin and resin plus vapor suppressant of resin are prepared. These resin master batches will have all of the required ingredients except initiator; this includes filler for filled systems. The gel times for the tests are conducted using the master batch and adjustments to meet gel time requirements shall be made to the master batch before emission testing is conducted. Test temperatures must be maintained within the required range, during gel time testing. Further gel time testing is not required after the non-vapor suppressed and vapor suppressed master batches are established with gel times within ±2 minutes. A sufficient quantity of each resin should be prepared to allow for additional test specimens in the event one or more test fails to meet the data acceptance criteria discussed in Section 11.5 and shown in Table 17.2.

11.2.3 The specific brand of initiator and the nominal percentage level recommended by the resin manufacturer will be indicated on the resin certificate of analysis [15]; or, if a unique gel time is required in a production laminate, initiator brand and percentage will be determined by that specific requirement.

11.2.4 Examples:

11.2.4.1 The resin for a test run is specified as having a 15-minute cup gel time at 77°F using Brand X initiator at 1.5 percent by weight. The non-suppressed control resin has a 15-minute gel time. The suppressed resin has a gel time of 17-minutes. An initiator level of 1.5 percent would be selected for the both the non-suppressed and the suppressed test samples.

11.2.4.2 Based on a specific production requirement, a resin is processed in production using 2.25 percent of Brand Y initiator, which produces a 20-minute gel time. This initiator at level of 2.25 percent produces a 20 minute gel time for the non-suppressed control resin, but yields a 25-minute gel time for the suppressed resin sample. The suppressed resin is retested at 2.50 percent initiator and produces a 21-minute gel time. The initiator levels of 2.25 percent and 2.50 percent respectively would yield gel times within ±2 minutes.

11.3 Test Run Procedure for Unfilled Resin (see the data sheet shown in Table 17.1).

11.3.1 The insulating board is placed on the balance.

11.3.2 The aluminum pan with attached Mylar film is placed on the balance, and the balance is tared (weight reading set to zero with the plate on the balance.)

11.3.3 Place two plies of 1.5 oz. CSM on the balance and record the weight (glass weight).

11.3.4 The resin beaker and stirring rod are put on the second balance and tared.

11.3.5 The required resin weight and initiator weight are calculated (refer to calculation formulas in 12.2).

11.3.6 The disposable resin application roller is placed on the edge of the plate.

11.3.7 The balance is tared, with the aluminum pan, Mylar film, glass mat, and resin application roller on the balance pan.

11.3.8 Resin is weighed into a beaker, as calculated, using the second balance. The mixing stick should be tared with the beaker weight.

11.3.9 Initiator is weighed into the resin, as calculated, using an eyedropper or a pipette, and the combination is mixed.

11.3.10 Initiated resin is poured on chopped strand mat in a pe-determined pattern (see Figure 11.6).

11.3.11 A stopwatch is started from zero.

11.3.12 The initial laminate weight is recorded.

11.3.13 The plate is removed from balance to enable roll-out of the laminate.

11.3.14 The wet laminate is rolled with the resin application roller to completely distribute the resin, saturate the chopped strand mat, and eliminate air voids. Roll-out time should be in the range of 2 to 3$^{1}/_{6}$ minutes and vary less than ±10 percent of the average time required for the complete set of six suppressed and six non-suppressed runs.

11.3.15 Record the rollout end time (time from start to completion of rollout).

11.3.16 Place the resin application roller on the edge of the plate when rollout is completed.

11.3.17 Place the plate back on the balance pan. Immediately record the weight.

11.3.18 For the first test in a series of six tests, weight is recorded every 5-minute interval (suppressed and non-suppressed). The end of the test occurs when three consecutive equal weights are recorded or a weight gain is observed (the last weight before the increased weight is the end of test weight). For the remaining five tests in the series, after the initial weights are taken, the next weight is recorded 30 minutes before the end of the test, as suggested by the results from the first test. It is likely that the time to reach the end point of a suppressed resin test will be shorter than the time required to complete a non-suppressed test. Therefore, the time to start taking data manually may be different for suppressed and non-suppressed resins.

11.4 Test Run Procedures for Filled Resin Systems [17] Note that the procedure for filled systems differs from the procedure for unfilled systems. With filled systems, resin is applied to one ply of the CSM and the second ply is placed on top of the resin.

11.4.1 The insulating board is placed on the balance.

11.4.2 The aluminum pan with attached Mylar film is placed on the balance, and the balance is tared (weight reading set to zero with the plate on the balance.)

11.4.3 Place two plies of 1.5 oz. CSM on the balance and record the weight (glass weight).

11.4.4 Remove the top ply of fiberglass and record its weight (weight of 1st layer of glass).

11.4.5 The required resin weight and initiator weight are calculated (refer to calculation formulas in 12.2). Calculate the weight of filled resin and initiator based on the 2 layers of fiberglass.

11.4.6 The resin beaker and stirring rod are put on the second balance and tared.

11.4.7 A disposable resin application roller is placed on the edge of the plate.

11.4.8 The balance is tared, with the aluminum pan, Mylar film, glass mat, and resin application roller on the balance pan.

11.4.9 Resin is weighed into the beaker, as calculated, using the second balance. The mixing stick should be tared with the beaker weight.

11.4.10 Initiator is weighed into the resin, as calculated, using an eyedropper or a pipette, and the combination is mixed.

11.4.11 Initiated resin is poured on the single ply of CSM in a pre-determined pattern. Refer to Figure 11.6.

11.4.12 A stopwatch is started from zero.

11.4.13 Record the weight of the resin ans single ply of CSM (L_1). The initial laminate weight equals L_1 plus the weight of second glass layer.

11.4.14 Replace the second layer of fiberglass.

11.4.15 Remove the plate from the balance to allow roll-out of the laminate.

11.4.16 Roll the wet laminate with the resin application roller to completely distribute the resin, saturate the chopped strand mat, and eliminate air voids. Roll-out time should be in the range of 2 to 3$^{1}/_{6}$ minutes and vary less than ± 10 percent of the average time required for the complete set of six suppressed and six non-suppressed runs.

11.4.17 Record the roll-out end time (time from start to completion of rollout).

11.4.18 Place the resin application roller on the edge of the plate when rollout is completed.

11.4.19 Place the plate back on the balance pan. The initial weight is recorded immediately.

11.4.20 For the first test run in a series of six, weight is recorded at every 5-minute interval (suppressed and non-suppressed). The end of the test occurs when three consecutive equal weights are recorded or a weight gain is observed (the last weight before the increased weight is the end of test weight). For the remaining five tests in the series, after the initial weights are taken, the next weight is recorded 30 minutes before the end of the test, as suggested by the results from the first test. It is likely that the time to reach the end point of a suppressed resin

test will be shorter than the time required to complete a non-suppressed test. Therefore, the time to start taking data manually may be different for suppressed and non-suppressed resins.

11.5 Data Acceptance Criteria:

11.5.1 A test set is designed as twelve individual test runs using the same resin, initiator, and gel time, six of the test runs use the resin non-vapor suppressed and the other six use it vapor suppressed.

11.5.2 If a test run falls outside any of the time, temperature, weight or humidity variation requirements, it must be discarded and run again.

11.5.3 The laminate roll out time for each individual test run must vary less than ± 10 percent of the average time required for the complete set of six suppressed and six non-suppressed runs.

11.5.4 Test temperature for each test run must be maintained within ±2°F and the average must be between 70° and 80°F. Refer to 11.1.3.

11.5.5 The difference in the amount of resin for each run must be within ±10 percent of the average weight for the complete set of six suppressed and six non-suppressed runs.

11.5.6 The relative humidity from each test run must be within ±15 percent of the average humidity for the complete set of six suppressed and six non-suppressed tests. Refer to 11.1.4

11.5.7 The glass content for each test set must be within ±10 percent of the average resin-to-/glass ratio for the complete set of six suppressed and six non-suppressed runs. Refer to 12.2).

11.5.8 The filler content for each test of a test set must be within ±5 percent of the average filler content for the complete set of six suppressed and six non-suppressed runs. Refer to 12.2.

11.6 Resin Application Pour Pattern:

11.6.1 To facilitate the distribution of resin across the chopped strand mat, and to provide consistency from test to test, a uniform pour pattern should be used. A typical pour pattern is shown below:

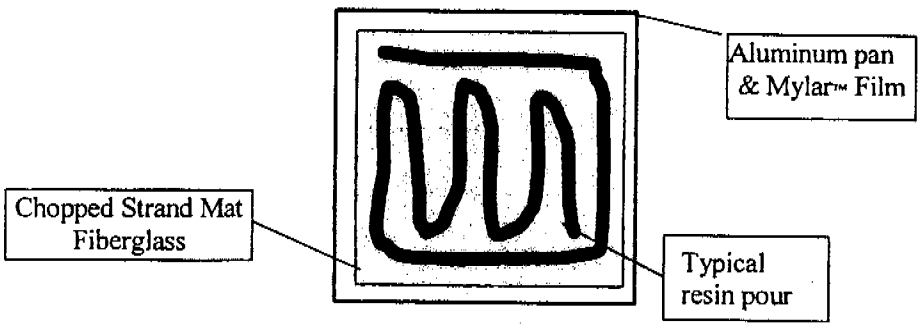


Figure 11.6 Resin Distribution Diagram

11.6.2 The resin is to be evenly distributed across the entire surface of the chopped strand mat using the resin application roller to achieve a wet look across the surface of the laminate. Pushing excess resin off the reinforcement and onto the Mylar sheet should be avoided. No resin is to be pushed more than ½ inch beyond the edge of the glass mat. If excess resin is pushed further from the glass mat, it will void the test run. As part of this process, typical visible air voids are to be eliminated by the rollout process. If the pour pattern is different from the above, it must be recorded and attached to test data sheet 17.1.

12. Data Analysis and Calculations

12.1 Data Analysis:

This test method requires a simple mass balance calculation, no special data analysis is necessary.

12.2 Calculations:

12.2.1 The target glass content (percent) for unfilled resin systems is determined from the specific production parameters being evaluated. In absence of any specific production requirements the target may be set at the tester's discretion.

12.2.2 Glass content determination (expressed as a per cent):

% Glass = Glass wt(g)/(Glass wt(g) + Resin weight (g))

12.2.3 Weight of resin required:

Resin weight required = (Glass wt (g)/% glass)—Glass wt (g)

12.2.4 Filled resin formulation determination for filled resin systems (*e.g.* >30 percent filler by weight for a particulate filler, or >1 percent by weight for a lightweight filler, such as hollow microspheres):

% Resin content = resin weight(g)/(resin weight(g) + glass weight(g) + filler weight(g))
% Glass content = glass weight(g)/(resin weight(g) + glass weight(g) + filler weight(g))
Filler content = filler weight(g)/(resin weight(g) + glass weight(g) + filler weight(g))

12.2.5 Initiator weight determination:

Initiator weight (g) = Resin weight(g) × Initiator %

12.2.6 Emission weight loss determination:

Emissions weight loss (g) = Initial resin weight (g) – Final resin weight (g)

12.2.7 % Emission weight loss:

% Emission Weight Loss = (Emission weight loss (g) Initial resin weight (g) × 100

12.2.8 Average % Emission Weight Loss (assuming six test runs):

$$\text{Average \% Emission Weight Loss} = \sum_{i}^{N=6}(\text{\% Emission Weight Loss}_i)/6$$

12.2.9 VSE Factor calculation:

VSE Factor = 1 − (Average % VS Emission Weight Loss/Average NVS Emission Weight Loss)

TABLE 12.1.—EXAMPLE CALCULATION

Test #	% VS weight loss	% NVS weight loss
1	6.87	10.86
2	6.76	11.23
3	5.80	12.02
4	5.34	11.70
5	6.11	11.91
6	6.61	10.63
Average Weight Loss	6.25	11.39
VSE Factor		0.4

VSE Factor = 0.45

VSE Factor is used as input into the appropriate equation in Table 1 to this subpart.

Example from Table 1 to this subpart:

Manual Resin Application, 35 percent HAP resin, VSE Factor of 0.45

HAP Emissions with vapor suppresants = ((0.286 × %HAP) − 0.0529) × 2000 × (1−(0.5 × VSE factor))

HAP Emissions with vapor suppresants = ((0.286 × .35) − 0.0529) × 2000 × (1 − (0.5 × .45))

HAP Emissions with vapor suppresants = 73 pounds of HAP emissions per ton of resin.

13. Method Performance

13.1 Bias:

The bias of this test method has not been determined.

13.2 Precision Testing

13.2.1 Subsequent to the initial development of this test protocol by the Composites Fabricators Association, a series of tests were conducted in three different laboratory facilities. The purpose of this round robin testing was to verify the precision of the test method in various laboratories. Each laboratory received a sample of an orthophthalic polyester resin from the same production batch, containing 48 per cent styrene by weight. Each testing site was also provided with the same vapor suppressant additive. The suppressant manufacturer specified the percentage level of suppressant additive. The resin manufacturer specified the type and level of initiator required to produce a 20 minute gel time. The target glass content was 30 percent by weight.

13.2.2 Each laboratory independently conducted the VSE test according to this method. A summary of the results is included in Table 13.1.

TABLE 13.1.—ROUND ROBIN TESTING RESULTS

	Test Lab 1		Test Lab 2		Test Lab 3	
	NVS	VS	NVS	S	NVS	VS
Average percent WT Loss	4.24	1.15	4.69	1.84	5.73	1.61
Standard Deviation	0.095	0.060	0.002	0.002	0.020	0.003
VSE Factor		0.730		0.607		0.720

13.3 Comparison to EPA Reference Methods This test has no corresponding EPA reference method.

14. Pollution Prevention

The sample size used in this method produces a negligible emission of HAP, and has an insignificant impact upon the atmosphere.

15. Waste Management

The spent and waste materials generated during this test are disposed according to required facility procedures, and waste management recommendations on the corresponding material safety data sheets.

16. References and footnotes

16.1 Footnotes:

[1] Balance Enclosure—The purpose of the balance enclosure is to prevent localized airflow from adversely affecting the laboratory balance. The enclosure may be a simple three-sided box with a top and an open face. The configuration of the enclosure is secondary to the purpose of providing a stable and steady balance reading, free from the effects of airflow, for accurate measurements. The enclosure can be fabricated locally. A typical enclosure is shown in Figure 17.1.

[2] Laboratory Balance—Ohaus Precision Standard Series P/N TS400D or equivalent—Paul N. Gardner Co. 316 NE 1st St. Pompano Beach, FL 33060 or other suppliers.

[3] Stop Watch—Local supply.

[4] Thermometer—Mercury thermometer—ASTM No. 21C or equivalent; Digital thermometer—P/N TH–33033 or equivalent—Paul N. Gardner Co. 316 NE 1st St. Pompano Beach, FL 33060 or other suppliers.

[5] Aluminum Pan—Local supply.

[6] Mylar—Local supply.

[7] Double Sided Tape—3M Double Stick Tape or equivalent, local supply.

[8] Laboratory Beakers—250 to 400ml capacity—Local laboratory supply.

[9] Eye Dropper or Pipette—Local laboratory supply.

[10] Disposable Resin Application Roller Source—Wire Handle Roller P/N 205–050–300 or Plastic Handle Roller P/N 215–050–300 or equivalent; ES Manufacturing Inc., 2500 26st Ave. North, St. Petersburg, FL 33713, *www.esmfg.com*, or other source. Refer to Figure 17.3.

[11] Hygrometer or Psychrometer—Model# THWD–1, or equivalent—Part # 975765 by Amprobe Instrument, 630 Merrick Road, P.O. Box 329, Lynbrook, NY 11563, 516–593–5600

[12] Insulating Board (Teflon, cardboard, foam board etc.)—Local supply.

[13] Laboratory Balance With Digital Output—Ohaus Precision Standard Series P/N TS120S or equivalent—Paul N. Gardner Co. 316 NE 1st St. Pompano Beach, FL 33060 or other suppliers.

[14] Chopped Strand Mat—1.5 oz/ft^2 Sources: Owens Corning Fiberglas—Fiberglas M–723; PPG Industries—ABM HTX; Vetrotex America—M–127 or equivalent.

[15] Certificate of Analysis: Resin gel time, as recorded on the resin certificate of analysis, is measured using a laboratory standard gel time procedure. This procedure typically uses a 100 gram cup sample at 77°F (25°C), a specific type of initiator and a specified percentage.

[16] Roll-out times may vary with resin viscosity or resin additive. The important aspect of this step is to produce the same roll-out time for both the suppressed and non-suppressed samples.

[17] While this test can be used with filled resin systems, the test is not designed to determine the effect of the filler on emissions, but rather to measure the effect of the suppressant additive in the resin system. When evaluating a filled system both the non-vapor suppressed and vapor suppressed samples should be formulated with the same type and level of filler.

16.2 References

1. Phase 1—Baseline Study Hand Lay-up, CFA, 1996

2. CFA Vapor Suppressant Effectiveness Test Development, 4/3/98, correspondence with Dr. Madeleine Strum, EPA, OAQPS

3. CFA Vapor Suppressant Effectiveness Screening Tests, 4/4/98

4. Styrene Suppressant Systems Study, Reichhold Chemical, 11/30/98

5. Evaluation of the CFA's New Proposed Vapor Suppressant Effectiveness Test, Technical Service Request #: ED–01–98, BYK Chemie, 6/3/98

6. Second Evaluation of the CFA's New Proposed Vapor Suppressant Effectiveness Test, Technical Service Request #: ED–02–98, BYK Chemie, 1/26/99

17. Data Sheets and Figures

17.1 This data sheet, or a similar data sheet, is used to record the test data for filled, unfilled, suppressed and non-suppressed tests. If additional time is required, the data sheet may be extended.

BILLING CODE 6560–50–U

Table 17.1 Test Data Sheet

Test Number			Test Type		
			VS (_____)		NVS (_____)
Resin			Filled (_____)		Unfilled (_____)
Initiator				Initiator, %	_____
Vapor Suppressant				VS, %	_____
Weight of 2 layers of glass, g	_____	Weight of 1st glass layer, g	_____	Weight of 2nd glass layer, g	_____
Initial Resin Weight, (g)			Time (Min.)	Weight g	Temp ^{0}F
Glass content, (%)			55		
Initial Temperature ^{0}F:			60		
Initial Humidity %			65		
Resin Initiator Level, %			70		
Resin gel time, (min.)			75		
Resin filler content, %			80		
Roll out time, (min.)			85		
Time, (min.)	Weight, g	Temp, ^{0}F	90		

Initial			95		
			100		
0			105		
5			110		
10			115		
15			120		
20			125		
25			130		
30			135		
35			140		
40			145		
45			150		
50			155		
Final Time, min.	Final Weight, g.		Final Temp, ^{0}F	Final Humidity, %	

17.2 Data Acceptance Criteria Worksheet: The following worksheet is used to determine the quality of collected data (*i.e.* insure the data collected all meets acceptance criteria)

TABLE 17.2.—DATA ACCEPTANCE CRITERIA WORKSHEET

Test No.	Temperature			Laminate roll out time, min	Relative humidity, %		Resin weight, (g)	Glass content, %	Resin distribution	Meets criteria Y/N
	Min	Max	Delta		Initial	Final				
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
11										

TABLE 17.2.—DATA ACCEPTANCE CRITERIA WORKSHEET—Continued

Test No.	Temperature			Laminate roll out time, min	Relative humidity, %		Resin weight, (g)	Glass content, %	Resin distribution	Meets criteria Y/N
	Min	Max	Delta		Initial	Final				
12										
Average Criteria			± 2°F	±10% of Average	± 15 of Average	± 15 of Average	± 10% of Avg.	± 10% of Avg.	<½ inch off mat	All Y

17.3 VSE Factor Calculation

TABLE 17.3.—CALCULATIONS WORKSHEET

Vapor suppressed		Non-vapor suppressed	
Test #	% Weight loss	Test #	% Weight loss
Average Weight Loss			
VSE Factor			

VSE Factor = 1—(% Average Weight Loss $_{VS}$/ % Average Weight Loss$_{NVS}$)

17.4 Figures

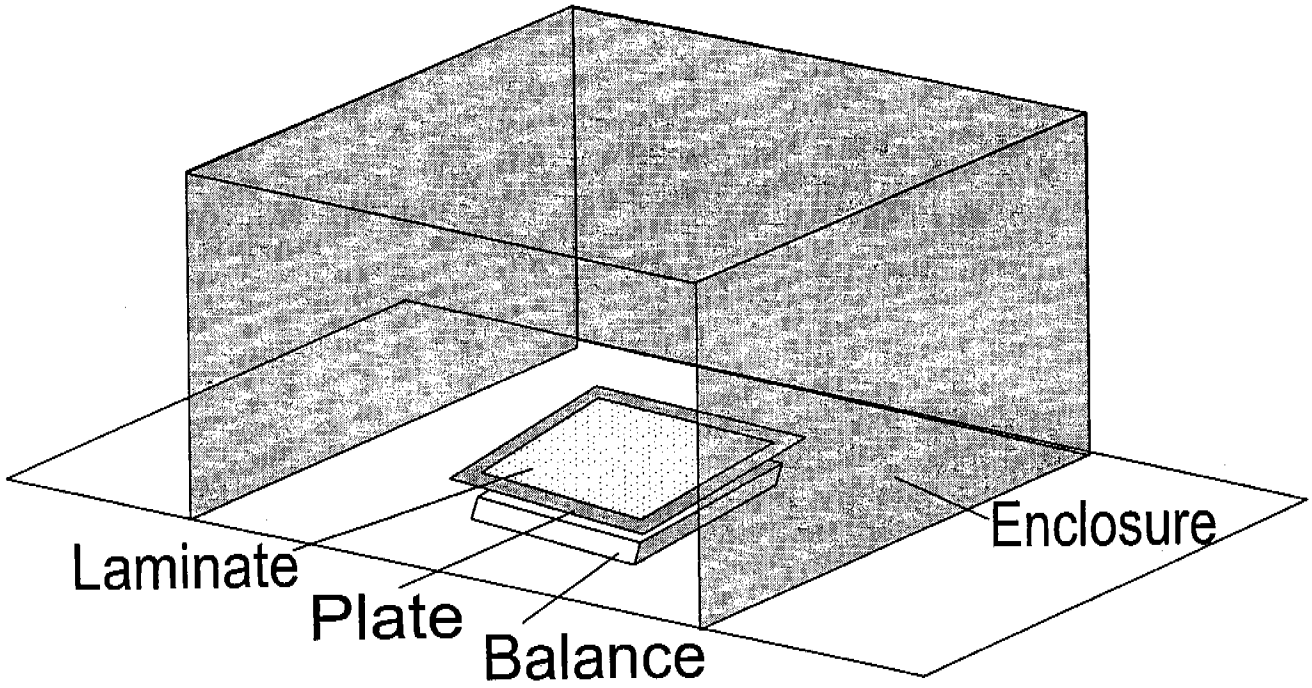


Figure 17.1. Typical Balance Enclosure

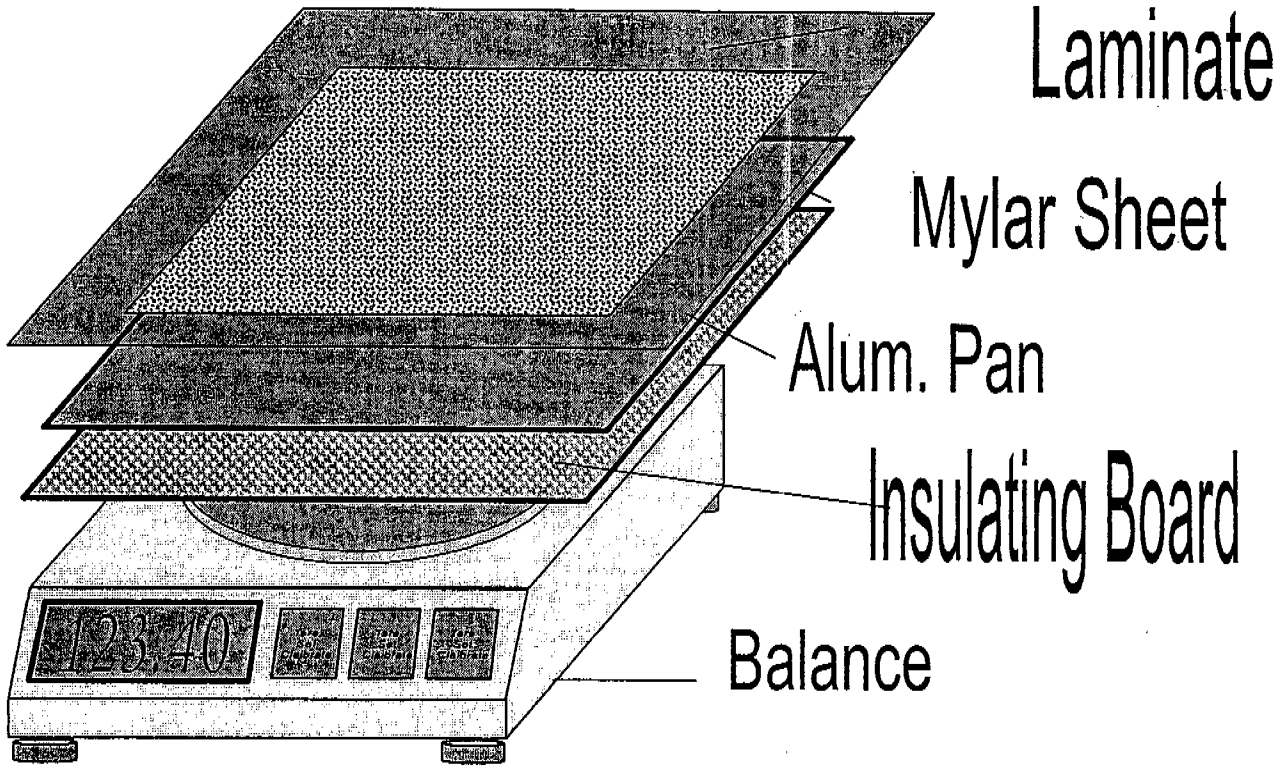
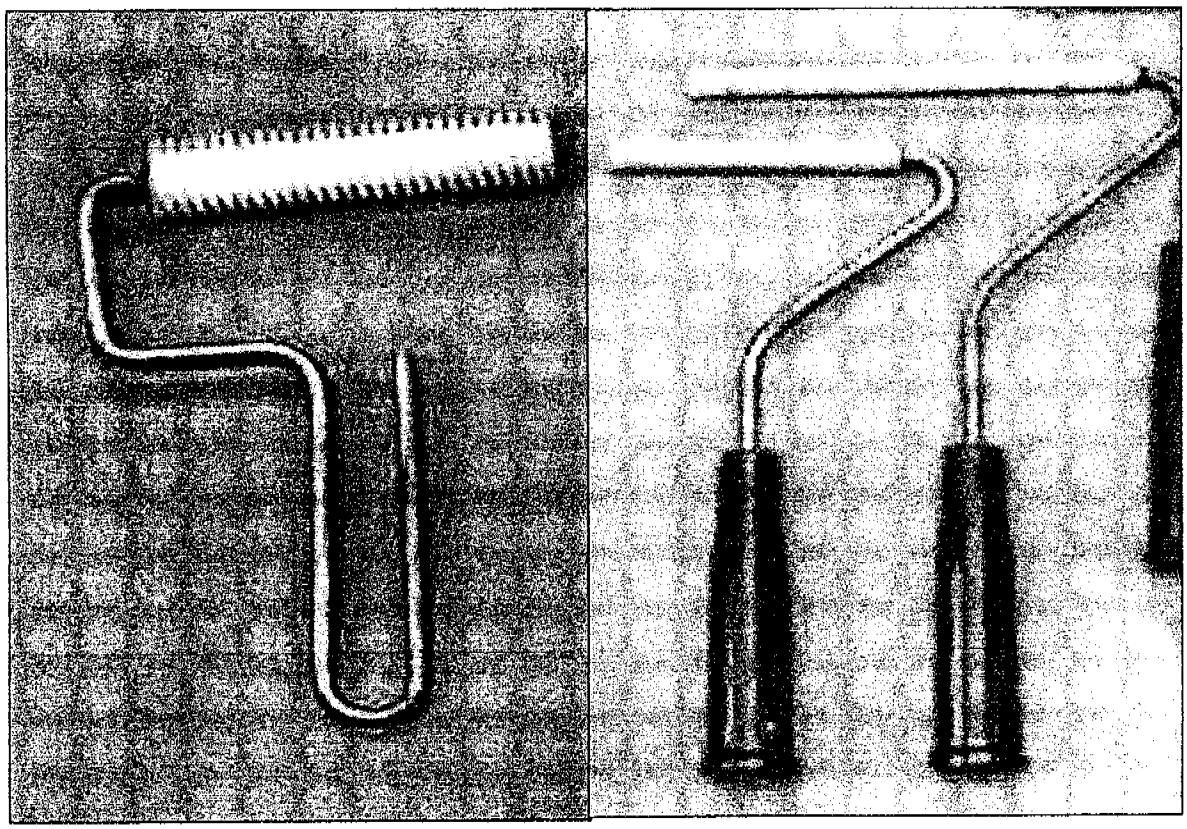


Figure 17.2. Scale, Plate, Insulating Board, Mylar, Laminate Order



FRP Rollers

Figure 17.3. Typical FRP Rollers

[FR Doc. 03–5615 Filed 4–18–03; 8:45 am]
BILLING CODE 6560–50–C

Corrections

Federal Register
Vol. 68, No. 77
Tuesday, April 22, 2003

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[Docket ID No. OAR–2002–0085; FRL–7462–3]

RIN 2060–AH55

National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks

Correction

In rule document 03–5625 beginning on page 18008 in the issue of Monday, April 14, 2003 make the following corrections:

1. On page 18012, in the third column, the fourth line from the bottom, after "April 14, 2003", add the words, "must comply by April 14, 2003.".

§ 63.7283 [Corrected]

2. On page 18026, in the second column, under § 63.7283, in paragraph (b), in the eigth line, "2006" should read "2003".

[FR Doc. C3–5625 Filed 4–21–03; 8:45 am]
BILLING CODE 1505–01–D

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

Correction

In notice document 03–9264 beginning on page 18653 in the issue of Wednesday, April 16, 2003, make the following correction:

On page 18653, in the second column, under the heading **DATES**, in the second and third lines, "[insert date 60 days from publication in the Federal Register]" should read "June 16, 2003".

[FR Doc. C3–9264 Filed 4–21–03; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14843; Airspace Docket No. 03–ACE–28]

Modification of Class E Airspace; Rock Rapids, IA

Correction

In rule document 03–9179 beginning on page 18115 in the issue of Tuesday, April 15, 2003, make the following corrections:

1. On page 18116, in the first column, under the **ADDRESSES** heading, in the eighth line, "03–ACD–28" should read "03–ACE–28".

§71.1 [Corrected]

2. On the same page, in the third column, in §71.1, under the heading **ACE IA E5 Rock Rapids, IA**, in the fourth line, "6.2" should read "6.3".

[FR Doc. C3–9179 Filed 4–21–03; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14844; Airspace Docket No. 03–ACE–29]

Modification of Class E Airspace; New Madrid, MO

Correction

In rule document 03–9178 beginning on page 18117 in the issue of Tuesday, April 15, 2003, make the following corrections:

1. On page 18117, in the first column, under the **SUMMARY** heading, in the second paragraph, in the first line "is not" should read "is".

2. On the same page, in the same column, under the **ADDRESSES** heading, in the eigth line, "03–AC–29" should read "03–ACE–29".

§ 71.1 [Corrected]

3. On page 18118, in the first column, in §71.1, under the heading **ACE MO E5 New Madrid, MO**, in the fourth line, "(Lat. 36°33′17″ N.," should read "(Lat. 36°33′18″ N.,".

[FR Doc. C3–9178 Filed 4–21–03; 8:45 am]
BILLING CODE 1505–01–D



Federal Register

Tuesday,
April 29, 2003

Part III

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0035; FRL–7461–8]

RIN 2060–AG66

National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for existing and new asphalt processing and asphalt roofing manufacturing facilities. The EPA has identified asphalt processing and asphalt roofing manufacturing facilities as major sources of hazardous air pollutants (HAP) such as formaldehyde, hexane, hydrogen chloride (HCl), phenol, polycyclic organic matter (POM), and toluene. The final standards will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). The total HAP reduction resulting from compliance with the rule is expected to be 86 megagrams per year (Mg/yr).

A variety of HAP are emitted from asphalt processing and asphalt roofing manufacturing source categories. The following HAP account for the majority (approximately 98 percent, based on the emission factors developed for the final rule) of the total HAP emissions: Formaldehyde, hexane, HCl (at asphalt processing facilities that use chlorinated catalysts), phenol, and toluene. The remaining two percent of the total HAP emissions is a combination of several different organic HAP, each contributing less than 0.5 percent to the total HAP emissions.

EFFECTIVE DATE: April 29, 2003.

ADDRESSES: The official public docket is the collection of materials that is available for public viewing at the Office of Air and Radiation Docket and Information Center (Air Docket) in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For information concerning applicability and rule determinations, contact your State or local representative or appropriate EPA Regional Office representative. For information concerning rule development, contact Rick Colyer, Minerals and Inorganic Chemicals Group, Emission Standards Division (C504–05), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5262, electronic mail address, *colyer.rick@epa.gov.*

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Categories and entities potentially regulated by this action:

TABLE 1.—REGULATED CATEGORIES AND ENTITIES

Category	NAICS[a]		SIC[b]	
	Code	Description	Code	Description
Manufacturing	324122	Asphalt shingle and coating materials manufacturing.	2952	Asphalt felts and coating.
Manufacturing	32411	Petroleum refineries	2911	Petroleum refining.
Federal Government	Not affected		Not affected	
State/Local/Tribal Government	Not affected		Not affected.	

[a] Standard Industrial Classification Code.
[b] North American Information 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 facility is regulated by this action, you should examine the applicability criteria in §§ 63.8681 and 63.8682 of the final rule. If you have any questions regarding the applicability of this action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

DOCKET. The EPA has established an official public docket for this action under Docket ID No. OAR–2002–0035. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Office of Air and Radiation Docket and Information Center (Air Docket) in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center 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 Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742. A reasonable fee may be charged for copying docket materials.

Electronic Docket Access. You may access the final rule electronically through the EPA Internet under the "Federal Register" listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility in the above paragraph entitled "Docket." Once in the system, select "search," then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. The EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a

document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility previously identified.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of the final rule is also available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the 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. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Judicial Review. The NESHAP for asphalt processing and asphalt roofing manufacturing was proposed on November 21, 2001 (66 FR 58610). Under section 307(b)(1) of the CAA, judicial review of the NESHAP is available by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by June 30, 2003. Only those objections to the rule that were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2) of the CAA, the requirements that are the subject of today's final rule may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Background Information Document. The EPA proposed the NESHAP for asphalt processing and asphalt roofing manufacturing on November 21, 2001 (66 FR 58610) and received 21 comment letters on the proposal. In response to the public comments, EPA adjusted the final NESHAP where appropriate. A background information document (BID) ("National Emission Standards for Hazardous Air Pollutants, Asphalt Processing and Asphalt Roofing Manufacturing, Summary of Public Comments and Responses," February 2003, EPA–453/R–03–005) containing EPA's responses to each public comment is available in Docket No. OAR–2002–0035.

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

I. Background
A. What is the statutory authority for the final NESHAP?
B. What criteria were used in the development of NESHAP?
C. What operations constitute asphalt processing and asphalt roofing manufacture?
D. What are the HAP emissions and HAP emission sources?
E. What are the health effects associated with the HAP emitted from the asphalt processing and asphalt roofing manufacturing source categories?
F. What was the basis for the proposed standards?
II. Summary of the Final Standards
A. Does the final NESHAP apply to me?
B. What are the affected sources?
C. What pollutants are regulated by the final NESHAP?
D. What emission limits must I meet?
E. When must I comply?
F. What are the testing and initial compliance requirements?
G. What are the continuous compliance provisions?
H. What are the notification, recordkeeping and reporting requirements?
III. What are the responses to the significant comments?
A. Rule Applicability
B. Asphalt Storage Tank and Loading Rack Vapor Pressure Control Cutoff
C. Level of the Standards
D. Compliance Options
E. Performance Tests
F. Monitoring Requirements
G. Overlap with Other Rules
IV. Summary of Environmental, Energy and Economic Impacts
A. What are the air quality impacts?
B. What are the cost impacts?
C. What are the economic impacts?
D. What are the non-air health, environmental and energy impacts?
V. Statutory and Executive Order Reviews
A. Executive Order 12866, Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act (RFA)
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer Advancement Act
J. Congressional Review Act

I. Background

A. What Is the Statutory Authority for the Final NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP emissions and to establish NESHAP for the listed source categories and subcategories. A major source of HAP is any stationary source or group of stationary sources within a contiguous area under common control that emits or has the potential to emit, considering controls, in the aggregate, 9.1 Mg/yr (10 tons per year (tpy)) or more of any single HAP or 22.7 Mg/yr (25 tpy) or more of any combination of HAP. Based on the emissions data collected for this rulemaking, asphalt processing and asphalt roofing manufacturing facilities have the potential to be major sources of HAP.

The EPA listed asphalt processing and asphalt roofing manufacturing categories of major sources as separate source categories on July 16, 1992 (57 FR 31576). However, because these processes are closely related and are often collocated, we are regulating emissions from both source categories under a single NESHAP.

B. What Criteria Were Used in the Development of NESHAP?

Section 112(c)(2) of the CAA requires that we establish NESHAP for control of HAP from both existing and new major sources, based upon the criteria set out in section 112(d). The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable, taking into consideration the cost of achieving the emission reduction, any non-air quality health and environmental impacts, and energy requirements. This level of control is commonly referred to as the MACT.

The minimum control level allowed for NESHAP (the minimum level of stringency for MACT) is the so-called "MACT floor," as defined under section 112(d)(3) of the CAA. The MACT floor for existing sources is the emission limitation achieved by the average of the best-performing 12 percent of existing sources for categories and subcategories with 30 or more sources, or the average of the best-performing five sources for categories or subcategories with fewer than 30 sources. For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source.

In developing the final NESHAP, we considered control options that are more stringent than the MACT floor (so-called beyond-the-floor control options), taking into consideration the cost of achieving the emission reductions, and any non-air quality health and environmental impacts, and energy requirements.

In the final rule, the EPA is promulgating standards for both existing and new sources consistent with these statutory requirements.

C. What Operations Constitute Asphalt Processing and Asphalt Roofing Manufacture?

The final rule regulates both asphalt processing and asphalt roofing manufacturing operations. Asphalt processing and asphalt roofing manufacturing operations can be stand-alone or integrated with each other, or with related operations such as wet-formed fiberglass mat manufacturing. In addition, asphalt is processed at some petroleum refineries.

Processed asphalt is produced using asphalt flux as the raw material. Asphalt flux is a product that is obtained in the last stages of fractional distillation of crude oil. Asphalt is processed to change its physical properties for use in various end products (*e.g.*, paving applications, roofing products). In asphalt processing, heated asphalt flux is taken from storage and charged to a heated blowing still where air is bubbled up through the flux. This process raises the softening temperature of the asphalt. The blowing process also decreases the penetration rate of the asphalt when applied to the roofing substrate. Some processing operations use a catalyst (*e.g.*, ferric chloride, phosphoric acid) in the blowing still to promote the oxidation of asphalt. The need to use catalyst is primarily driven by the type of feedstock used. Certain low-quality feedstocks (which are used, however, by necessity because substitute feedstocks are not available, see 66 FR 58619) require catalyst to be used to attain desired product specifications.

In asphalt roofing manufacturing, processed or modified asphalt (also called modified bitumen) is applied to a fibrous substrate (typically made of fiberglass or organic felt) to produce the following types of roofing products: Shingles, laminated shingles, smooth-surfaced roll roofing, mineral-surfaced roll roofing, and saturated felt roll roofing. Modified asphalt is asphalt that is mixed with polymer modifiers (which add strength and durability to the asphalt) and is typically used to produce roll roofing products. A roofing manufacturing line is a largely continuous operation, with line stoppages occurring primarily due to breaks in the substrate.

In asphalt roofing manufacturing, asphalt is typically mixed with filler materials before application to the substrate. If a fiberglass substrate is used, coating asphalt is applied by a coater. If an organic substrate is used, a saturator and wet looper are typically used prior to the coater to provide additional time for the asphalt to impregnate the substrate. The type of final product being manufactured determines the process steps that follow the coating or impregnation steps.

For shingles and mineral-surfaced roll roofing, granules are applied to the hot surface of the coated substrate. This step is omitted in manufacture of smooth-surfaced and saturated felt roll roofing. In shingle manufacturing, a strip of sealant (typically oxidized or modified asphalt) is applied to the back of the product after it has cooled. This sealant strip, which is heated by the sun after the roofing product is installed, provides some adhesion and sealing between layers of roofing product. In shingle manufacture, the coated substrate is cut into the desired size. Multiple single-ply shingles can be glued together (typically using oxidized or modified asphalt as an adhesive) to produce laminated or dimensional shingles. When asphalt roofing manufacturing lines are collocated with asphalt processing operations, the two operations typically share storage and process tanks.

D. What Are the HAP Emissions and HAP Emission Sources?

Asphalt is essentially the material that remains after fractional distillation of crude oil, with petroleum coke being the only other fraction available for recovery. Consequently, asphalt consists primarily of heavy organic compounds with low boiling points. Hazardous air pollutants are volatilized from asphalt as it is heated and agitated during processing and roofing manufacturing operations. Hazardous air pollutants are also volatilized during asphalt processing as a result of the oxidation reactions that occur in the blowing still.

Because the HAP volatilized from asphalt generally have low boiling points, they can be present in both condensed particulate matter (PM) and gaseous forms, depending on the temperature of the vent or exhaust gas. When the temperature of the vent gas is below the boiling point of a HAP, the HAP will condense into particulate form (*i.e.*, a cooler vent gas will have more HAP in the form of condensed PM, whereas a hotter vent stream will contain mostly gaseous HAP).

The following types of equipment are sources of PM HAP and gaseous HAP emissions: Asphalt storage and process tanks, asphalt blowing stills, asphalt loading racks, saturators, wet loopers, coating mixers, coaters, sealant applicators, and adhesive applicators. The majority of uncontrolled HAP emissions from an asphalt processing and asphalt roofing manufacturing facility (approximately 50 percent, based on the emission factors developed for this rulemaking) are contributed by the blowing stills, followed by the process equipment used to apply asphalt to the roofing substrate (*e.g.*, coating mixers, saturators, wet loopers, and coaters). Asphalt processing operations can also be sources of HCl, if a chlorinated catalyst is introduced into the blowing still during processing. Since most blowing still emissions are controlled by a combustion device, chlorine compounds present in the blowing still exhaust are oxidized and emitted as HCl from the blowing still combustion device outlet.

E. What Are the Health Effects Associated With the HAP Emitted From the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories?

A variety of HAP are emitted from asphalt processing and asphalt roofing manufacturing source categories. The following HAP account for the majority (approximately 98 percent, based on the emission factors developed for this rulemaking) of the total HAP emissions: Formaldehyde, hexane, HCl (at asphalt processing facilities that use chlorinated catalysts), phenol, and toluene. The remaining two percent of the total HAP emissions is a combination of several different organic HAP, each contributing less than 0.5 percent to the total HAP emissions.

The HAP emitted from these source categories (controlled under the final rule) are associated with a variety of adverse health effects. These adverse health effects include both chronic health disorders (*e.g.*, irritation of the lung, skin, and mucous membranes, effects on the central nervous system, and damage to the blood and liver) and acute health disorders (*e.g.*, respiratory irritation and central nervous system effects such as drowsiness, headache, and nausea). The EPA has classified two of the HAP (formaldehyde and POM) as probable human carcinogens.

The EPA does not have the type of current detailed data on each of the facilities and the people living around the facilities covered by today's rule for this source category that would be necessary to conduct an analysis to determine the actual population exposures to the HAP emitted from these facilities and the potential for resultant health effects. Therefore, EPA does not know the extent to which the adverse health effects described above occur in the populations surrounding these facilities. However, to the extent the adverse effects do occur, and this rule reduces emissions, subsequent exposures would be reduced.

F. What Was the Basis for the Proposed Standards?

The EPA proposed standards for the HAP-emitting equipment at the two affected sources: Each asphalt processing facility (blowing stills, asphalt flux storage tanks, oxidized asphalt storage tanks, and asphalt loading racks) and each asphalt roofing manufacturing line (saturator, a wet looper, a coater, coating mixers, sealant applicators, adhesive applicators, and associated storage tanks).

The EPA determined the MACT floors for existing and new sources for each type of process equipment used in asphalt processing facilities and in asphalt roofing manufacturing lines. For each equipment type, the equipment pieces were ranked in order of level of control. Combustion devices were ranked over PM control devices because combustion devices reduce both gaseous HAP and condensed HAP.

At proposal, a combustion device operating at or above 1200 °F was the basis for the MACT floor for blowing stills, asphalt storage tanks with a capacity of 1.93 megagrams or greater, and loading racks at existing, new, and reconstructed affected sources. Blowing stills that use a chlorinated catalyst produce a vent stream that contains chlorinated organic compounds. When this vent stream is sent to a combustion device, the chlorinated organic compounds are oxidized to HCl which is a HAP. Because requiring facilities to use non-chlorinated catalysts is not feasible due to the need to produce oxidized asphalt of a given quality (see generally 66 FR 58618), and because no facilities control HCl emissions, the proposed MACT floor for HCl emissions from blowing stills using catalyst was based on no control of those emissions.

With the exception of asphalt storage tanks, the MACT floor for equipment at existing asphalt roofing manufacturing lines (coaters, saturators, wet loopers, coating mixers and sealant and adhesive applicators) was based on a PM control device complying with the new source performance standards (NSPS) for asphalt processing and roofing manufacture (asphalt NSPS) (40 CFR part 60, subpart UU) PM emission limits. The floor for saturators, coaters, and coating mixers at new and reconstructed affected sources was based on a combustion device operating at or above 1200 °F. For wet loopers at existing, new, and reconstructed affected sources, the MACT floor was based on a PM control device that achieves the asphalt NSPS PM emission limits. For storage tanks with capacity of 1.93 megagrams or greater at existing, new, and reconstructed asphalt roofing manufacturing lines, the MACT floor was based on a combustion device operating at or above 1200 °F.

The EPA evaluated potential options for achieving emission reductions more stringent than the floor (beyond-the-floor options) for three groups of equipment: (1) Saturators, wet loopers, coaters, coating mixers, and sealant and adhesive applicators at existing sources; (2) blowing stills that use a chlorinated catalyst at existing, new, and reconstructed sources; and (3) wet loopers at new and reconstructed sources. For all other equipment (blowing stills, loading racks, and storage tanks at existing, new, and reconstructed sources; and for saturators, coaters, coating mixers, and sealant and adhesive applicators at new and reconstructed sources), there are no known technologies in use at asphalt processing or roofing manufacturing facilities or similar sources that would be capable of achieving a greater emission reduction than a combustion device operating with a minimum operating temperature of 1200 °F. Thus, EPA did not consider beyond-the-floor options for these types of equipment.

For saturators, wet loopers, coating mixers, coaters, and sealant and adhesive applicators at existing affected sources, the level of control achieved by a combustion device with a minimum operating temperature of 1200 °F was identified as the only beyond-the-floor option. However, due to the cost per megagram of HAP reduction ($616,000) and the increase in criteria pollutant emissions, requiring the level of control achieved by a combustion device for saturators, wet loopers, coaters, coating mixers, and sealant and adhesive applicators at existing sources was not a justifiable option.

For blowing stills that use chlorinated catalysts, emissions of HCl can be reduced by a gas scrubber using caustic scrubbing media. However, since gas scrubbing has not been demonstrated as an effective technology for controlling HCl emissions from asphalt processing and due to the potentially high cost per megagram of HCl reduced ($23,900), the additional cost of going beyond-the-floor was not warranted. Nor is process substitution a viable option for controlling HCl emissions, as noted above. Therefore, the MACT for HCl emissions from blowing stills using catalyst was based on no emission reduction. For wet loopers, EPA considered the level of control of a combustion device operating at a minimum of 1200 °F as a beyond-the-floor option. Because controlling wet loopers at new affected sources was expected to add minimal if any cost to the total control cost, the MACT for wet loopers at new or reconstructed affected sources was based on a combustion device operating at a minimum of 1200 °F. See generally 66 FR 58618–621 and the memorandum "Documentation of Existing and New Source Maximum Achievable Control Technology (MACT) Floors for the National Emission Standard for Hazardous Air Pollutants (NESHAP) for Asphalt Processing and Asphalt Roofing Manufacturing" (Docket No. OAR–2002–0035).

With the exception of standards for certain tanks and loading racks, EPA is adopting all of these standards (and analysis) in the final rule.

II. Summary of the Final Standards

A. Does the Final NESHAP Apply to Me?

The final rule applies to you if you process asphalt (at stand-alone facilities or collocated with asphalt roofing manufacturing facilities or petroleum refineries) or manufacture asphalt roofing products at a facility that is a major source of HAP emissions. Major sources of HAP are those that emit or have the potential to emit at least 10 tpy of any one HAP or 25 tpy of any combination of HAP. All HAP emission sources at a facility, not just those related to asphalt processing or roofing manufacture, must be considered in determining major source status. Put another way, the final rule may apply to you even if the HAP emissions from your asphalt roofing products manufacturing and asphalt processing operations do not themselves exceed the major source threshold levels given above. If your facility is determined to be an area source (*i.e.*, not a major source), you would not be subject to the final rule.

For the storage tanks at asphalt processing and asphalt roofing manufacturing facilities regulated by the final NESHAP, the potential exists for these tanks to already be subject to an existing emission standard: The petroleum refinery NESHAP (40 CFR part 63, subpart CC), or standards of performance for volatile organic liquid storage vessels (40 CFR part 60, subparts K, Ka, and Kb). Storage tanks that are subject to those standards are not subject to the requirements of the asphalt rule since the control requirements specified by those standards for fixed roof storage tanks (used in the asphalt processing and asphalt roofing manufacturing industry) are as stringent as the standards specified in the asphalt rule, and so regulation of these tanks under the

asphalt rule would be duplicative, imposing costs without any environmental benefit.

The EPA also recognizes that asphalt storage tanks, blowing stills, saturators, wet loopers, and coaters at asphalt processing and asphalt roofing manufacturing facilities could be subject to both the final NESHAP and the asphalt NSPS. In cases where the requirements of the rules overlap, the final rule specifies that facilities are required to comply only with the asphalt NESHAP. However, any storage tank with a capacity less than 1.93 megagrams that is subject to the asphalt NSPS but not regulated under the asphalt NESHAP must comply with the asphalt NSPS.

Another instance where we are excluding equipment involved in asphalt roofing manufacturing from the final rule, due to regulatory overlap involves, wet-formed fiberglass mat production. Although wet-formed fiberglass mat is produced at both stand-alone facilities and those collocated with asphalt processing and roofing facilities, HAP emissions from wet-formed fiberglass mat manufacturing processes are regulated by another NESHAP (40 CFR part 63, subpart HHHH).

The final rule does not regulate asphalt processing and asphalt roofing manufacturing equipment that is used solely for research and development activities.

B. What Are the Affected Sources?

The two affected sources are defined as each asphalt processing facility and each asphalt roofing manufacturing line. An asphalt processing facility consists of one or more asphalt flux blowing stills, asphalt flux storage tanks storing asphalt flux intended for processing in the blowing stills, oxidized asphalt storage tanks, and oxidized asphalt loading racks. An asphalt roofing manufacturing line consists of a saturator (including wet looper) and/or a coater and their associated coating mixers, sealant applicators, adhesive applicators, and asphalt storage and process tanks.

To reduce repetition in the final NESHAP, we have separated asphalt storage tanks into two groups. Group 1 asphalt storage tanks: Have a capacity of 177 cubic meters (47,000 gallons) of asphalt or greater and either store asphalt at a maximum temperature of 260 °C (500 °F) or greater, or have a maximum true vapor pressure of 10.4 kiloPascals (kPa) (1.5 pounds per square inch absolute, psia) or greater. Group 2 asphalt storage tanks are those tanks with a capacity of 1.93 Mg of asphalt or greater that are not Group 1 asphalt storage tanks.

Asphalt storage tanks at asphalt processing and asphalt roofing manufacturing facilities that are collocated may be shared by the two operations. If the asphalt roofing manufacturing line is collocated with an asphalt processing facility, the storage tanks that receive asphalt directly from the on-site blowing stills are defined as part of the asphalt processing affected source.

A facility that manufactures asphalt roofing may have more than one manufacturing line. At these facilities, asphalt storage tanks and sealant and adhesive applicators may be shared by roofing manufacturing lines. A shared storage tank is considered part of the asphalt roofing manufacturing line to which the tank supplies the greatest amount of asphalt on an annual basis. Similarly, a sealant or adhesive applicator that is shared by two or more asphalt roofing manufacturing lines is considered part of the line that provides the greatest throughput to the applicator on an annual basis. Recordkeeping provisions documenting these equipment allocations are found in § 63.8694(d) of the final rule.

This definition of affected source is also used to determine if new source standards apply when subject equipment is "constructed" or "reconstructed," as defined in the NESHAP General Provisions (40 CFR 63.2). We defined the affected source as the asphalt processing facility or asphalt roofing manufacturing line, rather than on a narrow equipment-piece basis, because we believe that it is inappropriate for small changes (*e.g.*, the addition of a sealant applicator to a manufacturing line) to trigger the new source emission limits for only part of the manufacturing line. For asphalt processing facilities, this is not a concern since the existing and new source standards are the same. However, the existing and new source standards are different for asphalt roofing manufacturing lines.

For asphalt roofing manufacturing lines, the new source emission limits would be triggered only when an entire new line is added or when an existing line is reconstructed. This is appropriate because the manufacture of roofing products is a continuous process, with the equipment for the different process steps arranged in sequence. Consequently, an increase in production cannot be achieved simply by adding a single piece of process equipment (*e.g.*, a coater). To increase production capacity, significant parts of the line would have to be modified or a new line would need to be constructed.

C. What Pollutants Are Regulated by the Final NESHAP?

The final rule establishes emission limits for two pollutants, total hydrocarbons (THC) and PM, each of which serves as a surrogate for HAP emitted by the process equipment.

Total Hydrocarbons

We are regulating total gaseous organic HAP emissions using THC as a surrogate. Total hydrocarbons are an appropriate surrogate for total HAP since organic HAP constitutes a significant portion of the THC, and because combustion controls are equally effective at reducing emissions of a wide range of organic compounds (including organic HAP emitted by asphalt processing and roofing manufacturing facilities and THC). Thus, reduction of organic HAP and THC from these sources is proportionate.

Particulate Matter

Particulate matter emitted from blowing stills consists of condensed organic hydrocarbons. For organic HAP that is present in condensed PM form, we are using PM as a surrogate. Similar to the THC surrogate for gaseous HAP, PM is an appropriate surrogate because it includes the HAP that are emitted as condensed PM. Because the reductions achieved by PM control devices are not pollutant-specific (*i.e.*, one type of PM is not preferentially reduced over another type of PM), controlling PM will result in a generally proportionate amount of condensed particulate organic HAP control.

D. What Emission Limits Must I Meet?

You must meet the emission limits that are summarized in Table 1 to the final rule. The emission limits are expressed in appropriate formats for the various process equipment being regulated. Depending on the piece of process equipment, you may have the option of complying with any of several formats. These formats include a PM emission limit (expressed in terms of kilograms of PM per Mg product manufactured), a THC percent reduction standard, a THC outlet concentration, a THC destruction efficiency standard (only for combustion devices that do not use auxiliary fuel), or a combustion efficiency standard.

The THC destruction efficiency and combustion efficiency standards are provided as an alternative to the THC percent reduction standard in the final rule because there are some emission sources (*e.g.*, blowing stills) for which

testing of the control device inlet is impractical.

Saturators (including wet loopers) and coaters at existing roofing manufacturing lines must meet PM emission limits based on the type of substrate used in manufacturing. At existing, reconstructed, and new asphalt roofing manufacturing lines, saturators (including wet loopers) and coaters must meet an opacity limit, and the emission capture system for these equipment must meet a visible emissions standard. The final rule also provides the option for Group 2 asphalt storage tanks, saturators (including wet loopers), and coaters at existing and new asphalt roofing manufacturing lines and coating mixers, sealant applicators, and adhesive applicators at existing asphalt roofing manufacturing lines to comply with either the THC or the combustion efficiency standards instead of the PM and opacity standards.

E. When Must I Comply?

Existing sources must comply with the final rule no later than May 1, 2006. The 3-year period is necessary to allow owners and operators sufficient time to design, purchase, and install emissions capture systems and air pollution control equipment. New or reconstructed sources must comply with the final rule at startup or April 29, 2003, whichever is later.

If your asphalt processing facility or asphalt roofing manufacturing line is located at a facility that is an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP after April 29, 2003, then any portion of the existing facility that is a new affected source or a reconstructed affected source must comply with all requirements of the final rule applicable to new sources upon startup after the facility becomes a major source or by April 29, 2003, whichever is later. All other parts of any facility to which the final rule applies must be in compliance with this subpart by 3 years after becoming a major source.

F. What Are the Testing and Initial Compliance Requirements?

You must conduct a performance test to demonstrate initial compliance with the final rule emission limits unless you are using the results from an acceptable previously-conducted emission test to demonstrate compliance with the emission limitations in the final rule, or you are using a control device that the EPA has already determined achieves the required HAP destruction efficiency.

If you choose to use the results from a previously-conducted emissions test, you must demonstrate to the Administrator's (or delegated authority) satisfaction that no changes have been made to the process since the time of the emissions test, the operating conditions and test methods used during testing conform to the requirements of the final rule, and the control device and process parameter values established during the previously-conducted emission test are used to demonstrate continuous compliance with the final rule.

An initial performance test is not required for boilers or process heaters with a design heat input capacity of 44 megawatts (MW) or greater or where the emissions are introduced into the flame zone of the boiler or process heater. Performance testing is also not required for flares that meet the design and operating requirements of 40 CFR 63.11(b). An initial performance test is not required for boilers and process heaters larger than 44 MW because they operate at high temperatures and residence times. When vent streams are introduced into the flame zone of these boilers and process heaters, over 98 percent reduction or an outlet concentration of 20 parts per million per volume (ppmv) is achieved. Therefore, a performance test is not necessary. We are not requiring performance testing of flares because percent reduction and outlet concentration cannot feasibly be measured at flares. The operating conditions in § 63.11 assure that the flare will be operated properly and achieve the requisite degree of destruction of organic HAP.

As specified in 40 CFR 63.7(e), performance tests must be conducted within the range of normal operating conditions. To ensure that compliance can be achieved over the entire range of operating conditions, the performance tests must be conducted under the operating conditions that reflect the highest rate of asphalt processing or roofing production reasonably expected to be achieved by the facility. For example, performance tests of roofing manufacturing line equipment must be conducted while operating under normal conditions and while manufacturing the roofing product that is expected to result in the greatest amount of HAP emissions.

For each performance test, you must conduct a minimum of three 1-hour test runs. Compliance is determined based on the average of the three test runs. To measure PM, you must use EPA test method 5A; for THC emissions, you must use EPA test method 25A.

For the THC destruction efficiency and combustion efficiency standards, you must measure emissions of THC, carbon monoxide (CO_2), and carbon dioxide (CO_2) to demonstrate compliance. For the THC outlet concentration you must measure emissions of THC to demonstrate compliance. You must use EPA test method 10 to measure CO emissions and EPA test method 3A to measure CO_2 emissions. The EPA test methods are contained in appendix A of 40 CFR part 60. You must demonstrate compliance with the PM emission limit, THC percent reduction standard, THC outlet concentration standard, THC destruction efficiency standard, and the combustion efficiency standard using the instructions and equations in the performance test requirement section of the final rule.

The final rule also contains opacity and visible emission standards for saturators (including wet loopers) and coaters and their emissions capture systems at existing, new, and reconstructed asphalt roofing manufacturing lines and an opacity standard for certain asphalt storage tanks at existing, new, and reconstructed asphalt processing facilities and roofing manufacturing lines. Opacity and visible emission compliance determinations must be made using EPA test methods 9 and 22 in appendix A of 40 CFR part 60, respectively.

The final rule allows you to demonstrate continuous compliance with the emission standards by monitoring control device operating parameters or by using continuous emission monitoring systems (CEMS) to directly measure emissions. Although the final rule does not require continuous monitoring of opacity, you can use continuous opacity monitoring systems (COMS) if you choose to do so since the opacity standard applies at all times.

If you choose to conduct parameter monitoring, you must install, calibrate, maintain, and operate a continuous parameter monitoring system (CPMS) to monitor the control device parameters. During the performance test, you must continuously monitor and record control device parameters and establish the monitoring parameter value(s) that constitute compliance with the emission limits if you plan to use parameter monitoring to demonstrate compliance following the initial performance test. If you use a combustion device to comply with the standards, you must record the average operating temperature. The temperature monitoring device must be installed at the exit of the combustion zone or in the ductwork immediately downstream of the combustion zone, before any substantial heat loss occurs.

If you use a control device to comply with the PM standards, you must record the device inlet gas temperature and pressure drop across the device. If you use electrostatic precipitators (ESP) to achieve compliance with the PM standard, you may record the voltage of the ESP as an alternative to the pressure drop across the ESP.

For combustion devices and PM control devices, the parameters must be monitored and values recorded in 15-minute blocks during each of three 1-hour test runs. If you use a control device other than a combustion device or PM control device to comply with the final rule, you must propose the appropriate monitoring parameters, monitoring frequencies, and averaging periods. All monitoring parameters for control devices not specified in the final rule must be approved by the Administrator as specified in 40 CFR 63.8(f).

If you choose to demonstrate continuous compliance by directly measuring emissions, you must install, calibrate, maintain, and operate a CEMS and record the emissions during the performance test according to the procedures specified in 40 CFR part 63, subpart A.

For all monitoring approaches (CPMS and CEMS (and COMS, if used)), you must also monitor and record the average hourly roofing line production rate or the asphalt processing rate, as applicable, during the performance test. If you are complying with the PM emission limit, you must also determine the asphalt content of the product manufactured during the performance test.

G. What Are the Continuous Compliance Provisions?

After the performance test, you must demonstrate continuous compliance with the emission limits by monitoring either control device or process operating parameters or by monitoring emissions. The parameters or emissions must remain within the limits established during the initial performance test.

If you choose to use parametric monitoring to demonstrate continuous compliance with the standards, the final rule specifies the parameters that are to be monitored. For combustion devices (other than boilers, process heaters, and flares that meet specified design and operating requirements), you must monitor the operating temperature. For control devices used to meet the PM standards, you must monitor the inlet gas temperature and pressure drop across the device. If you use an ESP to achieve compliance with the PM standard, you may monitor the voltage of the ESP as an alternative to pressure drop.

For parametric monitoring, you must determine and record 15-minute and 3-hour block averages of the specified parameters. However, the final rule allows the option of determining continuous compliance based on any 15-minute period (*i.e.*, you are not required to calculate 3-hour block averages). If you choose this alternative, a monitoring parameter deviation would occur if the monitoring parameter value(s) is outside the approved range during any 15-minute period.

If you use a control device other than a combustion device or PM control device to achieve compliance with the emission limits, the monitoring parameters must be approved by the Administrator and established during the initial performance test. To change the value of any monitored parameter, you must conduct a performance test and submit a request to the Administrator for approval using the procedures specified in 40 CFR 63.8(f).

H. What Are the Notification, Recordkeeping and Reporting Requirements?

You must comply with the notification, recordkeeping, and reporting requirements in 40 CFR part 63, subpart A, as specified in Tables 6 and 7 to the final rule. The notification, recordkeeping, and reporting requirements include, but are not limited to: Initial notification of applicability of the rule, notification of the dates for conducting the performance test and notification of compliance status; reports of any startup, shutdown, and malfunction events that occur; and semiannual reports of excess emissions or deviations from monitoring parameter limits. When no deviations occur, you must submit semiannual reports indicating that no deviations have occurred during the period. For a combustion device, a deviation would be any time (excluding periods of startup, shutdown and malfunction which would be a separate report) that the operating temperature falls below the limit established during the initial performance test. For a control device used to meet the PM standards, a deviation would be any time (excluding periods of startup, shutdown and malfunction) that the temperature of the gas at the inlet to the control device or the pressure drop across the control device (or ESP voltage) are outside their respective limits established during the initial performance test.

You must maintain records of the following, as applicable: (1) Combustion device operating temperature; (2) PM control device inlet gas temperature and pressure drop (or voltage for ESP); (3) approved parameters for sources that comply with the emission limits using a control device other than a combustion device or PM control device; (4) CEMS; and (5) the date and time a deviation commenced if a monitoring parameter or emission deviation occurs, the date and time corrective actions were initiated and completed, a description of the cause of the deviation, and a description of the corrective actions taken. You must also prepare a startup, shutdown, and malfunction plan and maintain records of actions taken during these events, as required by 40 CFR 63.6(e)(3).

The final rule also includes a requirement to develop and make available for inspection by the permitting authority, upon request, a site-specific monitoring plan that specifies how the continuous parameter monitoring system will be installed, operated, and maintained as well as the data quality assurance procedures and ongoing recordkeeping and reporting procedures.

The NESHAP General Provisions (§ 63.10(b)) require that records be maintained for at least 5 years from the date of each record. You must retain the records onsite for at least 2 years. You may retain records for the remaining 3 years at an offsite location. The records must be readily available and in a form suitable for efficient inspection and review. The files may be retained on paper, microfilm, microfiche, a computer, computer disks, or magnetic tape. Reports may also be made on paper or on a labeled computer disk using commonly available and compatible computer software.

III. What Are the Responses to the Significant Comments?

Significant public comments on the proposed rule along with our responses to these comments are summarized in this section of the preamble. For detailed responses to all the comments, see the Background Information Document (BID) ("National Emission Standards for Hazardous Air Pollutants, Asphalt Processing and Asphalt Roofing Manufacturing, Summary of Public Comments and Responses," February 2003, EPA–453/R–03–005) (Docket No. OAR–2002–0035).

A. Rule Applicability

Comment: Several commenters noted that it was not clear if the proposed rule applied to facilities that process asphalt

intended for non-roofing products. The commenters suggested that confusion regarding applicability was caused by addressing both the asphalt processing and asphalt roofing manufacturing source categories together under one NESHAP. Confusion may have also been caused by the proposed definition of asphalt flux, which read: "asphalt flux means the residual material from distillation of crude oil used to manufacture asphalt roofing products."

Response: On June 21, 2002, the EPA sent letters to the commenters to clarify two aspects of the proposed rule:

- The proposed rule was intended to cover all asphalt processing regardless of the asphalt's end use; and
- Requirements for storage vessels at asphalt roofing manufacturing facilities, inadvertently left out of the proposed rule, are the same as those for storage vessels at asphalt processing facilities.

Subsequent comments on the notice letters disagreed with EPA's interpretation of the proposed rule's applicability and contended that the EPA should address this clarification in a supplemental proposal.

The EPA does not believe that a supplemental proposal is needed to clarify the applicability of the final rule. It has long been held that actual notice constitutes adequate notice and opportunity for comment for purposes of section 307 of the CAA. (See *Small Lead Refiner Phase Down Task Force* v. *EPA*, 705 F. 2d 507, 548 (D.C. Cir. 1983).) The extensive comments received in response to the June 21, 2002 letters demonstrates that the commenters had adequate notice and availed themselves of it. There is no credible claim that further comments could have been submitted had there been more notice or that the time for response was inadequate. Under these circumstances, EPA believes that it afforded all letter recipients adequate notice and opportunity for comment and a supplemental notice to clarify the applicability of the rule is not necessary.

The final NESHAP includes both asphalt processing and asphalt roofing manufacturing because many facilities both process asphalt and manufacture roofing products (asphalt roofing and other roofing products).

With respect to the issue of whether asphalt processing should include operations that process asphalt for non-roofing uses, EPA believes that it should. The HAP emissions from asphalt processing (and the means of controlling such emissions) are identical, whether or not asphalt is produced for roofing or for other uses. Nor did EPA ever intend to distinguish among asphalt uses in setting out the rule's scope. The source category definition ("Documentation for Developing the Initial Source Category List," EPA–450/3–91–030, July 1992) of "asphalt processing" reads as follows:

> "The Asphalt Processing source category includes any facility *engaged in the preparation of asphalt at asphalt processing plants*, petroleum refineries, and asphalt roofing plants. Asphalt preparation, called 'blowing,' involves the oxidation of asphalt flux by bubbling air through the liquid asphalt flux at 260°C for 1 to 4.5 hours, depending upon the desired characteristics of the asphalt. The category includes, but is not limited to, the following process: asphalt heating, blowing still, and asphalt storage tanks" (emphasis added).

This definition is not limited to asphalt that is processed for roofing manufacturing, and in fact, is not limited in any respect by the ultimate use to which processed asphalt is put. Consistent with the source category definition, it was not EPA's intent to limit the applicability of the final rule to the processing of roofing asphalt or any other end use.

To clarify the final rule applicability, EPA has written the definition of asphalt processing in the final rule to read as follows:

> "Asphalt processing facility means any facility engaged in the preparation of asphalt flux at stand-alone asphalt processing facilities, petroleum refineries, and asphalt roofing facilities. Asphalt preparation, called 'blowing,' is the oxidation of asphalt flux, achieved by bubbling air through the heated asphalt, to increase the softening point and reduce the penetration of the oxidized asphalt.
>
> An asphalt processing facility includes one or more asphalt flux blowing stills and their associated asphalt flux storage tanks, oxidized asphalt storage tanks and oxidized asphalt loading racks."

The EPA has also modified the definition of "asphalt flux" as proposed to remove any suggestion that the rule's scope is limited by the intended use of the processed asphalt.

B. Asphalt Storage Tank and Loading Rack Vapor Pressure Control Cutoff

Comment: Several commenters supported using a vapor pressure cutoff, such as those found in the petroleum refinery NESHAP (40 CFR part 63, subpart CC) and the new source performance standards for storage vessels (40 CFR part 60, subparts K, Ka, and Kb) for asphalt storage tanks and loading racks. The commenters contended that equipment with vapor pressures below those thresholds would emit only minimal amounts of HAP and therefore should not be subject to control requirements. The commenters also alleged that EPA was being inconsistent among different MACT standards in developing standards applicable to similar types of equipment. For example, one commenter asserted that EPA should not declare emissions from low HAP, low vapor pressure stocks as *de minimis* sources under the petroleum refineries NESHAP and then propose to regulate those same emissions under the asphalt NESHAP. One commenter contended that it would be reasonable for EPA to use an approach similar to the petroleum refinery NESHAP because asphalt flux feedstocks and finished asphalt products are produced directly by refineries and because many refineries will be subject to the asphalt NESHAP.

Response: The proposed MACT for all asphalt storage tanks with a capacity of 1.93 Mg or greater at existing, new, and reconstructed affected sources was based on the fact that greater than 12 percent of the asphalt storage tanks were controlled with a combustion device operating at or above 1200 °F. Also, the available data showed that no sources were using a combustion device to control emissions from storage tanks with a capacity less than 1.93 Mg of asphalt. Therefore, the proposed MACT did not require control of tanks with capacities less than 1.93 Mg (66 FR 58620).

The EPA now believes that the prevalence of combustion devices on tanks storing asphalt at low vapor pressure is misleading. We believe that combustion devices in this industry are used to control emissions from tanks storing high- and low-vapor asphalt that are generally part of an "integrated system," an integrated group of process equipment including higher-emitting equipment such as a blowing still, so that what really is being controlled by combustion are the emissions from the high-emitting equipment, with emissions from other system components being "along for the ride."

An integrated system is one in which process components (*e.g.*, blowing stills, coaters, and tanks storing high- and low-vapor pressure asphalt) are utilized largely together and are generally located in close proximity. In an integrated system, emissions from process equipment that are subject to less stringent emission standards (*e.g.*, tanks storing low-vapor pressure asphalt) generally are routed to the control device (*e.g.*, combustion device) that is used to control emissions from the equipment (*e.g.*, blowing stills, coaters) that are subject to more stringent emission standards. In other words, it is more cost effective to "over control" emissions from lower-emitting

storage tanks that are nearby, using a combustion device that is selected and designed to control emissions from the entire system (*e.g.*, blowing stills, coaters, and asphalt storage tanks), than it is to install a separate control device to reduce emissions from the storage tanks to a lesser degree.

In the absence of an integrated system configuration, we do not believe that combustion controls represent the MACT floor (or otherwise represent MACT) for tanks that store low-vapor pressure asphalt since facilities that do not use a combustion device to reduce emissions from higher-emitting process equipment are unlikely to use a combustion device to reduce emissions from tanks that store low-vapor pressure asphalt (and we in fact know of no instance when a tanks storing low-vapor pressure asphalt in this industry are controlled by a combustion device when the tank is a stand-alone unit). Therefore, for tanks storing asphalt with a low vapor pressure, the MACT floor largely depends on whether or not the tank is part of an integrated system.

Based on the above discussion, it would seem logical to develop one set of standards for integrated systems (including tanks) and another for nonintegrated systems (where tanks would have different standards). However, we do not have sufficient data to characterize the control level of integrated versus nonintegrated systems or even to devise workable definitions of these systems. The significance of the existence of integrated systems, therefore, relates to calculation of floor standards for tanks.

Based on the existence of integrated systems, we do not believe that we have to include all tanks storing high- and low-vapor pressure asphalt together in making a floor determination for storage tanks. We do believe that it is reasonable to assume that facilities would use combustion devices for tanks storing high-vapor pressure asphalt because of the greater potential for emissions from these tanks and the appropriateness of controlling volatile emissions using combustion devices. We, thus, included all such tanks as a single group in determining floor standards and determined that the best-performing 12 percent of tanks used to store high-vapor pressure asphalt use combustion to control the emissions. (We did not, however, include tanks used to store low-vapor pressure asphalt in this calculus and are not compelled to for the reasons explained above relating to integrated systems.) Therefore, for tanks storing asphalt with a high vapor pressure at existing and new sources, we believe that the MACT floor is a combustion device regardless of whether or not it is located in an integrated system.

For tanks storing low-vapor pressure asphalt, a separate determination must be made to establish the MACT floor for existing and new sources. For these storage tanks, the MACT floor depends mainly on whether or not the tank is part of an integrated system. However, as noted above, we are unable to devise a workable definition of the integrated system. Among other problems, we have no information regarding tank vapor pressure or facility configurations to determine the relative proximity of low-vapor pressure asphalt storage tanks to combustion devices. Although we are unable to develop a separate standard for integrated systems, the MACT floor for any storage tank cannot be less stringent than the opacity limits for controlling PM specified in the asphalt NSPS, since over 12 percent of existing storage tanks in the industry are already subject to those standards. In fact, approximately 27 percent of the storage tanks in the database use particulate controls (such as fiber-bed filters, mist eliminators, condensers) to meet the asphalt NSPS. This control of PM will necessarily control HAP emissions since a portion of the PM is condensed HAP. Therefore, the MACT floor for tanks storing asphalt with low vapor pressures at existing and new sources is the opacity limit specified in the asphalt NSPS.

We recognize that this floor for tanks storing low-vapor pressure asphalt actually applies to some tanks that are part of integrated systems. Nevertheless, we expect that tanks that are part of an integrated system are controlled by the same control device used to control the entire system, rather than being controlled separately. Therefore, using the opacity limit specified in the asphalt NSPS as a floor for tanks storing asphalt with low vapor pressures should not discourage facilities from using combustion devices to control emissions from storage tanks that are part of integrated systems. Nor is it likely to lead to removal of any existing controls on integrated systems since the combined system was already adopted by those facilities and removal would entail retrofit costs.

With regard to establishing the vapor pressure cutoff value that would be used to assign tanks into high- and low-vapor pressure groups (Groups 1 and 2, respectively), EPA does not have survey data for the vapor pressure of stored asphalt that could be used to establish this value. In the absence of vapor pressure data, we based the vapor pressure cutoff value on the MACT floor for existing storage tanks at petroleum refineries. Asphalt tanks are similar because asphalt is a petroleum refinery product, and asphalt processing facilities are located at some petroleum refineries. Therefore, EPA believes that it is reasonable for the vapor pressure cutoff in the final rule to be consistent with the maximum true vapor pressure cutoff (10.4 kPa) for existing storage tanks in the petroleum refinery NESHAP. Thus, under the final rule, tanks storing asphalt with a maximum true vapor pressure of 10.4 kPa or greater are considered "high-vapor pressure" tanks (*i.e.*, Group 1 tanks) while tanks storing asphalt with a maximum true vapor pressure less than 10.4 kPa are considered "low-vapor pressure" tanks (*i.e.*, Group 2 tanks).

The petroleum refinery NESHAP also contains an annual average true vapor pressure cutoff (8.3 kPa) and an annual HAP liquid concentration cutoff (4 percent, by weight of total organic HAP) for determining storage tank applicability. Because the storage temperature of asphalt at asphalt processing and asphalt roofing manufacturing facilities is expected to be maintained over a narrow range throughout the year, providing an annual average for storage temperature in the asphalt NESHAP is unnecessary. The concentration cutoff was included in the petroleum refinery NESHAP to address the fact that some liquids at petroleum refineries have very low HAP concentrations and high vapor pressures due to the volatility of non-HAP compounds in the material. However, because asphalt processing and asphalt roofing manufacturing facilities do not typically store products other than asphalt, the EPA believes that including an annual HAP liquid concentration cutoff in the asphalt NESHAP is unnecessary.

With regard to the proposed tank capacity cutoff of 1.93 Mg, EPA believes that the analysis used to establish the proposed capacity cutoff for combustion control was flawed since the cutoff value was based on the smallest tank controlled by a combustion device. Since we now consider the seeming prevalence of combustion devices on tanks storing low-vapor pressure asphalt to actually reflect controls on integrated systems (driven by the need to control the greatest emission source of the integrated system), we do not believe that the proposed capacity cutoff value for combustion control is valid because it was premised on the assumption that stand-alone (*i.e.*, non-integrated) low-vapor pressure asphalt storage tanks were controlled by means of combustion devices. Consequently, we are

establishing the capacity cutoff value for combustion control to be consistent with the capacity cutoff for existing tanks at petroleum refineries (again consistent with comments urging that the petroleum and asphalt NESHAP be consistent insofar as they apply to similar types of emission sources).

Therefore, the floor for asphalt storage tanks with a capacity of 177 cubic meters or greater and storing asphalt with a maximum vapor pressure of 10.4 kPa or greater (*i.e.*, Group 1 asphalt storage tanks) at existing and new sources is combustion control. The floor for asphalt storage tanks with a capacity of 177 cubic meters or greater storing asphalt with a maximum vapor pressure less than 10.4 kPa (*i.e.*, Group 2 asphalt storage tanks) at existing and new sources is the opacity limit specified in the asphalt NSPS. As at proposal, however, we are not determining a floor level of control for tanks less than a capacity of 1.93 Mg. Based on the tank capacity data from the Asphalt Roofing Manufacturers Association survey, less than 2 percent of the tanks have capacities less than 1.93 Mg, and only one of those tanks is vented to a PM control device.

The EPA is also applying much this same reasoning in determining a MACT floor for asphalt loading racks. The proposed MACT for asphalt loading racks at existing, new, and reconstructed affected sources was based on the fact that greater than 12 percent of the loading racks were controlled with a combustion device operating at or above 1200 °F. Although we do not have vapor pressure data for loading racks, we believe (as with storage tanks) that it is reasonable to assume that facilities are using combustion devices to control emissions from loading racks that are used to transfer high-vapor pressure asphalt because of the greater potential for emissions from this asphalt and the appropriateness of controlling volatile emissions using combustion devices. Consequently, the EPA believes that the MACT floor for loading racks transferring high-vapor pressure asphalt at existing and new sources is a combustion device regardless of whether or not it is part of an integrated system. In the absence of vapor pressure data, and to be consistent with the approach used for high-vapor pressure (Group 1) asphalt storage tanks, we based the vapor pressure cutoff for loading asphalt racks on the maximum true vapor pressure cutoff (10.4 kPa) for existing storage tanks in the petroleum refinery NESHAP.

For loading racks used to transfer low-vapor pressure asphalt at existing and new sources, as with low-vapor pressure (Group 2) asphalt storage tanks, we are unable to develop a separate standard for integrated systems. However, unlike the asphalt NSPS for storage tanks, an existing regulation does not exist for asphalt loading racks that would establish a minimum level of the MACT floor. Therefore, a MACT floor for loading racks transferring asphalt with a maximum vapor pressure less than 10.4 kPa at existing and new sources could not be established.

In summary, the MACT floor for tanks with an asphalt storage capacity of 177 cubic meters or greater and storing asphalt with a maximum vapor pressure of 10.4 kPa or greater at existing and new sources is based on a combustion device operating at or above 1200 °F. For tanks with asphalt storage capacities of 177 cubic meters or greater or storing asphalt with a maximum vapor pressure less than 10.4 kPa, the MACT floor for existing and new sources is represented by the opacity limit in the asphalt NSPS. The opacity limit of the asphalt NSPS also represents the MACT floor for asphalt storage tanks with capacities less than 177 cubic meters but greater than or equal to 1.84 cubic meters at existing and new sources. For loading racks used to transfer asphalt with a maximum vapor pressure of 10.4 kPa or greater at existing and new sources, the MACT floor is a combustion device operating at or above 1200 °F. The MACT floor for loading racks used to transfer asphalt with a maximum vapor pressure less than 10.4 kPa at existing and new sources is no additional control.

Also, as explained in detail in the preamble to the proposal (66 FR 58620–21), we continue to believe that controls beyond the MACT floor for high-vapor pressure asphalt storage tanks and loading racks (where the floors have not changed between the proposed and final rule) are not technically or economically feasible (*i.e.*, there are no known controls that would reduce HAP emissions more than combustion control), so that MACT for the high-vapor pressure asphalt storage tanks and loading racks is represented by their respective MACT floors.

For the low-vapor pressure asphalt storage tanks (for which we have made a different floor determination), the only control option beyond the MACT floor is control with a combustion device. However, given the relatively low HAP emissions from this equipment, the incremental cost-effectiveness (greater than $3,000,000 per megagram of HAP reduced) of increasing the level of HAP reduction achieved by a PM control device (93.3 percent) (the device we anticipate would be used to achieve the opacity standard which is the MACT floor) to that achieved by a combustion device (95 percent) is not a justifiable option. (Additional energy use likewise would be required to achieve this modest incremental HAP reduction as well.) Therefore, MACT for low-vapor pressure asphalt storage tanks is represented by the MACT floor.

For low-vapor pressure asphalt loading racks, the control options beyond the MACT floor are a PM control device and a combustion device. However, as with low-vapor pressure asphalt storage tanks, the high costs per megagram of HAP reduction (greater than $500,000 per megagram of HAP reduced) achieved by controlling low-vapor pressure asphalt loading rack emissions with either a PM control device or combustion device make the beyond the MACT floor options economically infeasible. Therefore, MACT for low-vapor pressure asphalt loading racks is represented by the MACT floor.

Because we are specifying vapor pressure as a cutoff for different groups of tanks, it is necessary to identify how such a determination would be made if a facility were required to do so. Following proposal, the EPA met with industry representatives to identify an appropriate test method for determining the vapor pressure of stored asphalt, if EPA were to promulgate such a cutoff. According to the industry and EPA representatives, a standardized or consensus test method for measuring the vapor pressure of stored asphalt has not been established. (See the summary of the September 17, 2002 meeting with petroleum refinery representatives in Docket No. OAR–2002–0035.) Currently, the industry uses nomographs or other relationships depicting the vapor pressure of petroleum liquids as a function of storage temperature vapor pressure and asphalt composition (*e.g.*, flux versus oxidized) to determine the vapor pressure of stored asphalt.

Since there is no standardized test method for measuring the vapor pressure of stored asphalt, the EPA believes that the final rule should specify a temperature that equates to a vapor pressure of 10 kPa, instead of requiring facilities to physically measure asphalt vapor pressure. According to industry representatives, asphalt flux reaches 10.4 kPa at approximately 500 to 550 °F (oxidized asphalt would require higher temperatures to reach 10.4 kPa). The temperature estimate cited by the industry representatives was confirmed on a theoretical level using a regression equation for asphalt vapor pressure as a

function of temperature, developed by the Owens Corning Company using a modified version of the American Society of Testing and Materials (ASTM) method D2879 (Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope). According to the regression equation, asphalt flux reaches a vapor pressure of 10.4 kPa at approximately 450 °F.

Since the regression equation, which under-predicts the temperature at which asphalt flux reaches a given vapor pressure (according to industry and EPA representatives), tends to corroborate the storage temperature cited by the industry representatives, the EPA believes that a storage temperature of 500 °F appropriately represents a vapor pressure of 10.4 kPa. Consequently, the final rule specifies that tanks storing (and loading racks transferring) asphalt at a maximum vapor pressure of 10.4 kPa or greater, or at a maximum temperature of 500 °F or greater, must be controlled with a combustion device. Also, the final rule allows the use of standard industry nomographs and other relationships to determine the vapor pressure of asphalt. The docket for this NESHAP (Docket No. OAR–2002–0035) contains a memorandum from the National Petrochemical and Refiners Association (NPRA) that presents several manual methods that are currently used in the petroleum industry for estimating the vapor pressure of asphalt.

C. Level of the Standards

Comment: One commenter questioned the derivation of the THC destruction and combustion efficiency standards (95 and 99.6 percent, respectively). The commenter contended that the statistical analysis used to derive the standards from test data was incorrect.

Response: The EPA agrees with the commenter that the available data set is too small for a rigorous statistical analysis. Therefore, at proposal, we chose to account for the variability in the data by subtracting one standard deviation from the mean, rather than performing a more formal statistical analysis to derive the proposed emission limit. Despite the small size of the data set, since proposal, the EPA has calculated the 95 percent confidence interval about the mean of the test data for THC destruction efficiency. The lower limit of the 95-confidence interval is 94.85 percent THC destruction efficiency. (See section 2.3.10.2 of the BID for a more detailed discussion of this analysis.) In other words, there is only a 5 percent chance that the true population mean of THC destruction efficiency will be below 94.85 percent. In addition, all four of the facilities with THC destruction efficiency data would meet the standards. This calculation supports that a THC destruction efficiency of 95 percent is achievable. The 95 percent destruction efficiency has thus been included in the final rule.

Since proposal, the EPA has calculated the 95 percent confidence interval about the mean of the test data used to establish the proposed combustion efficiency. The lower limit of the 95 percent confidence interval is 99.49 percent combustion efficiency. Since this value is lower than the proposed combustion efficiency limit of 99.6 percent, the EPA has decided to establish the combustion efficiency limit in the final rule at 99.5 percent. (Note that this change does not affect EPA's determination, made originally at proposal, that beyond-the-floor controls remain inappropriate here, largely because EPA knows of no means of control more efficient than combustion control.)

Comments: Comments were also received on the proposed rule regarding the use of electric regenerative thermal oxidizers (RTO). One commenter explained that EPA's proposed method for calculating combustion efficiency penalizes control technologies that do not burn auxiliary fuel and, consequently, have a relatively low CO_2 concentration at their outlets. The commenters stated that the proposed method for calculating combustion efficiency understates the combustion efficiency achieved by an RTO since the only relevant source of CO_2 in RTO exhaust comes from the destruction of hydrocarbons. The commenters submitted test data and proposed a separate equation for calculating the destruction efficiency for RTO.

Response: The EPA reviewed the test data submitted by the commenters (see section of the 2.3.10.6 of the BID) and agrees that, because RTO do not use auxiliary fuel, the outlet CO_2 concentrations are much less than those of conventional thermal oxidizers without compromising THC destruction efficiency. Consequently, the final rule contains an option that allows combustion devices that do not use auxiliary fuel to use an outlet-only THC destruction efficiency equation. To determine the level of the standard for RTO, the same approach as was taken for the derivation of the THC destruction efficiency and combustion efficiency standards was used (*i.e.*, one standard deviation was subtracted from the average THC destruction efficiencies calculated from the test data submitted by the commenters). The resulting calculations (see section 2.3.10.6 of the BID) yield a THC destruction efficiency standard for RTO of 95.8 percent.

D. Compliance Options

Comment: One commenter noted that the control devices used at refineries to control blowing stills are flares, boilers, and process heaters and that refineries do not typically have thermal oxidizers. The commenter urged the EPA to allow the use of combustion devices other than thermal oxidizers to control blowing still emissions.

Response: The proposed rule did not prohibit the use of process heaters, boilers, and flares because we consider these units to be types of thermal oxidizers. However, since the term "thermal oxidizer" was not defined in the proposed rule, the proposed rule could be interpreted differently. In the final rule, we use the term "combustion device" instead of "thermal oxidizer" and have defined combustion device to include process heaters, boilers, flares, and incinerators; all devices which achieve the same high degree of HAP destruction provided they operate using efficient combustion. Consistent with other rules, a performance test and continuous parameter monitoring are not required for boilers or process heaters if the vent streams to be controlled are introduced into the flame zone, or if the unit has a design input heat capacity of 44 MW or greater since the residence time and operating temperature of these devices is great enough to ensure reduction of HAP emissions. Flares are required to meet the design and operating requirements of 40 CFR 63.11 in lieu of conducting performance tests, as explained earlier in this preamble.

E. Performance Tests

Comment: One commenter expressed concern with the requirement to conduct performance testing before the compliance date. The commenter stated that the NESHAP General Provisions and nearly all previously-issued MACT standards allow the test to be conducted within 180 days of the compliance date (existing sources) or at startup (new sources). The commenter pointed out that the testing date for existing sources is 8 months earlier than what is provided in the General Provisions and listed several problems that it would create.

Response: The EPA agrees that it is not necessary to require performance tests to be completed 60 days prior to the rule compliance date since this would effectively require that facilities be in compliance before the compliance

date specified in the final rule. Consequently, the final rule (§ 63.8686(a)) has been written to be consistent with the NESHAP General Provisions (performance tests must be conducted within 180 days after the compliance date).

F. Monitoring Requirements

Comment: Comments were received on a variety of monitoring requirements. The changes made to the proposed monitoring requirements are discussed in the following paragraphs.

Response: Many facilities in the asphalt processing and asphalt roofing manufacturing industry use analog chart recorders to display and record monitored parameters. However, when these devices are used, the value of the monitored parameters is generally not recorded electronically. Parameter values therefore cannot be automatically averaged and compared to the established range to determine if there has been an parameter deviation. Such a determination would have to be made through manual calculations. One commenter suggested that chart recorders could more easily be used for monitoring if manual calculations of 3-hour averages were not required and deviations were based on 15-minute exceedances of limits. Because the commenter's suggestion is more stringent than the requirements in the proposed rule, the EPA has decided that this is an acceptable alternative for determining continuous compliance. Therefore, the final rule was written to allow facilities the option of demonstrating continuous compliance using either a 15-minute or 3-hour averaging period.

For example, if a facility uses an analog chart recorder that provides a continuous record of the combustion device operating temperature on a strip chart, the facility would be allowed to determine compliance with the NESHAP by comparing the minimum temperature reading for each 15-minute period to the minimum 15-minute value established during the initial performance test (*i.e.*, the facility would not be required to manually average the readings on the strip chart over a 3-hour period to determine compliance with the standards).

Comment: One commenter asserted that facilities should be allowed to use CEMS and COMS to demonstrate continuous compliance with the standards.

Response: The proposed rule did not preclude facilities from using CEMS and COMS, and it was not EPA's intent to discourage facilities from using CEMS and COMS where feasible and beneficial to them. However, continuous monitoring is not required for the opacity standard, even though the opacity standard applies at all times (*i.e.*, EPA test method 9 could be used at any time by the regulating agency to determine compliance with the opacity standard). To allow you to use continuous monitors without first obtaining the approval from the Administrator to use an alternative monitoring procedure, the list of acceptable monitoring systems in the final rule has been written to include CEMS (and COMS) and their applicable performance specifications from 40 CFR part 60 Appendix B.

Comment: One commenter suggested that the EPA modify the proposed rule so that a facility using an ESP as a PM control device could select which parameters are appropriate for demonstrating compliance and have those parameters approved by the EPA in the same manner as "other" control devices.

Response: The EPA agrees with the commenter that ESP operate differently from filter-type PM control devices, and that parameters other than pressure drop could be used to show proper ESP operation. For these reasons, an alternative has been provided in the final rule to allow facilities using an ESP to monitor the voltage going to the ESP instead of the pressure drop across the device. The voltage going to the ESP is a direct measure of the strength of the corona field responsible for ionizing PM as it passes through the ESP. The value or range of ESP voltage must be determined during the performance test.

G. Overlap With Other Rules

Comment: One commenter stated that the rule should be clarified so that asphalt flux and oxidized asphalt storage tanks already regulated under another MACT rule (for example, the petroleum refinery NESHAP) are not further regulated under the asphalt NESHAP.

Response: The EPA recognizes that asphalt storage vessels subject to the asphalt NESHAP could also be subject to other regulations, such as the petroleum refinery NESHAP (40 CFR part 63, subpart CC) and the storage vessel NSPS (40 CFR part 60, subpart K, Ka, or Kb). Consequently, EPA is providing in the final rule that the NESHAP does not apply to any equipment that is subject to the petroleum refinery NESHAP or to subpart K, Ka, or Kb of part 60 since the requirements specified in those rules for the types of storage tanks used in this industry (fixed roof tanks) are as stringent as the standards in the asphalt processing and asphalt roofing manufacturing NESHAP.

The EPA also recognizes that storage tanks (and blowing stills, saturators, wet loopers, and coaters) at asphalt processing and asphalt roofing manufacturing facilities could be subject to both the asphalt NESHAP and the asphalt NSPS. In cases where the rule requirements overlap, the asphalt rule specifies that facilities are required to comply only with the asphalt NESHAP. However, any storage tank with a capacity less than 1.93 mg that is subject to the asphalt NSPS but not regulated under the asphalt NESHAP must comply with the asphalt NSPS.

IV. Summary of Environmental, Energy and Economic Impacts

Although MACT floors must be based exclusively on the emission limitation achieved by the requisite percentage of best-performing similar sources (or, for new sources, the best-performing source), the EPA has compiled information on air quality impacts, costs, non-air quality impacts, and energy impacts in compliance with Executive Orders. We estimate the final rule will affect a total of 19 existing facilities (ten asphalt processing and asphalt roofing facilities and nine petroleum refineries). We estimated the number of major sources by estimating potential emissions using emission factors and available production data. We identified major facilities only for the purposes of estimating potential emissions, emission reductions, control costs, and monitoring, recordkeeping, and reporting costs. It should be noted that facilities may not necessarily be major sources for the purposes of determining applicability of the final rule because they were identified as major by our estimates. Likewise, facilities would not be relieved from complying with the final rule because they were not identified as major sources in our estimates.

A. What Are the Air Quality Impacts?

Baseline HAP emissions from the asphalt processing and asphalt roofing manufacturing facilities that are projected to be subject to the final rule are estimated to be 295 Mg/yr (325 tpy). Baseline THC emissions are estimated to be 550 Mg/yr (605 tpy). The baseline emission estimates were developed using equipment, control device, and production rate data reported in a 1995 industry survey. The final rule is projected to reduce HAP emissions by 86 Mg/yr (95 tpy) and THC emissions by 465 Mg/yr (512 tpy). The final rule will also reduce PM emissions from asphalt processing and asphalt roofing

manufacturing facilities. However, we do not have sufficient data to estimate baseline emissions or emission reductions for PM. The baseline emissions and emission reductions do not include contributions from area sources because they are not subject to the final rule.

The final rule will also likely cause an increase in emissions of nitrogen oxides (NO_X), CO, sulfur dioxide (SO_2), PM, and volatile organic compounds (VOC) due to the increased use of thermal oxidizers as control devices. The estimated increases of NO_X, CO, and SO_2 are approximately, 476, 799, and 6 Mg/yr (524, 880, and 6 tpy), respectively. These estimates are based on the amount of exhaust and auxiliary fuel that will be burned at the asphalt processing and asphalt roofing manufacturing facilities that are estimated to be major sources.

B. What Are the Cost Impacts?

The total capital cost for the industry to achieve compliance with the final rule for existing facilities is estimated to be $2.71 million. The capital costs arise from the purchase of emission capture systems and control devices. The total annualized cost is estimated to be $1.41 million. The total annualized costs for the industry include the annualized capital cost of emission capture systems and control devices and operation, maintenance, supervisory labor, maintenance materials, utilities, administrative charges, taxes, and insurance. It is estimated that the industry will spend an additional industrywide average of $320,000 per year for monitoring, recordkeeping, and reporting to comply with the final rule. This results in a total annualized cost of $1.73 million.

C. What Are the Economic Impacts?

The Agency conducted an economic impact analysis to determine the market- and industry-level impacts associated with the final rule. The compliance costs of the final rule are expected to increase the prices of asphalt processing and roofing products by 0.02 percent or less across the directly affected product markets, and domestic production and consumption of the affected products are expected to decrease by less than 0.01 percent also.

In terms of industry impacts, the asphalt processors and asphalt roofing manufacturers are projected to experience a decrease in operating profits of about 0.08 percent, which reflects the compliance costs associated with the production of asphalt processing and roofing products and the resulting reductions in revenues due to the increase in the prices of the directly affected product markets and reduced quantities purchased. Through the market impacts described above, the final rule created both gainers and losers within the asphalt processing and asphalt roofing manufacturing industry. The majority of facilities, almost 92 percent, are expected to experience profit increases with the final rule; however, there are some facilities projected to lose profits (about 8 percent of affected facilities). Furthermore, the economic impact analysis indicates that of the 123 existing asphalt roofing and processing facilities, none are at risk of closure because of the final rule. Therefore, none of the companies that own asphalt processing and roofing manufacturing facilities are projected to close due to the final rule.

Based on the market analysis, the annual social costs of the final rule are projected to be about $1.73 million. The estimated social costs differ slightly from the projected engineering costs of the final rule. These two costs differ because social costs account for producer and consumer behavior. These social costs are distributed across the many consumers and producers of asphalt processing and roofing products. For the final rule, the producers of asphalt roofing and processing products, in aggregate, are expected to incur about $1.32 million annually in costs, while the consumers of asphalt roofing and processing products are expected to incur approximately $410 thousand annually across the product markets.

The economic analysis also addressed potential changes in new asphalt processing and roofing facility construction for the year following promulgation of the final rule. This was done by estimating the total annualized costs for new facilities and projecting changes in equilibrium output due to the final rule. The economic impact analysis estimated a very small reduction in the growth of the asphalt industry represented by a small reduction in equilibrium output of asphalt products in the year following promulgation. However, the reduction in equilibrium output was only a small fraction of estimated new plant capacity. Thus, the control costs are not expected to influence the decision to enter the market for asphalt products. For more information, consult the Economic Impact Analysis report supporting the final rule in the docket.

D. What Are the Non-air Health, Environmental and Energy Impacts?

Spent filter media from certain types of PM control devices (*e.g.*, high-efficiency air filters (HEAF)) are periodically replaced and disposed of as solid waste. Although many of the emission sources subject to the final rule are already controlled by PM devices, an increase in the generation of spent filter media is expected as a result of the final rule. However, we do not have sufficient data to quantify this anticipated increase in solid waste generation.

No water impacts are anticipated due to the final rule. None of the control devices expected to be used to comply with the final rule require the use of water nor do they generate wastewater streams.

Increased energy usage is expected due to the final rule. Electricity is required to power fans for emission capture systems, and new thermal oxidizers will require supplemental fuel (*e.g.*, natural gas) to efficiently combust the HAP vent streams. The estimated annual increase in electricity consumption is 5.58 million kilowatt hours. The approximate increase in natural gas consumption is 186 million standard cubic feet per year. These estimates are for the 19 facilities considered to be major sources.

V. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant," and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that the final rule is not a "significant regulatory action" because it is not

expected to have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

B. Paperwork Reduction Act

The information collection requirements of the final rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by the EPA (ICR No. 2029.01) and a copy may be obtained from Susan Auby by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division, (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, by e-mail at *auby.susan@epa.gov* or by calling (202) 566–1672. A copy may also be downloaded off the internet at *http://www.epa.gov/icr.*

The information will be used by the EPA to ensure that the requirements of the asphalt processing and asphalt roofing manufacturing NESHAP are implemented properly and are complied with on a continuous basis. Records and reports are necessary to identify asphalt processing and asphalt roofing manufacturing facilities that might not be in compliance with the final rule. Based on reported information, the implementing agency will decide which asphalt processing and asphalt roofing manufacturing facilities should be inspected and what records or processes should be inspected. Records that owners and operators of asphalt processing and asphalt roofing manufacturing facilities maintain indicate whether personnel are operating and maintaining control equipment properly.

These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA for which a claim of confidentiality is made will be safeguarded according to the EPA policies in 40 CFR part 2, subpart B, Confidentiality of Business Information.

We estimate the final rule will affect a total of 19 existing facilities (ten asphalt processing and asphalt roofing facilities and nine petroleum refineries). We estimated the number of major sources by estimating emissions using emission factors and available production data and extrapolating potential emission from actual emissions. We identified major facilities for the purposes of estimating emissions, emission reductions, control costs, and monitoring, recordkeeping, and reporting costs only. Facilities would not necessarily be major sources for the purposes of determining applicability of the asphalt NESHAP because they were identified as major by our estimates. Likewise, facilities are not relieved from complying with the asphalt NESHAP because they were not identified as major sources in our estimates. We expect that existing facilities will be in compliance 3 years after promulgation of the final rule, but will perform related activities (*e.g.*, reading and understanding the rule, conducting performance tests) before they are in compliance. We project that one new asphalt processing and asphalt roofing facility will become subject to the final rule during each of the first 3 years.

The estimated average annual burden for industry for the first 3 years after implementation of the rule is approximately 1,962 person-hours annually. There will be no capital costs for monitoring or recordkeeping during the first 3 years. The total average annual reporting and recordkeeping burden (including industry and the EPA) for this collection is estimated at approximately 2,780 labor hours per year at an average annual cost of approximately $356,000.

Burden means 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 the EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act (RFA)

The 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 business, small organizations, and small government jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, a small entity is defined as: (1) A small business according to Small Business Administration (SBA) size standards by NAICS code (in this case, less than 750 employees for affected businesses classified in NAICS code 324122, Asphalt Shingles and Coating Materials Manufacturing and less than 1,500 employees for businesses in NAICS code 324110, Petroleum Refineries); (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.

In accordance with the RFA, the EPA conducted an assessment of the standards on small businesses within the asphalt roofing and processing industry. Based on SBA NAICS-based size definitions and reported employment data, the EPA identified 26 of the 40 companies that own potentially affected asphalt roofing and processing facilities and petroleum refineries as small businesses. Although small businesses represent 65 percent of the companies within the source category, they are expected to incur approximately 5 percent of the total industry compliance costs of about $1.73 million annually. There are no companies with compliance costs greater than 0.04 percent of their sales. No firms are expected to close rather than incur the costs of compliance with the rule.

After considering the economic impacts of today's rule on small entities, the EPA certifies that the final rule 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, or tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for final rules with "Federal mandates" that may result in

expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires the 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 the 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 the EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the final rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or the private sector in any 1 year. In the Economic Impact Assessment (EIA) for the final rule, the EPA estimates that the total nationwide capital cost for the standards is $2.71 million. The total nationwide annual cost for the standards is $1.73 million. In addition, the EPA has determined that the final 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. Therefore, the final rule is not subject to the requirements of sections 202 or 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires the 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 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. None of the affected facilities under the final rule are owned or operated by State or local governments. Thus Executive Order 13132 does not apply to the final 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 6, 2000), requires the 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." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

The final rule does not have tribal implications. 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, as specified in Executive Order 13175. No affected facilities are owned or operated by Indian tribal governments. 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 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 the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the 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 EPA.

The 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. The final rule is not subject to Executive Order 13045 because it is based on technology performance and not on health and safety risks.

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

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), provides that agencies shall prepare and submit to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, a Statement of Energy Effects for certain actions identified as "significant energy actions." Section 4(b) of Executive Order 13211 defines "significant energy actions" as "any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action." The final rule is not a "significant regulatory action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

We have estimated that the rule will result in an additional 5.58 million kilowatt hours of electricity usage and 186 million standard cubic feet of natural gas consumption. This represents an insignificant fraction of the over 3 trillion kilowatt hours and 21,000 trillion cubic feet of natural gas consumed in the United States (Energy

Information Administration, Department of Energy, *www.eia.gov*).

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Public Law 104–113, section 12(d), (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards in their regulatory and procurement 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 one or more voluntary consensus bodies. The NTTAA directs the EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

The final rulemaking involves technical standards including EPA test methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 5A, 9, 10, 22, and 25A. Consistent with the NTTAA, the EPA conducted searches to identify voluntary consensus standards in addition to these EPA test methods. No applicable voluntary consensus standards were identified for EPA test methods 1A, 2A, 2D, 2F, 2G, 5A, 9, and 22.

The search for emissions measurement procedures identified 16 voluntary consensus standards potentially applicable to the final rule. Three of the voluntary consensus standards were not available at the time this review was conducted. For the remaining 13 standards identified for measuring emissions of the HAP or surrogates subject to emission standards in the final rule, we determined that they were impractical alternatives to EPA test methods for the purposes of the final rule. Therefore, the EPA does not intend to adopt these standards. The search and review methods can be found in docket A–95–32 (see **ADDRESSES** section of this preamble).

J. 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. The EPA will submit a report containing the 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**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). The final rule will be effective on April 29, 2003.

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: February 28, 2003.

Christie Todd Whitman,

Administrator.

■ For the reasons cited 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.*

■ 2. Part 63 is amended by adding a new subpart LLLLL to read as follows:

Subpart LLLLL—National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing

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Subpart LLLLL—National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing

What This Subpart Covers

§ 63.8680 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for existing and new asphalt processing and asphalt roofing manufacturing facilities. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations.

§ 63.8681 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate an asphalt processing facility or an asphalt roofing manufacturing facility, as defined in § 63.8698, that is a major source of hazardous air pollutants (HAP) emissions, or is located at, or is part of a major source of HAP emissions.

(b) After the applicable compliance date specified in § 63.8683, blowing stills, asphalt storage tanks, saturators, wet loopers, and coaters subject to the provisions of this subpart that are also

subject to 40 CFR part 60, subpart UU, are required to comply only with provisions of this subpart.

(c) This subpart does not apply to any equipment that is subject to subpart CC of this part or to subpart K, Ka, or Kb of 40 CFR part 60.

(d) This subpart does not apply to asphalt processing and asphalt roofing manufacturing equipment used for research and development, as defined in § 63.8698.

(e) A major source of HAP emissions is any stationary source or group of stationary sources within a contiguous area under common control that emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (10 tons) or more per year or any combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year.

§ 63.8682 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, or existing affected source at asphalt processing and asphalt roofing manufacturing facilities.

(b) The affected source is:

(1) Each asphalt processing facility as defined in § 63.8698; or

(2) Each asphalt roofing manufacturing line as defined in § 63.8698.

(i) If the asphalt roofing manufacturing line is collocated with an asphalt processing facility, the storage tanks that store asphalt flux intended for oxidation in the blowing stills and those tanks that receive asphalt directly from the on-site blowing stills are part of the asphalt processing facility. The remaining asphalt storage tanks are considered to be part of the asphalt roofing facility.

(ii) If an asphalt storage tank is shared by two or more lines at an asphalt roofing manufacturing facility, the shared storage tank is considered part of the line to which the tank supplies the greatest amount of asphalt, on an annual basis.

(iii) If a sealant or adhesive applicator is shared by two or more asphalt roofing manufacturing lines, the shared applicator is considered part of the line that provides the greatest throughput to the applicator, on an annual basis.

(c) An affected source is a new affected source if you commenced construction of the affected source after November 21, 2001, and you met the applicability criteria at the time you commenced construction.

(d) An affected source is reconstructed if you meet the criteria in the reconstruction definition in § 63.2.

(e) An affected source is existing if it is not new or reconstructed.

§ 63.8683 When must I comply with this subpart?

(a) If you have a new or reconstructed affected source and start up:

(1) On or before April 29, 2003, then you must comply with the requirements for new and reconstructed sources in this subpart no later than April 29, 2003.

(2) After April 29, 2003, then you must comply with the requirements for new and reconstructed sources in this subpart upon startup.

(b) If you have an existing affected source, you must comply with the requirements for existing sources no later than May 1, 2006.

(c) If you have an area source that increases its emissions or its potential to emit such that it becomes a (or part of a) major source of HAP, then the following requirements apply:

(1) Any portion of the existing facility that becomes a new or reconstructed affected source must be in compliance with this subpart upon startup or by April 29, 2003, whichever is later.

(2) All other parts of the source to which this subpart applies must be in compliance with this subpart by 3 years after the date the source becomes a major source.

(d) You must meet the notification requirements in § 63.8692 according to the schedules in §§ 63.8692 and 63.9. Some of the notifications must be submitted before you are required to comply with the emission limitations in this subpart.

Emission Limitations

§ 63.8684 What emission limitations must I meet?

(a) You must meet each emission limitation in Table 1 to this subpart that applies to you.

(b) You must meet each operating limit in Table 2 to this subpart that applies to you.

General Compliance Requirements

§ 63.8685 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations (including operating limits) in this subpart at all times, except during periods of startup, shutdown, and malfunction.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) You must develop and implement a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

(d) You must develop and implement a written site-specific monitoring plan according to the provisions in § 63.8688(g) and (h).

Testing and Initial Compliance Requirements

§ 63.8686 By what date must I conduct performance tests or other initial compliance demonstrations?

(a) For existing affected sources, you must conduct performance tests no later than 180 days after the compliance date that is specified for your source in § 63.8683 and according to the provisions in § 63.7(a)(2).

(b) As an alternative to the requirement specified in paragraph (a) of this section, you may use the results of a previously-conducted emission test to demonstrate compliance with the emission limitations in this subpart if you demonstrate to the Administrator's satisfaction that:

(1) No changes have been made to the process since the time of the emission test; and

(2) The operating conditions and test methods used during testing conform to the requirements of this subpart; and

(3) The control device and process parameter values established during the previously-conducted emission test are used to demonstrate continuous compliance with this subpart.

(c) For new sources, you must demonstrate initial compliance no later than 180 calendar days after April 29, 2003 or within 180 calendar days after startup of the source, whichever is later.

§ 63.8687 What performance tests, design evaluations, and other procedures must I use?

(a) You must conduct each performance test in Table 3 to this subpart that applies to you.

(b) Each performance test must be conducted under normal operating conditions and under the conditions specified in Table 3 to this subpart.

(c) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(d) Except for opacity and visible emission observations, you must conduct three separate test runs for each performance test required in this section, as specified in § 63.7(e)(3). Each test run must last at least 1 hour.

(e) You must use the following equations to determine compliance with the emission limitations.

(1) To determine compliance with the particulate matter mass emission rate, you must use Equations 1 and 2 of this section as follows:

$$E = M_{PM}/P \qquad \text{(Eq. 1)}$$

Where:

E = Particulate matter emission rate, kilograms (pounds) of particulate matter per megagram (ton) of roofing product manufactured.

M_{PM} = Particulate matter mass emission rate, kilograms (pounds) per hour, determined using Equation 2.

P = The asphalt roofing product manufacturing rate during the emissions sampling period, including any material trimmed from the final product, megagram (tons) per hour.

$$M_{PM} = C * Q * K \qquad \text{(Eq. 2)}$$

Where:

M_{PM} = Particulate matter mass emission rate, kilograms (pounds) per hour.

C = Concentration of particulate matter on a dry basis, grams per dry standard cubic meter (g/dscm), as measured by the test method specified in Table 3 to this subpart.

Q = Vent gas stream flow rate (dry standard cubic meters per minute) at a temperature of 20°C as measured by the test method specified in Table 3 to this subpart.

K = Unit conversion constant (0.06 minute-kilogram/hour-gram.

(2) To determine compliance with the total hydrocarbon percent reduction standard, you must use Equations 3 and 4 of this section as follows:

$$RE = \left[\left(M_{THCi} - M_{THCo}\right)/\left(M_{THCi}\right)\right] * (100) \qquad \text{(Eq. 3)}$$

Where:

RE = Emission reduction efficiency, percent.

M_{THCi} = Mass flow rate of total hydrocarbons entering the control device, kilograms (pounds) per hour, determined using Equation 4.

M_{THCo} = Mass flow rate of total hydrocarbons exiting the control device, kilograms (pounds) per hour, determined using Equation 4.

$$M_{THC} = C * Q * K \qquad \text{(Eq. 4)}$$

Where:

M_{THC} = Total hydrocarbon emission rate, kilograms (pounds) per hour.

C = Concentration of total hydrocarbons on a dry basis, parts per million by volume (ppmv), as measured by the test method specified in Table 3 to this subpart.

Q = Vent gas stream flow rate (dscmm) at a temperature of 20 °C as measured by the test method specified in Table 3 to this subpart.

K = Unit conversion constant (3.00E–05) $(ppmv)^{-1}$ (gram-mole/standard cubic meter) (kilogram/gram) (minutes/hour)), where standard temperature for gram-mole/standard cubic meter is 20 °C.

(3) To determine compliance with the combustion efficiency standard, you must use Equation 5 of this section as follows:

$$CE = \left[1 - \left(CO/CO_2\right) - \left(THC/CO_2\right)\right] \qquad \text{(Eq. 5)}$$

Where:

CE = Combustion efficiency, percent.

CO = Carbon monoxide concentration at the combustion device outlet, parts per million by volume (dry), as measured by the test method specified in Table 3 to this subpart.

CO_2 = Carbon dioxide concentration at the combustion device outlet, parts per million by volume (dry), as measured by the test method specified in Table 3 to this subpart.

THC = Total hydrocarbon concentration at the combustion device outlet, parts per million by volume (dry), as measured by the test method specified in Table 3 to this subpart.

(4) To determine compliance with the total hydrocarbon destruction efficiency standard for a combustion device that does not use auxiliary fuel, you must use Equation 6 of this section as follows:

$$THC\ DE = \left[\left(CO + CO_2\right)/\left(CO + CO_2 + THC\right)\right] \qquad \text{(Eq. 6)}$$

Where:

THC DE = THC destruction efficiency, percent.

CO = Carbon monoxide concentration at the combustion device outlet, parts per million by volume (dry), as measured by the test method specified in Table 3 to this subpart.

CO_2 = Carbon dioxide concentration at the combustion device outlet, parts per million by volume (dry), as measured by the test method specified in Table 3 to this subpart.

THC = Total hydrocarbon concentration at the combustion device outlet, parts per million by volume (dry), as measured by the test method specified in Table 3 to this subpart.

§ 63.8688 What are my monitoring installation, operation, and maintenance requirements?

(a) You must install, operate, and maintain each continuous parameter monitoring system (CPMS) according to the following:

(1) The CPMS must complete a minimum of one cycle of operation for each successive 15-minute period.

(2) To determine the 3-hour average, you must:

(i) Have a minimum of four successive cycles of operation to have a valid hour of data.

(ii) Have valid data from at least three of four equally spaced data values for that hour from a CPMS that is not out-of-control according to your site-specific monitoring plan.

(iii) Determine the 3-hour average of all recorded readings for each operating day, except as stated in § 63.8690(c). You must have at least two of the three hourly averages for that period using only hourly average values that are based on valid data (*i.e.*, not from out-of-control periods).

(3) You must record the results of each inspection, calibration, and validation check.

(b) For each temperature monitoring device, you must meet the requirements in paragraph (a) of this section and the following:

(1) Locate the temperature sensor in a position that provides a representative temperature.

(2) For a noncryogenic temperature range, use a temperature sensor with a

minimum measurement sensitivity of 2.8 °C or 1.0 percent of the temperature value, whichever is larger.

(3) If a chart recorder is used, it must have a sensitivity in the minor division of at least 20 °F.

(4) Perform an accuracy check at least semiannually or following an operating parameter deviation:

(i) According to the procedures in the manufacturer's documentation; or

(ii) By comparing the sensor output to redundant sensor output; or

(iii) By comparing the sensor output to the output from a calibrated temperature measurement device; or

(iv) By comparing the sensor output to the output from a temperature simulator.

(5) Conduct accuracy checks any time the sensor exceeds the manufacturer's specified maximum operating temperature range or install a new temperature sensor.

(6) At least quarterly or following an operating parameter deviation, perform visual inspections of components if redundant sensors are not used.

(c) For each pressure measurement device, you must meet the requirements of paragraph (a) of this section and the following:

(1) Locate the pressure sensor(s) in, or as close as possible, to a position that provides a representative measurement of the pressure.

(2) Use a gauge with a minimum measurement sensitivity of 0.12 kiloPascals or a transducer with a minimum measurement sensitivity of 5 percent of the pressure range.

(3) Check pressure tap pluggage daily. Perform an accuracy check at least quarterly or following an operating parameter deviation:

(i) According to the procedures in the manufacturer's documentation; or

(ii) By comparing the sensor output to redundant sensor output.

(4) Conduct calibration checks any time the sensor exceeds the manufacturer's specified maximum operating pressure range or install a new pressure sensor.

(5) At least monthly or following an operating parameter deviation, perform a leak check of all components for integrity, all electrical connections for continuity, and all mechanical connections for leakage.

(6) At least quarterly or following an operating parameter deviation, perform visible inspections on all components if redundant sensors are not used.

(d) For monitoring parameters other than temperature and pressure drop, you must install and operate a CPMS to provide representative measurements of the monitored parameters.

(e) For each flare, you must install a device (including but not limited to a thermocouple, an ultraviolet beam sensor, or an infrared sensor) capable of continuously detecting the presence of a pilot flame.

(f) As an option to installing the CPMS specified in paragraph (a) of this section, you may install a continuous emissions monitoring system (CEMS) or a continuous opacity monitoring system (COMS) that meets the requirements specified in § 63.8 and the applicable performance specifications of 40 CFR part 60, appendix B.

(g) For each monitoring system required in this section, you must develop and make available for inspection by the permitting authority, upon request, a site-specific monitoring plan that addresses the following:

(1) Installation of the CPMS, CEMS, or COMS sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (*e.g.*, on or downstream of the last control device);

(2) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system; and

(3) Performance evaluation procedures and acceptance criteria (*e.g.*, calibrations).

(h) In your site-specific monitoring plan, you must also address the following:

(1) Ongoing operation and maintenance procedures in accordance with the general requirements of § 63.8(c)(1), (c)(3), (c)(4)(ii), (c)(7), and (c)(8);

(2) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d); and

(3) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c), (e)(1), and (e)(2)(i).

(i) You must conduct a performance evaluation of each CPMS, CEMS, or COMS in accordance with your site-specific monitoring plan.

(j) You must operate and maintain the CPMS, CEMS, or COMS in continuous operation according to the site-specific monitoring plan.

§ 63.8689 How do I demonstrate initial compliance with the emission limitations?

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

(b) You must establish each site-specific operating limit in Table 2 to this subpart that applies to you according to the requirements in § 63.8687 and Table 3 to this subpart.

(c) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.8692(e).

Continuous Compliance Requirements

§ 63.8690 How do I monitor and collect data to demonstrate continuous compliance?

(a) You must monitor and collect data according to this section.

(b) Except for monitor malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating. This includes periods of startup, shutdown, and malfunction when the affected source is operating.

(c) You may not use data recorded during monitoring malfunctions, associated repairs, and required quality assurance or control activities in data averages and calculations used to report emission or operating levels, nor may such data be used in fulfilling a minimum data availability requirement, if applicable. You must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

§ 63.8691 How do I demonstrate continuous compliance with the operating limits?

(a) You must demonstrate continuous compliance with each operating limit in Table 2 to this subpart that applies to you according to test methods specified in Table 5 to this subpart.

(b) You must report each instance in which you did not meet each operating limit in Table 5 to this subpart that applies to you. This includes periods of startup, shutdown, and malfunction. These instances are deviations from the emission limitations in this subpart. These deviations must be reported according to the requirements in § 63.8693.

(c) During periods of startup, shutdown, and malfunction, you must operate in accordance with the SSMP.

(d) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the SSMP. The Administrator will determine whether

deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

Notifications, Reports, and Records

§ 63.8692 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.6(h)(4) and (5), 63.7(b) and (c), 63.8(f), and 63.9(b) through (f) and (h) that apply to you by the dates specified.

(b) As specified in § 63.9(b)(2), if you start up your affected source before April 29, 2003, you must submit an Initial Notification not later than 120 calendar days after April 29, 2003.

(c) As specified in § 63.9(b)(3), if you start up your new or reconstructed affected source on or after April 29, 2003, you must submit an Initial Notification not later than 120 calendar days after you become subject to this subpart.

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

(e) If you are required to conduct a performance test, design evaluation, opacity observation, visible emission observation, or other initial compliance demonstration as specified in Table 3 or 4 to this subpart, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii). You must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2).

(f) If you are using data from a previously-conducted emission test to serve as documentation of conformance with the emission standards and operating limits of this subpart, you must submit the test data in lieu of the initial performance test results with the Notification of Compliance Status required under paragraph (e) of this section.

§ 63.8693 What reports must I submit and when?

(a) You must submit each report in Table 6 to this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report by the date in Table 6 to this subpart and according to the following dates:

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.8683 and ending on June 30 or December 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in § 63.8683.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date that is specified for your affected source in § 63.8683.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of the dates in paragraphs (b)(1) through (4) of this section.

(c) The compliance report must contain the following information:

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If you had a startup, shutdown or malfunction during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information in § 63.10(d)(5)(i).

(5) If there are no deviations from any emission limitations (emission limit, operating limit, opacity limit, and visible emission limit) that apply to you, a statement that there were no deviations from the emission limitations during the reporting period.

(6) If there were no periods during which the CPMS, CEMS, or COMS was out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which the CPMS, CEMS, or COMS was out-of-control during the reporting period.

(d) For each deviation from an emission limitation (emission limit, operating limit, opacity limit, and visible emission limit), you must include the information in paragraphs (c)(1) through (6) of this section, and the information in paragraphs (d)(1) through (12) of this section. This includes periods of startup, shutdown, and malfunction.

(1) The date and time that each malfunction started and stopped.

(2) The date and time that each CPMS, CEMS, or COMS was inoperative, except for zero (low-level) and high-level checks.

(3) The date, time and duration that each CPMS, CEMS, or COMS was out-of-control, including the information in § 63.8(c)(8).

(4) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(5) A summary of the total duration of the deviation during the reporting period and the total duration as a percent of the total source operating time during that reporting period.

(6) A breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(7) A summary of the total duration of CPMS, CEMS, or COMS downtime during the reporting period and the total duration of CPMS, CEMS, or COMS downtime as a percent of the total source operating time during that reporting period.

(8) An identification of each air pollutant that was monitored at the affected source.

(9) A brief description of the process units.

(10) A brief description of the CPMS, CEMS, or COMS.

(11) The date of the latest CPMS, CEMS, or COMS certification or audit.

(12) A description of any changes in CPMS, CEMS, or COMS, processes, or controls since the last reporting period.

(e) Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 40 CFR part 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If an affected source submits a compliance report pursuant to Table 6 to this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR

70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the compliance report includes all required information concerning deviations from any emission limitation (including any operating limit), submission of the compliance report shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permit authority.

(f) If acceptable to both the Administrator and you, you may submit reports and notifications electronically.

§ 63.8694 What records must I keep?

(a) You must keep the following records:

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(3) Records of performance tests, performance evaluations, and opacity and visible emission observations as required in § 63.10(b)(2)(viii).

(b) You must keep the records in § 63.6(h)(6) for visible emission observations.

(c) You must keep the records required in Table 5 to this subpart to show continuous compliance with each operating limit that applies to you.

(d) Records of any shared equipment determinations as specified in § 63.8682(b).

§ 63.8695 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.8696 What parts of the General Provisions apply to me?

Table 7 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

§ 63.8697 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. Environmental Protection Agency (U.S. EPA), or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the following authorities are retained by the Administrator of U.S. EPA:

(1) Approval of alternatives to the requirements in §§ 63.8681, 63.8682, 63.8683, 63.8684(a) through (c), 63.8686, 63.8687, 63.8688, 63.8689, 63.8690, and 63.8691.

(2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.8698 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in 40 CFR 63.2, the General Provisions of this part, and in this section as follows:

Adhesive applicator means the equipment used to apply adhesive to roofing shingles for producing laminated or dimensional roofing shingles.

Asphalt flux means the organic residual material from distillation of crude oil that is generally used in asphalt roofing manufacturing and paving and non-paving asphalt products.

Asphalt loading rack means the equipment at an asphalt processing facility used to transfer oxidized asphalt from a storage tank into a tank truck, rail car, or barge.

Asphalt processing facility means any facility engaged in the preparation of asphalt flux at stand-alone asphalt processing facilities, petroleum refineries, and asphalt roofing facilities. Asphalt preparation, called "blowing," is the oxidation of asphalt flux, achieved by bubbling air through the heated asphalt, to raise the softening point and to reduce penetration of the oxidized asphalt. An asphalt processing facility includes one or more asphalt flux blowing stills, asphalt flux storage tanks storing asphalt flux intended for processing in the blowing stills, oxidized asphalt storage tanks, and oxidized asphalt loading racks.

Asphalt roofing manufacturing facility means a facility consisting of one or more asphalt roofing manufacturing lines.

Asphalt roofing manufacturing line means the collection of equipment used to manufacture asphalt roofing products through a series of sequential process steps. The equipment that comprises an asphalt roofing manufacturing line varies depending on the type of substrate used (*i.e.*, organic or inorganic) and the final product manufactured (*e.g.*, roll roofing, laminated shingles). For example, an asphalt roofing manufacturing line that uses fiberglass mat as a substrate typically would not include a saturator/wet looper (or the saturator/wet looper could be bypassed if the line manufacturers multiple types of products). An asphalt roofing manufacturing line can include a saturator (including wet looper), coater, coating mixers, sealant applicators, adhesive applicators, and asphalt storage and process tanks. The number of asphalt roofing manufacturing lines at a particular facility is determined by the number of saturators (or coaters) operated in parallel. For example, an asphalt roofing manufacturing facility with two saturators (or coaters) operating in parallel would be considered to have two separate roofing manufacturing lines.

Asphalt storage tank means any tank used to store asphalt flux, oxidized asphalt, and modified asphalt, at asphalt roofing manufacturing facilities, petroleum refineries, and asphalt processing facilities. Storage tanks containing cutback asphalts (asphalts diluted with solvents to reduce viscosity for low temperature applications) and emulsified asphalts (asphalts dispersed in water with an emulsifying agent) are not subject to this subpart.

Blowing still means the equipment in which air is blown through asphalt flux to change the softening point and penetration rate of the asphalt flux, creating oxidized asphalt.

Boiler means any enclosed combustion device that extracts useful

energy in the form of steam and is not an incinerator.

Coater means the equipment used to apply amended (filled or modified) asphalt to the top and bottom of the substrate (typically fiberglass mat) used to manufacture shingles and rolled roofing products.

Coating mixer means the equipment used to mix coating asphalt and a mineral stabilizer, prior to applying the stabilized coating asphalt to the substrate.

Combustion device means an individual unit of equipment such as a flare, incinerator, process heater, or boiler used for the combustion of organic hazardous air pollutant vapors.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart including, but not limited to, any emission limitation (including any operating limit), or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart, and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation (including any operating limit) or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Emission limitation means any emission limit, opacity limit, operating limit, or visible emission limit.

Group 1 asphalt loading rack means an asphalt loading rack loading asphalt with a maximum temperature of 260 °C (500 °F) or greater or with a maximum true vapor pressure of 10.4 kiloPascals (kPa) (1.5 pounds per square inch absolute (psia)) or greater.

Group 2 asphalt loading rack means an asphalt loading rack loading asphalt with a maximum temperature less than 260 °C (500 °F) or with a maximum true vapor pressure less than 10.4 kPa, 1.5 psia.

Group 1 asphalt storage tank means an asphalt storage tank that meets both of the following two criteria:

(1) Has a capacity of 177 cubic meters (47,000 gallons) of asphalt or greater; and

(2) Stores asphalt at a maximum temperature of 260 °C (500 °F) or greater, or has a maximum true vapor pressure of 10.4 kPa, (1.5, psia) or greater.

Group 2 asphalt storage tank means any asphalt storage tank with a capacity of 1.93 megagrams (Mg) of asphalt or greater that is not a Group 1 asphalt storage tank.

Incinerator means an enclosed combustion device that is used for destroying organic compounds. Auxiliary fuel may be used to heat waste gas to combustion temperatures. Any energy recovery section present is not physically formed into one manufactured or assembled unit with the combustion section; rather, the energy recovery section is a separate section following the combustion section and the two are joined by ducts or connections carrying flue gas.

Maximum true vapor pressure means the equilibrium partial pressure exerted by the stored asphalt at its maximum storage temperature.

Modified asphalt means asphalt that has been mixed with polymer modifiers.

Oxidized asphalt means asphalt that has been prepared by passing air through liquid asphalt flux in a blowing still.

Process heater means an enclosed combustion device that primarily transfers heat liberated by burning fuel directly to process streams or to heat transfer liquids other than water.

Research and development equipment means any equipment whose primary purpose is to conduct research and development to develop new processes and products, where such equipment is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for commercial sale in commerce, except in a *de minimis* manner.

Responsible official means responsible official as defined in 40 CFR 70.2.

Saturator means the equipment in which substrate (predominantly organic felt) is filled with asphalt. Saturators are predominantly used for the manufacture of saturated felt products. The term saturator includes the saturator and wet looper.

Sealant applicator means the equipment used to apply a sealant strip to a roofing product. The sealant strip is used to seal overlapping pieces of roofing product after they have been applied.

Work practice standard means any design, equipment, work practice, or operational standard, or combination thereof, that is promulgated pursuant to section 112(h) of the Clean Air Act.

Tables to Subpart LLLLL of Part 63

TABLE 1 TO SUBPART LLLLL OF PART 63.—EMISSION LIMITATIONS

For—	You must meet the following emission limitation—
1. Each blowing still, Group 1 asphalt loading rack, and Group 1 asphalt storage tank at existing, new, and reconstructed asphalt processing facilities; and each Group 1 asphalt storage tank at existing, new, and reconstructed roofing manufacturing lines; and each coating mixer, saturator (including wet looper), coater, sealant applicator, adhesive applicator, and Group 1 asphalt storage tank at new and reconstructed asphalt roofing manufacturing lines.	a. Reduce total hydrocarbon mass emissions by 95 still, or to a concentration of 20 ppmv, on a dry basis corrected to 3 percent oxygen; b. Route the emissions to a combustion device achieving a combustion efficiency of 99.5 percent; c. Route the emissions to a combustion device that does use auxiliary fuel achieving a total hydrocarbon (THC) destruction efficiency of 95.8 percent; d. Route the emissions to a boiler or process heater with a design heat input capacity of 44 megawatts (MW) or greater; e. Introduce the emissions into the flame zone of a boiler or process heater; or f. Route emissions to a flare meeting the requirements of §63.11(b).
2. The total emissions from the coating mixer, saturator (including wet looper), coater, sealant applicator, and adhesive applicator at each existing asphalt roofing manufacturing line.[a]	a. Limit particulate matter emissions to 0.04 kilograms emissions per megagram (kg/Mg) (0.08 pounds per ton, lb/ton) of asphalt shingle or mineral-surfaced roll roofing produced; or b. Limit particulate matter emissions to 0.4 kg/Mg (0.8 lb/ton) of saturated felt or smooth-surfaced roll roofing produced.

TABLE 1 TO SUBPART LLLLL OF PART 63.—EMISSION LIMITATIONS—Continued

For—	You must meet the following emission limitation—
3. Each saturator (including wet looper) and coater at existing, new, and reconstructed asphalt roofing manufacturing lines.[a]	a. Limit exhaust gases to 20 percent opacity; and b. Limit visible emissions from the emission capture system to 20 percent of any period of consecutive valid observations totaling 60 minutes.
4. Each Group 2 asphalt storage tank at existing, new, and reconstructed asphalt processing facility and asphalt roofing manufacturing lines.[a]	Limit exhaust gases to 0 percent opacity.[b]

[a] As an alternative to meeting the particulate matter and opacity limits, these emission sources may comply with the THC percent reduction or combustion efficiency standards.

[b] The opacity limit can be exceeded for on consecutive 15-minute period in any 24-hour period when the storage tank transfer lines are being cleared. During this 15-minute period, the control device must not be bypassed. If the emissions from the asphalt storage tank are ducted to the saturator control device, the combined emissions from the saturator and storage tank must meet the 20 percent opacity limit (specified in 4.a of table 1) during this 15-minute period. At any other time, the opacity limit applies to Group 2 asphalt storage tanks.

TABLE 2 TO SUBPART LLLLL OF PART 63.—OPERATING LIMITS

For—	You must[a]
1. Non-flare combustion devices with a design heat input capacity less than 44 MW or where the emissions are not introduced into the flame zone.	Maintain the 3-hour average[b] combustion zone temperature at or above the operating limit established during the performance test.
2. Flares	Meet the operating requirements specified in §63.11(b).
3. Control devices used to comply with the particulate matter standards.	a. Maintain the 3-hour average[b] inlet gas temperature at or below the operating limit established during the performance test; and b. Maintain the 3-hour average[b] pressure drop across the device[c] at or below the operating limit established during the performance test.
4. Control devices other than combustion devices or devices used to comply with the particulate matter emission standards.	Maintain the approved monitoring parameters within the operating limits established during the performance test.

[a] The operating limits specified in Table 2 are applicable if you are monitoring control device operating parameters to demonstrate continuous compliance. If you are using a CEMS or COMS, you must maintain emissions below the value established during the initial performance test.

[b] A 15-minute averaging period can be used as an alternative to the 3-hour averaging period for this parameter.

[c] As an alternative to monitoring the pressure drop across the control device, owners or operators using an ESP to achieve compliance with the emission limits specified in Table 1 of this subpart can monitor the voltage to the ESP. If this option is selected, the ESP voltage must be maintained at or above the operating limit established during the performance test.

TABLE 3 TO SUBPART LLLLL OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS[a] [b]

For—	You must—	Using—	According to the following requirements—
1. All particulate matter, total hydrocarbon, carbon monoxide, and carbon dioxide emission tests.	a. Select sampling port's location and the number of traverse points.	i. EPA test method 1 or 1A in appendix A to part 60 of this chapter.	A. For demonstrating compliance with the total hydrocarbon percent reduction standard, the sampling sites must be located at the inlet and outlet of the control device and prior to any releases to the atmosphere. B. For demonstrating compliance with the particulate matter mass emission rate, THC destruction efficiency, THC outlet concentration, or combustion efficiency standards, the sampling sites must be located at the outlet of the control device and prior to any releases to the atmosphere.
2. All particulate matter and total hydrocarbon tests.	Determine velocity and volumetric flow rate.	EPA test method 2, 2A, 2C, 2D, 2F, or 2G, as appropriate, in appendix A to part 60 of this chapter.	
3. All particulate matter and total hydrocarbon tests.	Determine the gas molecular weight used for flow rate determination.	EPA test method 3, 3A, 3B, as appropriate, in appendix A to part 60 of this chapter.	
4. All particulate matter, total hydrocarbon, carbon monoxide, and carbon dioxide emission tests.	Measure moisture content of the stack gas.	EPA test 4 in appendix A to part 60 of this chapter.	
5. All particulate matter emission tests.	Measure the asphalt processing rate or the asphalt roofing manufacturing rate and the asphalt content of the product manufactured, as appropriate.		

TABLE 3 TO SUBPART LLLLL OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS [a] [b]—Continued

For—	You must—	Using—	According to the following requirements—
6. Each control device used to comply with the particulate matter emission standards.	Measure the concentration of particulate matter.	EPA test method 5A in appendix A to part 60 of this chapter.	For demonstrating compliance with the particulate matter standard, the performance tests must be conducted under normal operating conditions and while manufacturing the roofing product that is expected to result in the greatest amount of hazardous air pollutant emissions.
7. All opacity tests	Conduct opacity observations	EPA test method 9 in appendix A to part 60 of this chapter.	Conduct opacity observations for at least 3 hours and obtain 30, 6-minute averages.
8. All visible emission tests	Conduct visible emission observations.	EPA test method 22 in appendix A to part 60 of this chapter.	Modify EPA test method 22 such that readings are recorded every 15 seconds for a period of consecutive observations totaling 60 minutes.
9. Each combustion device used to comply with the combustion efficiency or THC standards.	a. Measure the concentration of carbon dioxide.	EPA test method 3A in appendix A to part 60 of this chapter.	
	b. Measure the concentration of carbon monoxide.	EPA test method 10 in appendix A to part 60 of this chapter.	
	c. Measure the concentration of total hydrocarbons.	EPA test method 25A in appendix A to part 60 of this chapter.	
10. Each control device used to comply with the THC reduction efficiency or outlet concentration standards.	Measure the concentration of total hydrocarbons.	EPA test method 25A in appendix A to part 60 of this chapter.	
11. Each combustion device	Establish a site-specific combustion zone temperature limit.	Data from the CPMS and the applicable performance test method(s).	You must collect combustion zone temperature data every 15 minutes during the entire period of the initial 3-hour performance test, and determine the average combustion zone temperature over the 3-hour performance test by computing the average of all of the 15-minute readings.
12. Each control device used to comply with the particulate matter emission standards.	Establish a site-specific inlet gas temperature limit; and establish a site-specific limit for the pressure drop across the device.	Data from the CPMS and the applicable performance test method(s).	You must collect the inlet gas temperature and pressure drop [b] data every 15 minutes during the entire period of the initial 3-hour performance test, and determine the average inlet gas temperature and pressure drop [c] over the 3-hour performance test by computing the average of all of the 15-minute readings.
13. Each control device other than a combustion device or device used to comply with the particulate matter emission standards.	Establish site-specific monitoring parameters.	Process data and data from the CPMS and the applicable performance test method(s).	You must collect monitoring parameter data every 15 minutes during the entire period of the initial 3-hour performance test, and determine the average monitoring parameter values over the 3-hour performance test by computing the average of all of the 15-minute readings.
14. Each flare used to comply with the THC percent reduction or PM emission limits.	Assure that the flare is operated and maintained in conformance with its design.	The requirements of § 63.11(b).	

[a] As specified in § 63.8687(e), you may request that data from a previously-conducted emission test serve as documentation of conformance with the emission standards and operating limits of this subpart.

[b] Performance tests are not required if: (1) The emissions are routed to a boiler or process heater with a design heat input capacity of 44 MW or greater; or (2) the emissions are introduced into the flame zone of a boiler or process heater.

[c] As an alternative to monitoring the pressure drop across the control device, owners or operators using an ESP to achieve compliance with the emission limits specified in Table 1 of this subpart can monitor the voltage to the ESP.

TABLE 4 TO SUBPART LLLLL TO PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS

For—	For the following emission limitation—	You have demonstrated initial compliance if—
1. Each blowing still, Group 1 asphalt loading rack, and Group 1 asphalt storage tank, at existing, new, and reconstructed asphalt processing facilities;.	a. Reduce total hydrocarbon mass emissions by 95 percent or to a concentration of 20 ppmv, on a dry basis corrected to 3 percent oxygen.	i. The total hydrocarbon emissions, determined using the equations in § 63.8687 and the test methods and procedures in Table 3 to this subpart, over the period of the performance test are reduced by at least 95 percent by weight or to a concentration of 20 ppmv, on a dry basis corrected to 3 percent oxygen; and ii. You have a record of the average control device operating parameters [a] over the performance test during which emissions were reduced according to 1.a.i. of this table.
	b. Route the emissions to a combustion device achieving a combustion efficiency of 99.5 percent.	i. The combustion efficiency of the combustion device, determined using the equations in § 63.8687 and the test methods and procedures in Table 3 to this subpart, over the period of the performance test is at least 99.5 percent; and ii. You have a record of the average combustion zone temperature [a] and carbon monoxide, carbon dioxide, and total hydrocarbon outlet concentrations over the performance test during which the combustion efficiency was at least 99.5 percent.
	c. Route the emissions to a combustion device that does not use auxiliary fuel achieving a THC destruction efficiency of 95.8 percent.	i. The THC destruction efficiency of the combustion device, determined using the equations in § 63.8687 and the test methods and procedures in Table 3 to this subpart, over the period of the performance test is at least 95.8 percent; and ii. You have a record of the average combustion zone temperature [a] and carbon monoxide, carbon dioxide, and total hydrocarbon outlet concentrations over the performance test during which the THC destruction efficiency was at least 95.8 percent.
	d. Route emissions to a boiler or process heater with a design heat input capacity of 44 MW or greater.	You have a record of the boiler or process heater design heat capacity.
	e. Introduce the emissions into the flame zone of a boiler or process heater.	You have a record that shows the emissions are being introduced into the boiler or process heater flame zone.
	f. Route emissions to a flare meeting the requirements of § 63.11(b).	You have a record of the flare design and operating requirements.
2. Each coating mixer, saturator (including wet looper), coater, sealant applicator, adhesive applicator, and Group 1 asphalt storage tank at new and reconstructed asphalt roofing manufacturing lines.	a. Reduce total hydrocarbon mass emissions by 95 percent or to a concentration of 20 ppmv, on a dry basis corrected to 3 percent oxygen.	See 1.a.i. and ii. of this table.
	b. Route the emissions to a combustion device achieving a combustion efficiency of 99.5 percent.	See 1.b.i. and ii. of this table.
	c. Route the emissions to a combustion device that does not use auxiliary fuel achieving a THC destruction efficiency of 95.8 percent.	See 1.c.i. and ii. of this table.
	d. Route emissions to a boiler or process heater with a design heat input capacity of 44 MW or greater.	See 1.d. of this table.
	e. Introduce the emissions into the flame zone of a boiler or process heater.	See 1.e. of this table.
	f. Route emissions to a flare meeting the requirements of § 63.11(b).	See 1.f. of this table.
3. The total emissions from the coating mixer, saturator (including wet looper), coater, sealant applicator, and adhesive applicator at each existing asphalt roofing manufacturing line.	a. Limit PM emissions to 0.04 kg/Mg (0.08 lb/ton) of asphalt shingle or mineral-surfaced roll roofing produced.	i. The PM emissions, determined using the equations in § 63.8687 and the test methods and procedures in Table 3 to this subpart, over the period of the performance test are no greater than the applicable emission limitation; and ii. You have a record of the average control device [a] or process parameters over the performance test during which the particulate matter emissions were no greater than the applicable emission limitation.

TABLE 4 TO SUBPART LLLLL TO PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS—Continued

For—	For the following emission limitation—	You have demonstrated initial compliance if—
	b. Limit PM emissions to 0.4 kg/Mg (0.8 lb/ton) of saturated felt or smooth-surfaced roll roofing produced.	See 3.a.i. and ii. of this table.
4. Each saturator (including wet looper) and coater at an existing, new, or reconstructed asphalt roofing manufacturing line.	a. Limit visible emissions from the emissions capture system to 20 percent of any period of consecutive valid observations totaling 60 minutes.	The visible emissions, measured using EPA test method 22, for any period of consecutive valid observations totaling 60 minutes during the initial compliance period described in §63.8686(b) do not exceed 20 percent.
	b. Limit opacity emissions to 20 percent.	The opacity, measured using EPA test method 9, for each of the first 30 6-minute averages during the initial compliance period described in §63.8686(b) does not exceed 20 percent.
5. Each Group 2 asphalt storage tank at existing, new, and reconstructed asphalt processing facilities and asphalt roofing manufacturing lines.	Limit exhaust gases to 0 percent opacity.	The opacity, measured using EPA test method 9, for each of the first 30 6-minute averages during the initial compliance period described in §63.8686(b) does not exceed 0 percent.

[a] If you use a CEMS or COMS to demonstrate compliance with the emission limits, you are not required to record control device operating parameters.

TABLE 5 TO SUBPART LLLLL OF PART 63.—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS [a]

For—	For the following operating limit—	You must demonstrate continuous compliance by—
1. Each non-flare combustion device.[a]	a. Maintain the 3-hour[c] average combustion zone temperature at or above the operating limit establishing during the performance test.	i. Passing the emissions through the control device; and ii. Collecting the combustion zone temperature data according to §63.8688(b); and iii. Reducing combustion zone temperature data to 3-hour[c] averages according to calculations in Table 3 to this subpart; and iv. Maintaining the 3-hour[c] average combustion zone temperature within the level established during the performance test.
2. Each flare	Meet the operating requirements specified in §63.11(b)..	The flare pilot light must be present at all times and the flare must be operating at all times that emissions may be vented to it.
3. Control devices used to comply with the particulate matter emission standards.	a. Maintain the 3-hour[c] average inlet gas temperature and pressure drop across device[d] at or below the operating limits established during the performance test.	i. Passing the emissions through the control device; and ii. Collecting the inlet gas temperature and pressure drop[d] data according to §63.8688 (b) and (c); and iii. Reducing inlet gas temperature and pressure drop[d] data to 3-hour[c] averages according to calculations in Table 3 to this subpart; and iv. Maintaining the 3-hour[c] average inlet gas temperature and pressure drop[d] within the level established during the performance test.
4. Control devices other than combustion devices or devices used to comply with the particulate matter emission.	a. Maintain the monitoring parameters within the operating limits established during the performance test.	i. Passing the emissions through the devices; ii. Collecting the monitoring parameter data according to §63.8688(d); and iii. Reducing the monitoring parameter data to 3-hour[c] averages according to calculations in Table 3 to this subpart; and iv. Maintaining the monitoring parameters within the level established during the performance test.

[a] The operating limits specified in Table 2 and the requirements specified in Table 5 are applicable if you are monitoring control device operating parameters to demonstrate continuous compliance. If you use a CEMS or COMS to demonstrate compliance with the emission limits, you are not required to record control device operating parameters. However, you must maintain emissions below the value established during the initial performance test. Data from the CEMS and COMS must be reduced as specified in §63.9(g).

[b] Continuous parameter monitoring is not required if (1) the emissions are routed to a boiler or process heater with a with a design heat input capacity of 44 MW or greater; or (2) the emissions are introduced into the flame zone of a boiler or process heater.

[c] A 15-minute averaging period can be used as an alternative to the 3-hour averaging period for this parameter.

[d] As an alternative to monitoring the pressure drop across the control device, owners or operators using an ESP to achieve compliance with the emission limits specified in Table 1 of this subpart can monitor the voltage to the ESP. If this option is selected, the ESP voltage must be maintained at or above the operating limit established during the performance test.

TABLE 6 TO SUBPART LLLLL OF PART 63—REQUIREMENTS FOR REPORTS

You must submit—	The report must contain—	You must submit the report—
1. An initial notification	The information in §63.9(b)	According to the requirements in §63.9(b).
2. A notification of performance test	A written notification of the intent to conduct a performance test.	At least 60 calendar days before the performance test is scheduled to begin, as required in §63.9(e).
3. A notification of opacity and visible emission observations.	A written notification of the intent to conduct opacity and visible emission observations.	According to the requirements in §63.9(f).

TABLE 6 TO SUBPART LLLLL OF PART 63—REQUIREMENTS FOR REPORTS—Continued

You must submit—	The report must contain—	You must submit the report—
4. Notification of compliance status	The information in § 63.9(h)(2) through (5), as applicable	According to the requirements in § 63.9(h)(2) through (5), as applicable.
5. A compliance report	a. A statement that there were no deviations from the emission limitations during the reporting period, if there are no deviations from any emmission limitations (emission limit, operating limit, opacity limit, and visible emission limit) that apply to you.	Semiannually according to the requirements in § 63.8693(b).
	b. If there were no periods during which the CPMS, CEMS, or COMS was out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which the CPMS, CEMS, or COMS was out-of-control during the reporting period.	Semiannually according to the requirements in § 63.8693(b).
	c. If you have a deviation from any emission limitation (emission limit, operating limit, opacity limit, and visible emission limit), the report must contain the information in § 63.8693(c). If there were periods during which the CPMS, CEMS, or COMS was out-of-control, as specified in § 63.8(c)(7), the report must contain the information in § 63.8693(d).	Semiannually according to the requirements in § 63.8693(b).
	d. If you had a startup, shutdown or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).	Semiannually according to the requirements in § 63.8693(b).
6. An immediate startup, shutdown, and malfunction report if you have a startup, shutdown, or malfunction during the reporting period and actions taken were not consistent with your startup, shutdown, and malfunction plan.	The information in § 63.10(d)(5)(ii)	By fax or telephone within 2 working days after starting actions inconsistent with the plan followed by a letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority.

TABLE 7 TO SUBPART LLLLL OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLL

Citation	Subject	Brief description	Applies to subpart LLLLL
§ 63.1	Applicability	Initial Applicability Determination; Applicability After Standard Established; Permit Requirements; Extensions, Notifications.	Yes.
§ 63.2	Definitions	Definitions for part 63 standards	Yes.
§ 63.3	Units and Abbreviations	Units and abbreviations for part 63 standards	Yes.
§ 63.4	Prohibited Activities	Prohibited Activities; Compliance date; Circumvention, Severability.	Yes.
§ 63.5	Construction/Reconstruction	Applicability; applications; approvals	Yes.
§ 63.6(a)	Applicability	GP apply unless compliance extension GP apply to area sources that become major.	Yes.
§ 63.6(b)(1)–(4)	Compliance Dates for New and Reconstructed sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for section 112(f).	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes.
§ 63.6(b)(6)	[Reserved].		
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources That Become Major.	Area sources that become major must comply with major source standards immediately upon becoming major, regardless of whether required to comply when they were an area source.	Yes.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources	1. Comply according to date in subpart, which must be no later than 3 years after effective date. 2. For section 112(f) standards, comply within 90 days of effective date unless compliance extension has been granted.	Yes.
§ 63.6(c)(3)–(4)	[Reserved].		
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources That Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (for example, 3 years).	Yes.

TABLE 7 TO SUBPART LLLLL OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLL—Continued

Citation	Subject	Brief description	Applies to subpart LLLLL
§ 63.6(d)	[Reserved].		
§ 63.6(e)(1)	Operation & Maintenance	1. Operate to minimize emissions at all times ... 2. Correct malfunctions as soon as practicable 3. Operation and maintenance requirements independently enforceable; information Administrator will use to determine if operation and maintenance requirements were met.	Yes.
§ 63.6(e)(2)	[Reserved].		
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction (SSM) Plan (SSMP).	1. Requirement for SSM and startup, shutdown, malfunction plan. 2. Content of SSMP	Yes.
§ 63.6(f)(1)	Compliance Except During SSM	You must comply with emission standards at all times except during SSM.	Yes.
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes.
§ 63.6(g)(1)–(3)	Alternative Nonopacity Standard	Procedures for getting an alternative nonopacity standard.	Yes.
§ 63.6(h)	Opacity/Visible Emission (VE) Standards	Requirements for opacity and VE limits	Yes.
§ 63.6(h)(1)	Compliance with Opacity/VE Standards	You must comply with opacity/VE emission limitations at all times except during SSM.	Yes.
§ 63.6(h)(2)(i)	Determining Compliance with Opacity/VE Standards.	If standard does not state test method, use EPA test method 9, 40 CFR 60, appendix A for opacity and EPA test method 22, 40 CFR 60, appendix A for VE.	No. The test methods for opacity and visible emissions are specified in § 63.8687.
§ 63.6(h)(2)(ii)	[Reserved].		
§ 63.6(h)(2)(iii)	Using Previous Tests to Demonstrate Compliance with Opacity/VE Standards.	Criteria for when previous opacity/VE testing can be used to show compliance with this rule.	Yes.
§ 63.6(h)(3)	[Reserved].		
§ 63.6(h)(4)	Notification of Opacity/VE Observation Date	Must notify Administrator of anticipated date of observation.	Yes.
§ 63.6(h)(5)(i), (iii)–(v).	Conducting Opacity/VE Observations	Dates and Schedule for conducting opacity/VE observations.	Yes.
§ 63.6(h)(5)(ii)	Opacity Test Duration and Averaging Times	Must have at least 3 hours of observation with thirty 6-minute averages.	Yes.
§ 63.6(h)(6)	Records of Conditions During Opacity/VE Observations.	Must keep records available and allow Administrator to inspect.	Yes.
§ 63.6(h)(7)(i)	Report COMS Monitoring Data from Performance Test.	Must submit COMS data with other performance test data.	Yes, if COMS used.
§ 63.6(h)(7)(ii)	Using COMS instead of EPA test method 9, 40 CFR 60, appendix A.	Can submit COMS data instead of EPA test method 9, 40 CFR 60, appendix A results even if rule requires EPA test method 9, 40 CFR 60, appendix A, but must notify Administrator before performance test.	Yes, if COMS used.
§ 63.6(h)(7)(iii)	Averaging time for COMS during performance test.	To determine compliance, must reduce COMS data to 6-minute averages.	Yes, if COMS used.
§ 63.6(h)(7)(iv)	COMS requirements	Owner/operator must demonstrate that COMS performance evaluations are conducted according to § 63.8(e), COMS are properly maintained and operated according to § 63.8(c) and data quality as § 63.8(d).	Yes, if COMS used.
§ 63.6(h)(7)(v)	Determining Compliance with Opacity/VE Standards.	COMS is probative but not conclusive evidence of compliance with opacity standard, even if EPA test method 9, 40 CFR 60, appendix A observation shows otherwise. Requirements for COMS to be probative evidence, proper maintenance, meeting PS 1, and data have not been altered.	Yes, if COMS used.
§ 63.6(h)(8)	Determining Compliance with Opacity/VE Standards.	Administrator will use all COMS, EPA test method 9, 40 CFR 60, appendix A, and EPA test method 22, 40 CFR 60, appendix A results, as well as information about operation and maintenance to determine compliance.	Yes.
§ 63.6(h)(9)	Adjusted Opacity Standard	Procedures for Administrator to adjust an opacity standard.	Yes.
§ 63.6(i)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes.
§ 63.6(j)	Presidential Compliance Exemption	President may exempt source category from requirement to comply with rule.	Yes.

TABLE 7 TO SUBPART LLLLL OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLL—Continued

Citation	Subject	Brief description	Applies to subpart LLLLL
§ 63.7(a)(1)–(2) ...	Performance Test Dates	Dates for conducting initial performance testing and other compliance demonstrations. Must conduct 180 days after first subject to rule.	Yes.
§ 63.7(a)(3)	Section 114 Authority	Administrator may require a performance test under CAA section 114 at any time.	Yes.
§ 63.7(b)(1)	Notification of Performance Test	Must notify Administrator 60 days before the test.	Yes.
§ 63.7(b)(2)	Notification of Rescheduling	If rescheduling a performance test is necessary, must notify Administrator 5 days before scheduled date of rescheduled date.	Yes.
§ 63.7(c)	Quality Assurance/Test Plan	1. Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with: 2. Test plan approval procedures ..... 3. Performance audit requirements ..... 4. Internal and external QA procedures for testing.	Yes.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests ..	1. Performance tests must be conducted under representative conditions. Cannot conduct performance tests during SSM. 2. Not a violation to exceed standard during SSM.	Yes.
§ 63.7(e)(2)	Conditions for Conducting Performance Tests ..	Must conduct according to rule and EPA test methods unless Administrator approves alternative.	Yes.
§ 63.7(e)(3)	Test Run Duration	1. Must have three test runs of at least 1 hour each. 2. Compliance is based on arithmetic mean of three runs. 3. Conditions when data from an additional test run can be used.	Yes.
§ 63.7(f)	Alternative Test Method	Procedures by which Administrator can grant approval to use an alternative test method.	Yes.
§ 63.7(g)	Performance Test Data Analysis	1. Must include raw data in performance test report. 2. Must submit performance test data 60 days after end of test with the Notification of Compliance Status. 3. Keep data for 5 years	Yes.
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test.	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements	Subject to all monitoring requirements in standard.	Yes.
§ 63.8(a)(2)	Performance Specifications	Performance Specifications in appendix B of part 60 apply.	Yes, if CEMS used.
§ 63.8(a)(3)	[Reserved]		
§ 63.8(a)(4)	Monitoring with Flares	Unless your rule says otherwise, the requirements for flares in § 63.11 apply.	Yes.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes.
§ 63.8(b) (2)–(3) ..	Multiple Effluents and Multiple Monitoring Systems.	1. Specific requirements for installing monitoring systems. 2. Must install on each effluent before it is combined and before it is released to the atmosphere unless Administrator approves otherwise. 3. If more than one monitoring system on an emission point, must report all monitoring system results, unless one monitoring system is a backup.	Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance	Maintain monitoring system in a manner consistent with good air pollution control practices.	Yes.
§ 63.8(c)(1)(i)	Routine and Predictable CMS malfunction	1. Follow the SSM plan for routine repairs ..... 2. Keep parts for routine repairs readily available. 3. Reporting requirements for CMS malfunction when action is described in SSM plan.	Yes.
§ 63.8(c)(1)(ii)	CMS malfunction not in SSP plan	Reporting requirements for CMS malfunction when action is not described in SSM plan.	Yes.

TABLE 7 TO SUBPART LLLLL OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLL—Continued

Citation	Subject	Brief description	Applies to subpart LLLLL
§ 63.8(c)(1)(iii)	Compliance with Operation and Maintenance Requirements.	1. How Administrator determines if source complying with operation and maintenance requirements. 2. Review of source O&M procedures, records, manufacturer's instructions, recommendations, and inspection of monitoring system.	Yes.
§ 63.8(c)(2)–(3)	Monitoring System Installation	1. Must install to get representative emission and parameter measurements. 2. Must verify operational status before or at performance test.	Yes.
§ 63.8(c)(4)	CMS Requirements	CMS must be operating except during breakdown, out-of-control, repair, maintenance, and high-level calibration drifts.	No; § 63.8690 specifies the CMS requirements.
§ 63.8(c)(4)(i)–(ii)	CMS Requirements	1. COMS must have a minimum of one cycle of sampling and analysis for each successive 10-second period and one cycle of data recording for each successive 6-minute period. 2. CEMS must have a minimum of one cycle of operation for each successive 15-minute period.	Yes, if COMS used.
§ 63.8(c)(5)	COMS Minimum Procedures	COMS minimum procedures	Yes.
§ 63.8(c)(6)	CMS Requirements	Zero and High level calibration check requirements.	No; § 63.8688 specifies the CMS requirements.
§ 63.8(c)(7)–(8)	CMS Requirements	Out-of-control periods, including reporting	Yes.
§ 63.8(d)	CMS Quality Control	1. Requirements for CMS quality control, including calibration, etc. 2. Must keep quality control plan on record for the life of the affected source. 3. Keep old versions for 5 years after revisions	No; § 63.8688 specifies the CMS requirements.
§ 63.8(e)	CMS Performance Evaluation	Notification, performance evaluation test plan, reports.	No; § 63.8688 specifies the CMS requirements.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method	Procedures for Administrator to approve alternative monitoring.	Yes.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	Procedures for Administrator to approve alternative relative accuracy tests for CEMS.	Yes, if CEMS used.
§ 63.8(g)(1)–(4)	Data Reduction	1. COMS 6-minute averages calculated over at least 36 evenly spaced data points. 2. CEMS 1-hour averages computed over at least 4 equally spaced data points.	Yes, if CEMS or COMS used.
§ 63.8(g)(5)	Data Reduction	Data that cannot be used in computing averages for CMS.	No; § 63.8690 specifies the CMS requirements.
§ 63.9(a)	Notification Requirements	Applicability and State Delegation	Yes.
§ 63.9(b)(1)–(5)	Initial Notifications	1. Submit notification 120 days after effective date. 2. Notification of intent to construct/reconstruct; notification of commencement of construct/reconstruct; notification of startup. 3. Contents of each	Yes.
§ 63.9(c)	Request for Compliance Extension	Can request if cannot comply by date or if installed Best Achievable Control Technology (BACT)/Lowest Achievable Emission Rate (LAER).	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes.
§ 63.9(e)	Notification of Performance Test	Notify Administrator 60 days prior	Yes.
§ 63.9(f)	Notification of VE/Opacity Test	Notify Administrator 30 days prior	Yes.
§ 63.9(g)	Additional Notifications When Using CMS	1. Notification of performance evaluation 2. Notification using COMS data 3. Notification that the criterion for use of alternative to relative accuracy testing was exceeded.	No; § 63.8692 specifies the CMS notification requirements.
§ 63.9(h)(1)–(6)	Notification of Compliance Status	1. Contents. 2. Due 60 days after end of performance test or other compliance demonstration, except for opacity/VE, which are due 30 days after. 3. When to submit to Federal vs. State authority	Yes.

TABLE 7 TO SUBPART LLLLL OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLL—Continued

Citation	Subject	Brief description	Applies to subpart LLLLL
§ 63.9(i)	Adjustment of Submittal Deadlines	Procedures for Administrator to approve change in dates when notifications must be submitted.	Yes.
§ 63.9(j)	Change in Previous Information	Must submit within 15 days after the change	Yes.
§ 63.10(a)	Recordkeeping/Reporting	1. Applies to all, unless compliance extension 2. When to submit to Federal vs. State authority 3. Procedures for owners of more than 1 source.	Yes.
§ 63.10(b)(1)	Recordkeeping/Reporting	1. General Requirements 2. Keep all records readily available. 3. Keep for 5 years	Yes.
§ 63.10(b)(2)(i)–(v).	Records related to Startup, Shutdown, and Malfunction.	1. Occurrence of each of operation (process equipment). 2. Occurrence of each malfunction of air pollution equipment. 3. Maintenance on air pollution control equipment. 4. Actions during startup, shutdown, and malfunction.	Yes.
§ 63.10(b)(2)(vi) and (x–xi).	CMS Records	1. Malfunctions, inoperative, out-of-control 2. Calibration checks 3. Adjustments, maintenance	Yes.
§ 63.10(b)(2)(vii)–(ix).	Records	1. Measurements to demonstrate compliance with emission limitations. 2. Performance test, performance evaluation, and visible emission observation results. 3. Measurements to determine conditions of performance tests and performance evaluations.	Yes.
§ 63.10(b)(2)(xii)	Records	Records when under waiver	Yes
§ 63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test.	Yes.
§ 63.10(b)(2)(xiv)	Records	All documentation supporting Initial Notification and Notification of Compliance Status.	Yes.
§ 63.10(b)(3)	Records	Applicability determinations	Yes.
§ 63.10(c)(1)–(6), (9)–(15).	Records	Additional records for CMS	No; § 63.8694 specifies the CMS recordkeeping requirements.
§ 63.10(c)(7)–(8)	Records	Records of excess emissions and parameter monitoring exceeedances for CMS.	No; § 63.8694 specifies the CMS recordkeeping requirements.
§ 63.10(d)(1)	General Reporting Requirements	Requirement to report	Yes.
§ 63.10(d)(2)	Report of Performance Test Results	When to submit to Federal or State authority	Yes.
§ 63.10(d)(3)	Reporting Opacity or VE Observations	What to report and when	Yes.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes.
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports	Contents and submission	Yes.
§ 63.10(e)(1), (2)	Additional CMS Reports	1. Must report results for each CEM on a unit 2. Written copy of performance evaluation 3. Three copies of COMS performance evaluation.	Yes.
§ 63.10(e)(3)	Reports	Excess emission reports	No; § 63.8693 specifies the reporting requirements.
§ 63.10(e)(3)(i)–(iii).	Reports	Schedule for reporting excess emissions and parameter monitor exceedances (now defined as deviations).	No; § 63.8693 specifies the reporting requirements.
§ 63.10(e)(3)(iv)–(v).	Excess Emissions Reports	1. Requirement to revert to the frequency specified in the relevant standard if there is an excess emissions and parameter monitor exceedances (now defined as deviations). 2. Provision to request semiannual reporting after compliance for one year. 3. Submit report by 30th day following end of quarter or calendar half. 4. If there has not been an exceedance or excess emission (now defined as deviations), report content is a statement that there have been no deviations.	No; § 63.8693 specifies the reporting requirements.

TABLE 7 TO SUBPART LLLLL OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLL—Continued

Citation	Subject	Brief description	Applies to subpart LLLLL
§ 63.10(e)(3)(iv)–(v).	Excess Emissions Reports	Must submit report containing all of the information in § 63.10(c)(5)(13), § 63.8(c)(7)–(8).	No; § 63.8693 specifies the reporting requirements.
§ 63.10(e)(3)(vi)–(viii).	Excess Emissions Report and Summary Report	1. Requirements for reporting excess emissions for CMS (now called deviations). 2. Requires all of the information in § 63.10(c)(5)(13), § 63.8(c)(7)–(8).	No; § 63.8693 specifies the reporting requirements.
§ 63.10(e)(4)	Reporting COMS data	Must submit COMS data with performance test data.	Yes, if COMS used.
§ 63.10(f)	Waiver for Recordkeeping/Reporting	Procedures for Administrator to waive	Yes.
§ 63.11	Flares	Requirements for flares	Yes.
§ 63.12	Delegation	State authority to enforce standards	Yes.
§ 63.13	Addresses	Addresses where reports, notifications, and requests are sent.	Yes.
§ 63.14	Incorporation by Reference	Test methods incorporated by reference	Yes.
§ 63.15	Availability of Information	Public and confidential information	Yes.

[FR Doc. 03–5624 Filed 4–28–03; 8:45 am]
BILLING CODE 6560–50–U

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. Add a new § 165.T11–036 to read as follows:

§ 165.T11–036 Safety Zone; Colorado River, Between Laughlin Bridge and Harrah's Hotel and Casino.

(a) *Location.* The area described as follows is a safety zone: from that portion of the Colorado River, starting at Laughlin Bridge to Harrah's Hotel and Casino.

(b) *Effective dates.* This safety zone will be in effect from 8:30 a.m. (PDT) on May 9, 2003 until 4:30 p.m. (PDT) on May 10, 2003. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this zone by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative. Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander, who will be Chief Petty Officer Rich Dann. The Patrol Commander may be contacted via VHF–FM channel 16.

Dated: April 23, 2003.

Stephen P. Metruck,

Commander, U.S. Coast Guard, Captain of the Port, San Diego.

[FR Doc. 03–11163 Filed 5–5–03; 8:45 am]

BILLING CODE 4910–15–P

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 (§ § 63.1 to 63.599), revised as of July 1, 2002, on page 44 at the top of the first column, § 63.8 is corrected by adding paragraph designation (f) and its heading to read as follows:

§ 63.8 Monitoring requirements.

* * * * *

(f) *Use of an alternative monitoring method*—(1)* * *

* * * * *

[FR Doc. 03–55514 Filed 5–5–03; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Mary Jean Pajak, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2831.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of BFEs and modified BFEs for each community listed. The proposed BFEs and proposed modified BFEs were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed BFEs and proposed modified BFEs were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.



Federal Register

Wednesday,
May 7, 2003

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing; Final Rule; Republication

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0035; FRL–7461–8]

RIN 2060–AG66

National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing

Editorial Note: Due to numerous errors this document is being reprinted in its entirety. It was originally printed in the **Federal Register** on Tuesday, April 29, 2003 at 68 FR 22975–23007.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for existing and new asphalt processing and asphalt roofing manufacturing facilities. The EPA has identified asphalt processing and asphalt roofing manufacturing facilities as major sources of hazardous air pollutants (HAP) such as formaldehyde, hexane, hydrogen chloride (HCl), phenol, polycyclic organic matter (POM), and toluene. The final standards will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). The total HAP reduction resulting from compliance with the rule is expected to be 86 megagrams per year (Mg/yr).

A variety of HAP are emitted from asphalt processing and asphalt roofing manufacturing source categories. The following HAP account for the majority (approximately 98 percent, based on the emission factors developed for the final rule) of the total HAP emissions: Formaldehyde, hexane, HCl (at asphalt processing facilities that use chlorinated catalysts), phenol, and toluene. The remaining two percent of the total HAP emissions is a combination of several different organic HAP, each contributing less than 0.5 percent to the total HAP emissions.

EFFECTIVE DATE: April 29, 2003.

ADDRESSES: The official public docket is the collection of materials that is available for public viewing at the Office of Air and Radiation Docket and Information Center (Air Docket) in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For information concerning applicability and rule determinations, contact your State or local representative or appropriate EPA Regional Office representative. For information concerning rule development, contact Rick Colyer, Minerals and Inorganic Chemicals Group, Emission Standards Division (C504–05), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5262, electronic mail address, *colyer.rick@epa.gov.*

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Categories and entities potentially regulated by this action:

TABLE 1.—REGULATED CATEGORIES AND ENTITIES

Category	NAICS[a]		SIC[b]	
	Code	Description	Code	Description
Manufacturing	324122	Asphalt shingle and coating materials manufacturing.	2952	Asphalt felts and coating.
Manufacturing	32411	Petroleum refineries	2911	Petroleum refining.
Federal Government	Not affected		Not affected	
State/Local/Tribal Government	Not affected		Not affected.	

[a] Standard Industrial Classification Code.
[b] North American Information 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 facility is regulated by this action, you should examine the applicability criteria in §§ 63.8681 and 63.8682 of the final rule. If you have any questions regarding the applicability of this action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Docket. The EPA has established an official public docket for this action under Docket ID No. OAR–2002–0035. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Office of Air and Radiation Docket and Information Center (Air Docket) in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center 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 Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742. A reasonable fee may be charged for copying docket materials.

Electronic Docket Access. You may access the final rule electronically through the EPA Internet under the "Federal Register" listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility in the above paragraph entitled "Docket." Once in the system, select "search," then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. The EPA's policy is that copyrighted

material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility previously identified.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of the final rule is also available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the 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. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Judicial Review. The NESHAP for asphalt processing and asphalt roofing manufacturing was proposed on November 21, 2001 (66 FR 58610). Under section 307(b)(1) of the CAA, judicial review of the NESHAP is available by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by June 30, 2003. Only those objections to the rule that were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2) of the CAA, the requirements that are the subject of today's final rule may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Background Information Document. The EPA proposed the NESHAP for asphalt processing and asphalt roofing manufacturing on November 21, 2001 (66 FR 58610) and received 21 comment letters on the proposal. In response to the public comments, EPA adjusted the final NESHAP where appropriate. A background information document (BID) ("National Emission Standards for Hazardous Air Pollutants, Asphalt Processing and Asphalt Roofing Manufacturing, Summary of Public Comments and Responses," February 2003, EPA–453/R–03–005) containing EPA's responses to each public comment is available in Docket No. OAR–2002–0035.

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

I. Background
A. What is the statutory authority for the final NESHAP?
B. What criteria were used in the development of NESHAP?
C. What operations constitute asphalt processing and asphalt roofing manufacture?
D. What are the HAP emissions and HAP emission sources?
E. What are the health effects associated with the HAP emitted from the asphalt processing and asphalt roofing manufacturing source categories?
F. What was the basis for the proposed standards?
II. Summary of the Final Standards
A. Does the final NESHAP apply to me?
B. What are the affected sources?
C. What pollutants are regulated by the final NESHAP?
D. What emission limits must I meet?
E. When must I comply?
F. What are the testing and initial compliance requirements?
G. What are the continuous compliance provisions?
H. What are the notification, recordkeeping and reporting requirements?
III. What are the responses to the significant comments?
A. Rule Applicability
B. Asphalt Storage Tank and Loading Rack Vapor Pressure Control Cutoff
C. Level of the Standards
D. Compliance Options
E. Performance Tests
F. Monitoring Requirements
G. Overlap with Other Rules
IV. Summary of Environmental, Energy and Economic Impacts
A. What are the air quality impacts?
B. What are the cost impacts?
C. What are the economic impacts?
D. What are the non-air health, environmental and energy impacts?
V. Statutory and Executive Order Reviews
A. Executive Order 12866, Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act (RFA)
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer Advancement Act
J. Congressional Review Act

I. Background

A. What Is the Statutory Authority for the Final NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP emissions and to establish NESHAP for the listed source categories and subcategories. A major source of HAP is any stationary source or group of stationary sources within a contiguous area under common control that emits or has the potential to emit, considering controls, in the aggregate, 9.1 Mg/yr (10 tons per year (tpy)) or more of any single HAP or 22.7 Mg/yr (25 tpy) or more of any combination of HAP. Based on the emissions data collected for this rulemaking, asphalt processing and asphalt roofing manufacturing facilities have the potential to be major sources of HAP.

The EPA listed asphalt processing and asphalt roofing manufacturing categories of major sources as separate source categories on July 16, 1992 (57 FR 31576). However, because these processes are closely related and are often collocated, we are regulating emissions from both source categories under a single NESHAP.

B. What Criteria Were Used in the Development of NESHAP?

Section 112(c)(2) of the CAA requires that we establish NESHAP for control of HAP from both existing and new major sources, based upon the criteria set out in section 112(d). The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable, taking into consideration the cost of achieving the emission reduction, any non-air quality health and environmental impacts, and energy requirements. This level of control is commonly referred to as the MACT.

The minimum control level allowed for NESHAP (the minimum level of stringency for MACT) is the so-called "MACT floor," as defined under section 112(d)(3) of the CAA. The MACT floor for existing sources is the emission limitation achieved by the average of the best-performing 12 percent of existing sources for categories and subcategories with 30 or more sources, or the average of the best-performing five sources for categories or subcategories with fewer than 30 sources. For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source.

In developing the final NESHAP, we considered control options that are more stringent than the MACT floor (so-called beyond-the-floor control options), taking into consideration the cost of achieving the emission reductions, and any non-air quality health and environmental impacts, and energy requirements.

In the final rule, the EPA is promulgating standards for both existing

and new sources consistent with these statutory requirements.

C. What Operations Constitute Asphalt Processing and Asphalt Roofing Manufacture?

The final rule regulates both asphalt processing and asphalt roofing manufacturing operations. Asphalt processing and asphalt roofing manufacturing operations can be stand-alone or integrated with each other, or with related operations such as wet-formed fiberglass mat manufacturing. In addition, asphalt is processed at some petroleum refineries.

Processed asphalt is produced using asphalt flux as the raw material. Asphalt flux is a product that is obtained in the last stages of fractional distillation of crude oil. Asphalt is processed to change its physical properties for use in various end products (*e.g.*, paving applications, roofing products). In asphalt processing, heated asphalt flux is taken from storage and charged to a heated blowing still where air is bubbled up through the flux. This process raises the softening temperature of the asphalt. The blowing process also decreases the penetration rate of the asphalt when applied to the roofing substrate. Some processing operations use a catalyst (*e.g.*, ferric chloride, phosphoric acid) in the blowing still to promote the oxidation of asphalt. The need to use catalyst is primarily driven by the type of feedstock used. Certain low-quality feedstocks (which are used, however, by necessity because substitute feedstocks are not available, see 66 FR 58619) require catalyst to be used to attain desired product specifications.

In asphalt roofing manufacturing, processed or modified asphalt (also called modified bitumen) is applied to a fibrous substrate (typically made of fiberglass or organic felt) to produce the following types of roofing products: Shingles, laminated shingles, smooth-surfaced roll roofing, mineral-surfaced roll roofing, and saturated felt roll roofing. Modified asphalt is asphalt that is mixed with polymer modifiers (which add strength and durability to the asphalt) and is typically used to produce roll roofing products. A roofing manufacturing line is a largely continuous operation, with line stoppages occurring primarily due to breaks in the substrate.

In asphalt roofing manufacturing, asphalt is typically mixed with filler materials before application to the substrate. If a fiberglass substrate is used, coating asphalt is applied by a coater. If an organic substrate is used, a saturator and wet looper are typically used prior to the coater to provide additional time for the asphalt to impregnate the substrate. The type of final product being manufactured determines the process steps that follow the coating or impregnation steps.

For shingles and mineral-surfaced roll roofing, granules are applied to the hot surface of the coated substrate. This step is omitted in manufacture of smooth-surfaced and saturated felt roll roofing. In shingle manufacturing, a strip of sealant (typically oxidized or modified asphalt) is applied to the back of the product after it has cooled. This sealant strip, which is heated by the sun after the roofing product is installed, provides some adhesion and sealing between layers of roofing product. In shingle manufacture, the coated substrate is cut into the desired size. Multiple single-ply shingles can be glued together (typically using oxidized or modified asphalt as an adhesive) to produce laminated or dimensional shingles. When asphalt roofing manufacturing lines are collocated with asphalt processing operations, the two operations typically share storage and process tanks.

D. What Are the HAP Emissions and HAP Emission Sources?

Asphalt is essentially the material that remains after fractional distillation of crude oil, with petroleum coke being the only other fraction available for recovery. Consequently, asphalt consists primarily of heavy organic compounds with low boiling points. Hazardous air pollutants are volatilized from asphalt as it is heated and agitated during processing and roofing manufacturing operations. Hazardous air pollutants are also volatilized during asphalt processing as a result of the oxidation reactions that occur in the blowing still.

Because the HAP volatilized from asphalt generally have low boiling points, they can be present in both condensed particulate matter (PM) and gaseous forms, depending on the temperature of the vent or exhaust gas. When the temperature of the vent gas is below the boiling point of a HAP, the HAP will condense into particulate form (*i.e.*, a cooler vent gas will have more HAP in the form of condensed PM, whereas a hotter vent stream will contain mostly gaseous HAP).

The following types of equipment are sources of PM HAP and gaseous HAP emissions: Asphalt storage and process tanks, asphalt blowing stills, asphalt loading racks, saturators, wet loopers, coating mixers, coaters, sealant applicators, and adhesive applicators. The majority of uncontrolled HAP emissions from an asphalt processing and asphalt roofing manufacturing facility (approximately 50 percent, based on the emission factors developed for this rulemaking) are contributed by the blowing stills, followed by the process equipment used to apply asphalt to the roofing substrate (*e.g.*, coating mixers, saturators, wet loopers, and coaters). Asphalt processing operations can also be sources of HCl, if a chlorinated catalyst is introduced into the blowing still during processing. Since most blowing still emissions are controlled by a combustion device, chlorine compounds present in the blowing still exhaust are oxidized and emitted as HCl from the blowing still combustion device outlet.

E. What Are the Health Effects Associated With the HAP Emitted From the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories?

A variety of HAP are emitted from asphalt processing and asphalt roofing manufacturing source categories. The following HAP account for the majority (approximately 98 percent, based on the emission factors developed for this rulemaking) of the total HAP emissions: Formaldehyde, hexane, HCl (at asphalt processing facilities that use chlorinated catalysts), phenol, and toluene. The remaining two percent of the total HAP emissions is a combination of several different organic HAP, each contributing less than 0.5 percent to the total HAP emissions.

The HAP emitted from these source categories (controlled under the final rule) are associated with a variety of adverse health effects. These adverse health effects include both chronic health disorders (*e.g.*, irritation of the lung, skin, and mucous membranes, effects on the central nervous system, and damage to the blood and liver) and acute health disorders (*e.g.*, respiratory irritation and central nervous system effects such as drowsiness, headache, and nausea). The EPA has classified two of the HAP (formaldehyde and POM) as probable human carcinogens.

The EPA does not have the type of current detailed data on each of the facilities and the people living around the facilities covered by today's rule for this source category that would be necessary to conduct an analysis to determine the actual population exposures to the HAP emitted from these facilities and the potential for resultant health effects. Therefore, EPA does not know the extent to which the adverse health effects described above occur in the populations surrounding these facilities. However, to the extent the adverse effects do occur, and this

rule reduces emissions, subsequent exposures would be reduced.

F. What Was the Basis for the Proposed Standards?

The EPA proposed standards for the HAP-emitting equipment at the two affected sources: Each asphalt processing facility (blowing stills, asphalt flux storage tanks, oxidized asphalt storage tanks, and asphalt loading racks) and each asphalt roofing manufacturing line (saturator, a wet looper, a coater, coating mixers, sealant applicators, adhesive applicators, and associated storage tanks).

The EPA determined the MACT floors for existing and new sources for each type of process equipment used in asphalt processing facilities and in asphalt roofing manufacturing lines. For each equipment type, the equipment pieces were ranked in order of level of control. Combustion devices were ranked over PM control devices because combustion devices reduce both gaseous HAP and condensed HAP.

At proposal, a combustion device operating at or above 1200 °F was the basis for the MACT floor for blowing stills, asphalt storage tanks with a capacity of 1.93 megagrams or greater, and loading racks at existing, new, and reconstructed affected sources. Blowing stills that use a chlorinated catalyst produce a vent stream that contains chlorinated organic compounds. When this vent stream is sent to a combustion device, the chlorinated organic compounds are oxidized to HCl which is a HAP. Because requiring facilities to use non-chlorinated catalysts is not feasible due to the need to produce oxidized asphalt of a given quality (see generally 66 FR 58618), and because no facilities control HCl emissions, the proposed MACT floor for HCl emissions from blowing stills using catalyst was based on no control of those emissions.

With the exception of asphalt storage tanks, the MACT floor for equipment at existing asphalt roofing manufacturing lines (coaters, saturators, wet loopers, coating mixers and sealant and adhesive applicators) was based on a PM control device complying with the new source performance standards (NSPS) for asphalt processing and roofing manufacture (asphalt NSPS) (40 CFR part 60, subpart UU) PM emission limits. The floor for saturators, coaters, and coating mixers at new and reconstructed affected sources was based on a combustion device operating at or above 1200 °F. For wet loopers at existing, new, and reconstructed affected sources, the MACT floor was based on a PM control device that achieves the asphalt NSPS PM emission limits. For storage tanks with capacity of 1.93 megagrams or greater at existing, new, and reconstructed asphalt roofing manufacturing lines, the MACT floor was based on a combustion device operating at or above 1200 °F.

The EPA evaluated potential options for achieving emission reductions more stringent than the floor (beyond-the-floor options) for three groups of equipment: (1) Saturators, wet loopers, coaters, coating mixers, and sealant and adhesive applicators at existing sources; (2) blowing stills that use a chlorinated catalyst at existing, new, and reconstructed sources; and (3) wet loopers at new and reconstructed sources. For all other equipment (blowing stills, loading racks, and storage tanks at existing, new, and reconstructed sources; and for saturators, coaters, coating mixers, and sealant and adhesive applicators at new and reconstructed sources), there are no known technologies in use at asphalt processing or roofing manufacturing facilities or similar sources that would be capable of achieving a greater emission reduction than a combustion device operating with a minimum operating temperature of 1200 °F. Thus, EPA did not consider beyond-the-floor options for these types of equipment.

For saturators, wet loopers, coating mixers, coaters, and sealant and adhesive applicators at existing affected sources, the level of control achieved by a combustion device with a minimum operating temperature of 1200 °F was identified as the only beyond-the-floor option. However, due to the cost per megagram of HAP reduction ($616,000) and the increase in criteria pollutant emissions, requiring the level of control achieved by a combustion device for saturators, wet loopers, coaters, coating mixers, and sealant and adhesive applicators at existing sources was not a justifiable option.

For blowing stills that use chlorinated catalysts, emissions of HCl can be reduced by a gas scrubber using caustic scrubbing media. However, since gas scrubbing has not been demonstrated as an effective technology for controlling HCl emissions from asphalt processing and due to the potentially high cost per megagram of HCl reduced ($23,900), the additional cost of going beyond-the-floor was not warranted. Nor is process substitution a viable option for controlling HCl emissions, as noted above. Therefore, the MACT for HCl emissions from blowing stills using catalyst was based on no emission reduction. For wet loopers, EPA considered the level of control of a combustion device operating at a minimum of 1200 °F as a beyond-the-floor option. Because controlling wet loopers at new affected sources was expected to add minimal if any cost to the total control cost, the MACT for wet loopers at new or reconstructed affected sources was based on a combustion device operating at a minimum of 1200 °F. See generally 66 FR 58618–621 and the memorandum "Documentation of Existing and New Source Maximum Achievable Control Technology (MACT) Floors for the National Emission Standard for Hazardous Air Pollutants (NESHAP) for Asphalt Processing and Asphalt Roofing Manufacturing" (Docket No. OAR–2002–0035).

With the exception of standards for certain tanks and loading racks, EPA is adopting all of these standards (and analysis) in the final rule.

II. Summary of the Final Standards

A. Does the Final NESHAP Apply to Me?

The final rule applies to you if you process asphalt (at stand-alone facilities or collocated with asphalt roofing manufacturing facilities or petroleum refineries) or manufacture asphalt roofing products at a facility that is a major source of HAP emissions. Major sources of HAP are those that emit or have the potential to emit at least 10 tpy of any one HAP or 25 tpy of any combination of HAP. All HAP emission sources at a facility, not just those related to asphalt processing or roofing manufacture, must be considered in determining major source status. Put another way, the final rule may apply to you even if the HAP emissions from your asphalt roofing products manufacturing and asphalt processing operations do not themselves exceed the major source threshold levels given above. If your facility is determined to be an area source (*i.e.*, not a major source), you would not be subject to the final rule.

For the storage tanks at asphalt processing and asphalt roofing manufacturing facilities regulated by the final NESHAP, the potential exists for these tanks to already be subject to an existing emission standard: The petroleum refinery NESHAP (40 CFR part 63, subpart CC), or standards of performance for volatile organic liquid storage vessels (40 CFR part 60, subparts K, Ka, and Kb). Storage tanks that are subject to those standards are not subject to the requirements of the asphalt rule since the control requirements specified by those standards for fixed roof storage tanks (used in the asphalt processing and asphalt roofing manufacturing industry) are as stringent as the standards

specified in the asphalt rule, and so regulation of these tanks under the asphalt rule would be duplicative, imposing costs without any environmental benefit.

The EPA also recognizes that asphalt storage tanks, blowing stills, saturators, wet loopers, and coaters at asphalt processing and asphalt roofing manufacturing facilities could be subject to both the final NESHAP and the asphalt NSPS. In cases where the requirements of the rules overlap, the final rule specifies that facilities are required to comply only with the asphalt NESHAP. However, any storage tank with a capacity less than 1.93 megagrams that is subject to the asphalt NSPS but not regulated under the asphalt NESHAP must comply with the asphalt NSPS.

Another instance where we are excluding equipment involved in asphalt roofing manufacturing from the final rule, due to regulatory overlap involves, wet-formed fiberglass mat production. Although wet-formed fiberglass mat is produced at both stand-alone facilities and those collocated with asphalt processing and roofing facilities, HAP emissions from wet-formed fiberglass mat manufacturing processes are regulated by another NESHAP (40 CFR part 63, subpart HHHH).

The final rule does not regulate asphalt processing and asphalt roofing manufacturing equipment that is used solely for research and development activities.

B. What Are the Affected Sources?

The two affected sources are defined as each asphalt processing facility and each asphalt roofing manufacturing line. An asphalt processing facility consists of one or more asphalt flux blowing stills, asphalt flux storage tanks storing asphalt flux intended for processing in the blowing stills, oxidized asphalt storage tanks, and oxidized asphalt loading racks. An asphalt roofing manufacturing line consists of a saturator (including wet looper) and/or a coater and their associated coating mixers, sealant applicators, adhesive applicators, and asphalt storage and process tanks.

To reduce repetition in the final NESHAP, we have separated asphalt storage tanks into two groups. Group 1 asphalt storage tanks: Have a capacity of 177 cubic meters (47,000 gallons) of asphalt or greater and either store asphalt at a maximum temperature of 260 °C (500 °F) or greater, or have a maximum true vapor pressure of 10.4 kiloPascals (kPa) (1.5 pounds per square inch absolute, psia) or greater. Group 2 asphalt storage tanks are those tanks with a capacity of 1.93 Mg of asphalt or greater that are not Group 1 asphalt storage tanks.

Asphalt storage tanks at asphalt processing and asphalt roofing manufacturing facilities that are collocated may be shared by the two operations. If the asphalt roofing manufacturing line is collocated with an asphalt processing facility, the storage tanks that receive asphalt directly from the on-site blowing stills are defined as part of the asphalt processing affected source.

A facility that manufactures asphalt roofing may have more than one manufacturing line. At these facilities, asphalt storage tanks and sealant and adhesive applicators may be shared by roofing manufacturing lines. A shared storage tank is considered part of the asphalt roofing manufacturing line to which the tank supplies the greatest amount of asphalt on an annual basis. Similarly, a sealant or adhesive applicator that is shared by two or more asphalt roofing manufacturing lines is considered part of the line that provides the greatest throughput to the applicator on an annual basis. Recordkeeping provisions documenting these equipment allocations are found in § 63.8694(d) of the final rule.

This definition of affected source is also used to determine if new source standards apply when subject equipment is "constructed" or "reconstructed," as defined in the NESHAP General Provisions (40 CFR 63.2). We defined the affected source as the asphalt processing facility or asphalt roofing manufacturing line, rather than on a narrow equipment-piece basis, because we believe that it is inappropriate for small changes (*e.g.*, the addition of a sealant applicator to a manufacturing line) to trigger the new source emission limits for only part of the manufacturing line. For asphalt processing facilities, this is not a concern since the existing and new source standards are the same. However, the existing and new source standards are different for asphalt roofing manufacturing lines.

For asphalt roofing manufacturing lines, the new source emission limits would be triggered only when an entire new line is added or when an existing line is reconstructed. This is appropriate because the manufacture of roofing products is a continuous process, with the equipment for the different process steps arranged in sequence. Consequently, an increase in production cannot be achieved simply by adding a single piece of process equipment (*e.g.*, a coater). To increase production capacity, significant parts of the line would have to be modified or a new line would need to be constructed.

C. What Pollutants Are Regulated by the Final NESHAP?

The final rule establishes emission limits for two pollutants, total hydrocarbons (THC) and PM, each of which serves as a surrogate for HAP emitted by the process equipment.

Total Hydrocarbons

We are regulating total gaseous organic HAP emissions using THC as a surrogate. Total hydrocarbons are an appropriate surrogate for total HAP since organic HAP constitutes a significant portion of the THC, and because combustion controls are equally effective at reducing emissions of a wide range of organic compounds (including organic HAP emitted by asphalt processing and roofing manufacturing facilities and THC). Thus, reduction of organic HAP and THC from these sources is proportionate.

Particulate Matter

Particulate matter emitted from blowing stills consists of condensed organic hydrocarbons. For organic HAP that is present in condensed PM form, we are using PM as a surrogate. Similar to the THC surrogate for gaseous HAP, PM is an appropriate surrogate because it includes the HAP that are emitted as condensed PM. Because the reductions achieved by PM control devices are not pollutant-specific (*i.e.*, one type of PM is not preferentially reduced over another type of PM), controlling PM will result in a generally proportionate amount of condensed particulate organic HAP control.

D. What Emission Limits Must I Meet?

You must meet the emission limits that are summarized in Table 1 to the final rule. The emission limits are expressed in appropriate formats for the various process equipment being regulated. Depending on the piece of process equipment, you may have the option of complying with any of several formats. These formats include a PM emission limit (expressed in terms of kilograms of PM per Mg product manufactured), a THC percent reduction standard, a THC outlet concentration, a THC destruction efficiency standard (only for combustion devices that do not use auxiliary fuel), or a combustion efficiency standard.

The THC destruction efficiency and combustion efficiency standards are provided as an alternative to the THC percent reduction standard in the final rule because there are some emission

sources (*e.g.*, blowing stills) for which testing of the control device inlet is impractical.

Saturators (including wet loopers) and coaters at existing roofing manufacturing lines must meet PM emission limits based on the type of substrate used in manufacturing. At existing, reconstructed, and new asphalt roofing manufacturing lines, saturators (including wet loopers) and coaters must meet an opacity limit, and the emission capture system for these equipment must meet a visible emissions standard. The final rule also provides the option for Group 2 asphalt storage tanks, saturators (including wet loopers), and coaters at existing and new asphalt roofing manufacturing lines and coating mixers, sealant applicators, and adhesive applicators at existing asphalt roofing manufacturing lines to comply with either the THC or the combustion efficiency standards instead of the PM and opacity standards.

E. When Must I Comply?

Existing sources must comply with the final rule no later than May 1, 2006. The 3-year period is necessary to allow owners and operators sufficient time to design, purchase, and install emissions capture systems and air pollution control equipment. New or reconstructed sources must comply with the final rule at startup or April 29, 2003, whichever is later.

If your asphalt processing facility or asphalt roofing manufacturing line is located at a facility that is an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP after April 29, 2003, then any portion of the existing facility that is a new affected source or a reconstructed affected source must comply with all requirements of the final rule applicable to new sources upon startup after the facility becomes a major source or by April 29, 2003, whichever is later. All other parts of any facility to which the final rule applies must be in compliance with this subpart by 3 years after becoming a major source.

F. What Are the Testing and Initial Compliance Requirements?

You must conduct a performance test to demonstrate initial compliance with the final rule emission limits unless you are using the results from an acceptable previously-conducted emission test to demonstrate compliance with the emission limitations in the final rule, or you are using a control device that the EPA has already determined achieves the required HAP destruction efficiency.

If you choose to use the results from a previously-conducted emissions test, you must demonstrate to the Administrator's (or delegated authority) satisfaction that no changes have been made to the process since the time of the emissions test, the operating conditions and test methods used during testing conform to the requirements of the final rule, and the control device and process parameter values established during the previously-conducted emission test are used to demonstrate continuous compliance with the final rule.

An initial performance test is not required for boilers or process heaters with a design heat input capacity of 44 megawatts (MW) or greater or where the emissions are introduced into the flame zone of the boiler or process heater. Performance testing is also not required for flares that meet the design and operating requirements of 40 CFR 63.11(b). An initial performance test is not required for boilers and process heaters larger than 44 MW because they operate at high temperatures and residence times. When vent streams are introduced into the flame zone of these boilers and process heaters, over 98 percent reduction or an outlet concentration of 20 parts per million per volume (ppmv) is achieved. Therefore, a performance test is not necessary. We are not requiring performance testing of flares because percent reduction and outlet concentration cannot feasibly be measured at flares. The operating conditions in § 63.11 assure that the flare will be operated properly and achieve the requisite degree of destruction of organic HAP.

As specified in 40 CFR 63.7(e), performance tests must be conducted within the range of normal operating conditions. To ensure that compliance can be achieved over the entire range of operating conditions, the performance tests must be conducted under the operating conditions that reflect the highest rate of asphalt processing or roofing production reasonably expected to be achieved by the facility. For example, performance tests of roofing manufacturing line equipment must be conducted while operating under normal conditions and while manufacturing the roofing product that is expected to result in the greatest amount of HAP emissions.

For each performance test, you must conduct a minimum of three 1-hour test runs. Compliance is determined based on the average of the three test runs. To measure PM, you must use EPA test method 5A; for THC emissions, you must use EPA test method 25A.

For the THC destruction efficiency and combustion efficiency standards, you must measure emissions of THC, carbon monoxide (CO_2), and carbon dioxide (CO_2) to demonstrate compliance. For the THC outlet concentration you must measure emissions of THC to demonstrate compliance. You must use EPA test method 10 to measure CO emissions and EPA test method 3A to measure CO_2 emissions. The EPA test methods are contained in appendix A of 40 CFR part 60. You must demonstrate compliance with the PM emission limit, THC percent reduction standard, THC outlet concentration standard, THC destruction efficiency standard, and the combustion efficiency standard using the instructions and equations in the performance test requirement section of the final rule.

The final rule also contains opacity and visible emission standards for saturators (including wet loopers) and coaters and their emissions capture systems at existing, new, and reconstructed asphalt roofing manufacturing lines and an opacity standard for certain asphalt storage tanks at existing, new, and reconstructed asphalt processing facilities and roofing manufacturing lines. Opacity and visible emission compliance determinations must be made using EPA test methods 9 and 22 in appendix A of 40 CFR part 60, respectively.

The final rule allows you to demonstrate continuous compliance with the emission standards by monitoring control device operating parameters or by using continuous emission monitoring systems (CEMS) to directly measure emissions. Although the final rule does not require continuous monitoring of opacity, you can use continuous opacity monitoring systems (COMS) if you choose to do so since the opacity standard applies at all times.

If you choose to conduct parameter monitoring, you must install, calibrate, maintain, and operate a continuous parameter monitoring system (CPMS) to monitor the control device parameters. During the performance test, you must continuously monitor and record control device parameters and establish the monitoring parameter value(s) that constitute compliance with the emission limits if you plan to use parameter monitoring to demonstrate compliance following the initial performance test. If you use a combustion device to comply with the standards, you must record the average operating temperature. The temperature monitoring device must be installed at the exit of the combustion

zone or in the ductwork immediately downstream of the combustion zone, before any substantial heat loss occurs. If you use a control device to comply with the PM standards, you must record the device inlet gas temperature and pressure drop across the device. If you use electrostatic precipitators (ESP) to achieve compliance with the PM standard, you may record the voltage of the ESP as an alternative to the pressure drop across the ESP.

For combustion devices and PM control devices, the parameters must be monitored and values recorded in 15-minute blocks during each of three 1-hour test runs. If you use a control device other than a combustion device or PM control device to comply with the final rule, you must propose the appropriate monitoring parameters, monitoring frequencies, and averaging periods. All monitoring parameters for control devices not specified in the final rule must be approved by the Administrator as specified in 40 CFR 63.8(f).

If you choose to demonstrate continuous compliance by directly measuring emissions, you must install, calibrate, maintain, and operate a CEMS and record the emissions during the performance test according to the procedures specified in 40 CFR part 63, subpart A.

For all monitoring approaches (CPMS and CEMS (and COMS, if used)), you must also monitor and record the average hourly roofing line production rate or the asphalt processing rate, as applicable, during the performance test. If you are complying with the PM emission limit, you must also determine the asphalt content of the product manufactured during the performance test.

G. What Are the Continuous Compliance Provisions?

After the performance test, you must demonstrate continuous compliance with the emission limits by monitoring either control device or process operating parameters or by monitoring emissions. The parameters or emissions must remain within the limits established during the initial performance test.

If you choose to use parametric monitoring to demonstrate continuous compliance with the standards, the final rule specifies the parameters that are to be monitored. For combustion devices (other than boilers, process heaters, and flares that meet specified design and operating requirements), you must monitor the operating temperature. For control devices used to meet the PM standards, you must monitor the inlet gas temperature and pressure drop across the device. If you use an ESP to achieve compliance with the PM standard, you may monitor the voltage of the ESP as an alternative to pressure drop.

For parametric monitoring, you must determine and record 15-minute and 3-hour block averages of the specified parameters. However, the final rule allows the option of determining continuous compliance based on any 15-minute period (*i.e.*, you are not required to calculate 3-hour block averages). If you choose this alternative, a monitoring parameter deviation would occur if the monitoring parameter value(s) is outside the approved range during any 15-minute period.

If you use a control device other than a combustion device or PM control device to achieve compliance with the emission limits, the monitoring parameters must be approved by the Administrator and established during the initial performance test. To change the value of any monitored parameter, you must conduct a performance test and submit a request to the Administrator for approval using the procedures specified in 40 CFR 63.8(f).

H. What Are the Notification, Recordkeeping and Reporting Requirements?

You must comply with the notification, recordkeeping, and reporting requirements in 40 CFR part 63, subpart A, as specified in Tables 6 and 7 to the final rule. The notification, recordkeeping, and reporting requirements include, but are not limited to: Initial notification of applicability of the rule, notification of the dates for conducting the performance test and notification of compliance status; reports of any startup, shutdown, and malfunction events that occur; and semiannual reports of excess emissions or deviations from monitoring parameter limits. When no deviations occur, you must submit semiannual reports indicating that no deviations have occurred during the period. For a combustion device, a deviation would be any time (excluding periods of startup, shutdown and malfunction which would be a separate report) that the operating temperature falls below the limit established during the initial performance test. For a control device used to meet the PM standards, a deviation would be any time (excluding periods of startup, shutdown and malfunction) that the temperature of the gas at the inlet to the control device or the pressure drop across the control device (or ESP voltage) are outside their respective limits established during the initial performance test.

You must maintain records of the following, as applicable: (1) Combustion device operating temperature; (2) PM control device inlet gas temperature and pressure drop (or voltage for ESP); (3) approved parameters for sources that comply with the emission limits using a control device other than a combustion device or PM control device; (4) CEMS; and (5) the date and time a deviation commenced if a monitoring parameter or emission deviation occurs, the date and time corrective actions were initiated and completed, a description of the cause of the deviation, and a description of the corrective actions taken. You must also prepare a startup, shutdown, and malfunction plan and maintain records of actions taken during these events, as required by 40 CFR 63.6(e)(3).

The final rule also includes a requirement to develop and make available for inspection by the permitting authority, upon request, a site-specific monitoring plan that specifies how the continuous parameter monitoring system will be installed, operated, and maintained as well as the data quality assurance procedures and ongoing recordkeeping and reporting procedures.

The NESHAP General Provisions (§ 63.10(b)) require that records be maintained for at least 5 years from the date of each record. You must retain the records onsite for at least 2 years. You may retain records for the remaining 3 years at an offsite location. The records must be readily available and in a form suitable for efficient inspection and review. The files may be retained on paper, microfilm, microfiche, a computer, computer disks, or magnetic tape. Reports may also be made on paper or on a labeled computer disk using commonly available and compatible computer software.

III. What Are the Responses to the Significant Comments?

Significant public comments on the proposed rule along with our responses to these comments are summarized in this section of the preamble. For detailed responses to all the comments, see the Background Information Document (BID) ("National Emission Standards for Hazardous Air Pollutants, Asphalt Processing and Asphalt Roofing Manufacturing, Summary of Public Comments and Responses," February 2003, EPA–453/R–03–005) (Docket No. OAR–2002–0035).

A. Rule Applicability

Comment: Several commenters noted that it was not clear if the proposed rule applied to facilities that process asphalt intended for non-roofing products. The commenters suggested that confusion regarding applicability was caused by addressing both the asphalt processing and asphalt roofing manufacturing source categories together under one NESHAP. Confusion may have also been caused by the proposed definition of asphalt flux, which read: "asphalt flux means the residual material from distillation of crude oil used to manufacture asphalt roofing products."

Response: On June 21, 2002, the EPA sent letters to the commenters to clarify two aspects of the proposed rule:

- The proposed rule was intended to cover all asphalt processing regardless of the asphalt's end use; and
- Requirements for storage vessels at asphalt roofing manufacturing facilities, inadvertently left out of the proposed rule, are the same as those for storage vessels at asphalt processing facilities.

Subsequent comments on the notice letters disagreed with EPA's interpretation of the proposed rule's applicability and contended that the EPA should address this clarification in a supplemental proposal.

The EPA does not believe that a supplemental proposal is needed to clarify the applicability of the final rule. It has long been held that actual notice constitutes adequate notice and opportunity for comment for purposes of section 307 of the CAA. (See *Small Lead Refiner Phase Down Task Force* v. *EPA*, 705 F. 2d 507, 548 (D.C. Cir. 1983).) The extensive comments received in response to the June 21, 2002 letters demonstrates that the commenters had adequate notice and availed themselves of it. There is no credible claim that further comments could have been submitted had there been more notice or that the time for response was inadequate. Under these circumstances, EPA believes that it afforded all letter recipients adequate notice and opportunity for comment and a supplemental notice to clarify the applicability of the rule is not necessary.

The final NESHAP includes both asphalt processing and asphalt roofing manufacturing because many facilities both process asphalt and manufacture roofing products (asphalt roofing and other roofing products).

With respect to the issue of whether asphalt processing should include operations that process asphalt for non-roofing uses, EPA believes that it should. The HAP emissions from asphalt processing (and the means of controlling such emissions) are identical, whether or not asphalt is produced for roofing or for other uses. Nor did EPA ever intend to distinguish among asphalt uses in setting out the rule's scope. The source category definition ("Documentation for Developing the Initial Source Category List," EPA–450/3–91–030, July 1992) of "asphalt processing" reads as follows:

"The Asphalt Processing source category includes any facility *engaged in the preparation of asphalt at asphalt processing plants*, petroleum refineries, and asphalt roofing plants. Asphalt preparation, called 'blowing,' involves the oxidation of asphalt flux by bubbling air through the liquid asphalt flux at 260°C for 1 to 4.5 hours, depending upon the desired characteristics of the asphalt. The category includes, but is not limited to, the following process: asphalt heating, blowing still, and asphalt storage tanks" (emphasis added).

This definition is not limited to asphalt that is processed for roofing manufacturing, and in fact, is not limited in any respect by the ultimate use to which processed asphalt is put. Consistent with the source category definition, it was not EPA's intent to limit the applicability of the final rule to the processing of roofing asphalt or any other end use.

To clarify the final rule applicability, EPA has written the definition of asphalt processing in the final rule to read as follows:

"Asphalt processing facility means any facility engaged in the preparation of asphalt flux at stand-alone asphalt processing facilities, petroleum refineries, and asphalt roofing facilities. Asphalt preparation, called 'blowing,' is the oxidation of asphalt flux, achieved by bubbling air through the heated asphalt, to increase the softening point and reduce the penetration of the oxidized asphalt.

An asphalt processing facility includes one or more asphalt flux blowing stills and their associated asphalt flux storage tanks, oxidized asphalt storage tanks and oxidized asphalt loading racks."

The EPA has also modified the definition of "asphalt flux" as proposed to remove any suggestion that the rule's scope is limited by the intended use of the processed asphalt.

B. Asphalt Storage Tank and Loading Rack Vapor Pressure Control Cutoff

Comment: Several commenters supported using a vapor pressure cutoff, such as those found in the petroleum refinery NESHAP (40 CFR part 63, subpart CC) and the new source performance standards for storage vessels (40 CFR part 60, subparts K, Ka, and Kb) for asphalt storage tanks and loading racks. The commenters contended that equipment with vapor pressures below those thresholds would emit only minimal amounts of HAP and therefore should not be subject to control requirements. The commenters also alleged that EPA was being inconsistent among different MACT standards in developing standards applicable to similar types of equipment. For example, one commenter asserted that EPA should not declare emissions from low HAP, low vapor pressure stocks as *de minimis* sources under the petroleum refineries NESHAP and then propose to regulate those same emissions under the asphalt NESHAP. One commenter contended that it would be reasonable for EPA to use an approach similar to the petroleum refinery NESHAP because asphalt flux feedstocks and finished asphalt products are produced directly by refineries and because many refineries will be subject to the asphalt NESHAP.

Response: The proposed MACT for all asphalt storage tanks with a capacity of 1.93 Mg or greater at existing, new, and reconstructed affected sources was based on the fact that greater than 12 percent of the asphalt storage tanks were controlled with a combustion device operating at or above 1200 °F. Also, the available data showed that no sources were using a combustion device to control emissions from storage tanks with a capacity less than 1.93 Mg of asphalt. Therefore, the proposed MACT did not require control of tanks with capacities less than 1.93 Mg (66 FR 58620).

The EPA now believes that the prevalence of combustion devices on tanks storing asphalt at low vapor pressure is misleading. We believe that combustion devices in this industry are used to control emissions from tanks storing high- and low-vapor asphalt that are generally part of an "integrated system," an integrated group of process equipment including higher-emitting equipment such as a blowing still, so that what really is being controlled by combustion are the emissions from the high-emitting equipment, with emissions from other system components being "along for the ride."

An integrated system is one in which process components (*e.g.*, blowing stills, coaters, and tanks storing high- and low-vapor pressure asphalt) are utilized largely together and are generally located in close proximity. In an integrated system, emissions from process equipment that are subject to less stringent emission standards (*e.g.*, tanks storing low-vapor pressure asphalt) generally are routed to the control device (*e.g.*, combustion device) that is used to control emissions from

the equipment (*e.g.*, blowing stills, coaters) that are subject to more stringent emission standards. In other words, it is more cost effective to "over control" emissions from lower-emitting storage tanks that are nearby, using a combustion device that is selected and designed to control emissions from the entire system (*e.g.*, blowing stills, coaters, and asphalt storage tanks), than it is to install a separate control device to reduce emissions from the storage tanks to a lesser degree.

In the absence of an integrated system configuration, we do not believe that combustion controls represent the MACT floor (or otherwise represent MACT) for tanks that store low-vapor pressure asphalt since facilities that do not use a combustion device to reduce emissions from higher-emitting process equipment are unlikely to use a combustion device to reduce emissions from tanks that store low-vapor pressure asphalt (and we in fact know of no instance when a tank storing low-vapor pressure asphalt in this industry is controlled by a combustion device when the tank is a stand-alone unit). Therefore, for tanks storing asphalt with a low vapor pressure, the MACT floor largely depends on whether or not the tank is part of an integrated system.

Based on the above discussion, it would seem logical to develop one set of standards for integrated systems (including tanks) and another for nonintegrated systems (where tanks would have different standards). However, we do not have sufficient data to characterize the control level of integrated versus nonintegrated systems or even to devise workable definitions of these systems. The significance of the existence of integrated systems, therefore, relates to calculation of floor standards for tanks.

Based on the existence of integrated systems, we do not believe that we have to include all tanks storing high- and low-vapor pressure asphalt together in making a floor determination for storage tanks. We do believe that it is reasonable to assume that facilities would use combustion devices for tanks storing high-vapor pressure asphalt because of the greater potential for emissions from these tanks and the appropriateness of controlling volatile emissions using combustion devices. We, thus, included all such tanks as a single group in determining floor standards and determined that the best-performing 12 percent of tanks used to store high-vapor pressure asphalt use combustion to control the emissions. (We did not, however, include tanks used to store low-vapor pressure asphalt in this calculus and are not compelled to for the reasons explained above relating to integrated systems.) Therefore, for tanks storing asphalt with a high vapor pressure at existing and new sources, we believe that the MACT floor is a combustion device regardless of whether or not it is located in an integrated system.

For tanks storing low-vapor pressure asphalt, a separate determination must be made to establish the MACT floor for existing and new sources. For these storage tanks, the MACT floor depends mainly on whether or not the tank is part of an integrated system. However, as noted above, we are unable to devise a workable definition of the integrated system. Among other problems, we have no information regarding tank vapor pressure or facility configurations to determine the relative proximity of low-vapor pressure asphalt storage tanks to combustion devices. Although we are unable to develop a separate standard for integrated systems, the MACT floor for any storage tank cannot be less stringent than the opacity limits for controlling PM specified in the asphalt NSPS, since over 12 percent of existing storage tanks in the industry are already subject to those standards. In fact, approximately 27 percent of the storage tanks in the database use particulate controls (such as fiber-bed filters, mist eliminators, condensers) to meet the asphalt NSPS. This control of PM will necessarily control HAP emissions since a portion of the PM is condensed HAP. Therefore, the MACT floor for tanks storing asphalt with low vapor pressures at existing and new sources is the opacity limit specified in the asphalt NSPS.

We recognize that this floor for tanks storing low-vapor pressure asphalt actually applies to some tanks that are part of integrated systems. Nevertheless, we expect that tanks that are part of an integrated system are controlled by the same control device used to control the entire system, rather than being controlled separately. Therefore, using the opacity limit specified in the asphalt NSPS as a floor for tanks storing asphalt with low vapor pressures should not discourage facilities from using combustion devices to control emissions from storage tanks that are part of integrated systems. Nor is it likely to lead to removal of any existing controls on integrated systems since the combined system was already adopted by those facilities and removal would entail retrofit costs.

With regard to establishing the vapor pressure cutoff value that would be used to assign tanks into high- and low-vapor pressure groups (Groups 1 and 2, respectively), EPA does not have survey data for the vapor pressure of stored asphalt that could be used to establish this value. In the absence of vapor pressure data, we based the vapor pressure cutoff value on the MACT floor for existing storage tanks at petroleum refineries. Asphalt tanks are similar because asphalt is a petroleum refinery product, and asphalt processing facilities are located at some petroleum refineries. Therefore, EPA believes that it is reasonable for the vapor pressure cutoff in the final rule to be consistent with the maximum true vapor pressure cutoff (10.4 kPa) for existing storage tanks in the petroleum refinery NESHAP. Thus, under the final rule, tanks storing asphalt with a maximum true vapor pressure of 10.4 kPa or greater are considered "high-vapor pressure" tanks (*i.e.*, Group 1 tanks) while tanks storing asphalt with a maximum true vapor pressure less than 10.4 kPa are considered "low-vapor pressure" tanks (*i.e.*, Group 2 tanks).

The petroleum refinery NESHAP also contains an annual average true vapor pressure cutoff (8.3 kPa) and an annual HAP liquid concentration cutoff (4 percent, by weight of total organic HAP) for determining storage tank applicability. Because the storage temperature of asphalt at asphalt processing and asphalt roofing manufacturing facilities is expected to be maintained over a narrow range throughout the year, providing an annual average for storage temperature in the asphalt NESHAP is unnecessary. The concentration cutoff was included in the petroleum refinery NESHAP to address the fact that some liquids at petroleum refineries have very low HAP concentrations and high vapor pressures due to the volatility of non-HAP compounds in the material. However, because asphalt processing and asphalt roofing manufacturing facilities do not typically store products other than asphalt, the EPA believes that including an annual HAP liquid concentration cutoff in the asphalt NESHAP is unnecessary.

With regard to the proposed tank capacity cutoff of 1.93 Mg, EPA believes that the analysis used to establish the proposed capacity cutoff for combustion control was flawed since the cutoff value was based on the smallest tank controlled by a combustion device. Since we now consider the seeming prevalence of combustion devices on tanks storing low-vapor pressure asphalt to actually reflect controls on integrated systems (driven by the need to control the greatest emission source of the integrated system), we do not believe that the proposed capacity cutoff value for combustion control is valid because

it was premised on the assumption that stand-alone (*i.e.*, non-integrated) low-vapor pressure asphalt storage tanks were controlled by means of combustion devices. Consequently, we are establishing the capacity cutoff value for combustion control to be consistent with the capacity cutoff for existing tanks at petroleum refineries (again consistent with comments urging that the petroleum and asphalt NESHAP be consistent insofar as they apply to similar types of emission sources).

Therefore, the floor for asphalt storage tanks with a capacity of 177 cubic meters or greater and storing asphalt with a maximum vapor pressure of 10.4 kPa or greater (*i.e.*, Group 1 asphalt storage tanks) at existing and new sources is combustion control. The floor for asphalt storage tanks with a capacity of 177 cubic meters or greater storing asphalt with a maximum vapor pressure less than 10.4 kPa (*i.e.*, Group 2 asphalt storage tanks) at existing and new sources is the opacity limit specified in the asphalt NSPS. As at proposal, however, we are not determining a floor level of control for tanks less than a capacity of 1.93 Mg. Based on the tank capacity data from the Asphalt Roofing Manufacturers Association survey, less than 2 percent of the tanks have capacities less than 1.93 Mg, and only one of those tanks is vented to a PM control device.

The EPA is also applying much this same reasoning in determining a MACT floor for asphalt loading racks. The proposed MACT for asphalt loading racks at existing, new, and reconstructed affected sources was based on the fact that greater than 12 percent of the loading racks were controlled with a combustion device operating at or above 1200 °F. Although we do not have vapor pressure data for loading racks, we believe (as with storage tanks) that it is reasonable to assume that facilities are using combustion devices to control emissions from loading racks that are used to transfer high-vapor pressure asphalt because of the greater potential for emissions from this asphalt and the appropriateness of controlling volatile emissions using combustion devices. Consequently, the EPA believes that the MACT floor for loading racks transferring high-vapor pressure asphalt at existing and new sources is a combustion device regardless of whether or not it is part of an integrated system. In the absence of vapor pressure data, and to be consistent with the approach used for high-vapor pressure (Group 1) asphalt storage tanks, we based the vapor pressure cutoff for loading asphalt racks on the maximum true vapor pressure cutoff (10.4 kPa) for existing storage tanks in the petroleum refinery NESHAP.

For loading racks used to transfer low-vapor pressure asphalt at existing and new sources, as with low-vapor pressure (Group 2) asphalt storage tanks, we are unable to develop a separate standard for integrated systems. However, unlike the asphalt NSPS for storage tanks, an existing regulation does not exist for asphalt loading racks that would establish a minimum level of the MACT floor. Therefore, a MACT floor for loading racks transferring asphalt with a maximum vapor pressure less than 10.4 kPa at existing and new sources could not be established.

In summary, the MACT floor for tanks with an asphalt storage capacity of 177 cubic meters or greater and storing asphalt with a maximum vapor pressure of 10.4 kPa or greater at existing and new sources is based on a combustion device operating at or above 1200 °F. For tanks with asphalt storage capacities of 177 cubic meters or greater or storing asphalt with a maximum vapor pressure less than 10.4 kPa, the MACT floor for existing and new sources is represented by the opacity limit in the asphalt NSPS. The opacity limit of the asphalt NSPS also represents the MACT floor for asphalt storage tanks with capacities less than 177 cubic meters but greater than or equal to 1.84 cubic meters at existing and new sources. For loading racks used to transfer asphalt with a maximum vapor pressure of 10.4 kPa or greater at existing and new sources, the MACT floor is a combustion device operating at or above 1200 °F. The MACT floor for loading racks used to transfer asphalt with a maximum vapor pressure less than 10.4 kPa at existing and new sources is no additional control.

Also, as explained in detail in the preamble to the proposal (66 FR 58620–21), we continue to believe that controls beyond the MACT floor for high-vapor pressure asphalt storage tanks and loading racks (where the floors have not changed between the proposed and final rule) are not technically or economically feasible (*i.e.*, there are no known controls that would reduce HAP emissions more than combustion control), so that MACT for the high-vapor pressure asphalt storage tanks and loading racks is represented by their respective MACT floors.

For the low-vapor pressure asphalt storage tanks (for which we have made a different floor determination), the only control option beyond the MACT floor is control with a combustion device. However, given the relatively low HAP emissions from this equipment, the incremental cost-effectiveness (greater than $3,000,000 per megagram of HAP reduced) of increasing the level of HAP reduction achieved by a PM control device (93.3 percent) (the device we anticipate would be used to achieve the opacity standard which is the MACT floor) to that achieved by a combustion device (95 percent) is not a justifiable option. (Additional energy use likewise would be required to achieve this modest incremental HAP reduction as well.) Therefore, MACT for low-vapor pressure asphalt storage tanks is represented by the MACT floor.

For low-vapor pressure asphalt loading racks, the control options beyond the MACT floor are a PM control device and a combustion device. However, as with low-vapor pressure asphalt storage tanks, the high costs per megagram of HAP reduction (greater than $500,000 per megagram of HAP reduced) achieved by controlling low-vapor pressure asphalt loading rack emissions with either a PM control device or combustion device make the beyond the MACT floor options economically infeasible. Therefore, MACT for low-vapor pressure asphalt loading racks is represented by the MACT floor.

Because we are specifying vapor pressure as a cutoff for different groups of tanks, it is necessary to identify how such a determination would be made if a facility were required to do so. Following proposal, the EPA met with industry representatives to identify an appropriate test method for determining the vapor pressure of stored asphalt, if EPA were to promulgate such a cutoff. According to the industry and EPA representatives, a standardized or consensus test method for measuring the vapor pressure of stored asphalt has not been established. (See the summary of the September 17, 2002 meeting with petroleum refinery representatives in Docket No. OAR–2002–0035.) Currently, the industry uses nomographs or other relationships depicting the vapor pressure of petroleum liquids as a function of storage temperature vapor pressure and asphalt composition (*e.g.*, flux versus oxidized) to determine the vapor pressure of stored asphalt.

Since there is no standardized test method for measuring the vapor pressure of stored asphalt, the EPA believes that the final rule should specify a temperature that equates to a vapor pressure of 10 kPa, instead of requiring facilities to physically measure asphalt vapor pressure. According to industry representatives, asphalt flux reaches 10.4 kPa at approximately 500 to 550 °F (oxidized asphalt would require higher

temperatures to reach 10.4 kPa). The temperature estimate cited by the industry representatives was confirmed on a theoretical level using a regression equation for asphalt vapor pressure as a function of temperature, developed by the Owens Corning Company using a modified version of the American Society of Testing and Materials (ASTM) method D2879 (Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope). According to the regression equation, asphalt flux reaches a vapor pressure of 10.4 kPa at approximately 450 °F.

Since the regression equation, which under-predicts the temperature at which asphalt flux reaches a given vapor pressure (according to industry and EPA representatives), tends to corroborate the storage temperature cited by the industry representatives, the EPA believes that a storage temperature of 500 °F appropriately represents a vapor pressure of 10.4 kPa. Consequently, the final rule specifies that tanks storing (and loading racks transferring) asphalt at a maximum vapor pressure of 10.4 kPa or greater, or at a maximum temperature of 500 °F or greater, must be controlled with a combustion device. Also, the final rule allows the use of standard industry nomographs and other relationships to determine the vapor pressure of asphalt. The docket for this NESHAP (Docket No. OAR–2002–0035) contains a memorandum from the National Petrochemical and Refiners Association (NPRA) that presents several manual methods that are currently used in the petroleum industry for estimating the vapor pressure of asphalt.

C. Level of the Standards

Comment: One commenter questioned the derivation of the THC destruction and combustion efficiency standards (95 and 99.6 percent, respectively). The commenter contended that the statistical analysis used to derive the standards from test data was incorrect.

Response: The EPA agrees with the commenter that the available data set is too small for a rigorous statistical analysis. Therefore, at proposal, we chose to account for the variability in the data by subtracting one standard deviation from the mean, rather than performing a more formal statistical analysis to derive the proposed emission limit. Despite the small size of the data set, since proposal, the EPA has calculated the 95 percent confidence interval about the mean of the test data for THC destruction efficiency. The lower limit of the 95-confidence interval is 94.85 percent THC destruction efficiency. (See section 2.3.10.2 of the BID for a more detailed discussion of this analysis.) In other words, there is only a 5 percent chance that the true population mean of THC destruction efficiency will be below 94.85 percent. In addition, all four of the facilities with THC destruction efficiency data would meet the standards. This calculation supports that a THC destruction efficiency of 95 percent is achievable. The 95 percent destruction efficiency has thus been included in the final rule.

Since proposal, the EPA has calculated the 95 percent confidence interval about the mean of the test data used to establish the proposed combustion efficiency. The lower limit of the 95 percent confidence interval is 99.49 percent combustion efficiency. Since this value is lower than the proposed combustion efficiency limit of 99.6 percent, the EPA has decided to establish the combustion efficiency limit in the final rule at 99.5 percent. (Note that this change does not affect EPA's determination, made originally at proposal, that beyond-the-floor controls remain inappropriate here, largely because EPA knows of no means of control more efficient than combustion control.)

Comments: Comments were also received on the proposed rule regarding the use of electric regenerative thermal oxidizers (RTO). One commenter explained that EPA's proposed method for calculating combustion efficiency penalizes control technologies that do not burn auxiliary fuel and, consequently, have a relatively low CO_2 concentration at their outlets. The commenters stated that the proposed method for calculating combustion efficiency understates the combustion efficiency achieved by an RTO since the only relevant source of CO_2 in RTO exhaust comes from the destruction of hydrocarbons. The commenters submitted test data and proposed a separate equation for calculating the destruction efficiency for RTO.

Response: The EPA reviewed the test data submitted by the commenters (see section of the 2.3.10.6 of the BID) and agrees that, because RTO do not use auxiliary fuel, the outlet CO_2 concentrations are much less than those of conventional thermal oxidizers without compromising THC destruction efficiency. Consequently, the final rule contains an option that allows combustion devices that do not use auxiliary fuel to use an outlet-only THC destruction efficiency equation. To determine the level of the standard for RTO, the same approach as was taken for the derivation of the THC destruction efficiency and combustion efficiency standards was used (*i.e.*, one standard deviation was subtracted from the average THC destruction efficiencies calculated from the test data submitted by the commenters). The resulting calculations (see section 2.3.10.6 of the BID) yield a THC destruction efficiency standard for RTO of 95.8 percent.

D. Compliance Options

Comment: One commenter noted that the control devices used at refineries to control blowing stills are flares, boilers, and process heaters and that refineries do not typically have thermal oxidizers. The commenter urged the EPA to allow the use of combustion devices other than thermal oxidizers to control blowing still emissions.

Response: The proposed rule did not prohibit the use of process heaters, boilers, and flares because we consider these units to be types of thermal oxidizers. However, since the term "thermal oxidizer" was not defined in the proposed rule, the proposed rule could be interpreted differently. In the final rule, we use the term "combustion device" instead of "thermal oxidizer" and have defined combustion device to include process heaters, boilers, flares, and incinerators; all devices which achieve the same high degree of HAP destruction provided they operate using efficient combustion. Consistent with other rules, a performance test and continuous parameter monitoring are not required for boilers or process heaters if the vent streams to be controlled are introduced into the flame zone, or if the unit has a design input heat capacity of 44 MW or greater since the residence time and operating temperature of these devices is great enough to ensure reduction of HAP emissions. Flares are required to meet the design and operating requirements of 40 CFR 63.11 in lieu of conducting performance tests, as explained earlier in this preamble.

E. Performance Tests

Comment: One commenter expressed concern with the requirement to conduct performance testing before the compliance date. The commenter stated that the NESHAP General Provisions and nearly all previously-issued MACT standards allow the test to be conducted within 180 days of the compliance date (existing sources) or at startup (new sources). The commenter pointed out that the testing date for existing sources is 8 months earlier than what is provided in the General Provisions and listed several problems that it would create.

Response: The EPA agrees that it is not necessary to require performance tests to be completed 60 days prior to the rule compliance date since this would effectively require that facilities be in compliance before the compliance date specified in the final rule. Consequently, the final rule (§ 63.8686(a)) has been written to be consistent with the NESHAP General Provisions (performance tests must be conducted within 180 days after the compliance date).

F. Monitoring Requirements

Comment: Comments were received on a variety of monitoring requirements. The changes made to the proposed monitoring requirements are discussed in the following paragraphs.

Response: Many facilities in the asphalt processing and asphalt roofing manufacturing industry use analog chart recorders to display and record monitored parameters. However, when these devices are used, the value of the monitored parameters is generally not recorded electronically. Parameter values therefore cannot be automatically averaged and compared to the established range to determine if there has been an parameter deviation. Such a determination would have to be made through manual calculations. One commenter suggested that chart recorders could more easily be used for monitoring if manual calculations of 3-hour averages were not required and deviations were based on 15-minute exceedances of limits. Because the commenter's suggestion is more stringent than the requirements in the proposed rule, the EPA has decided that this is an acceptable alternative for determining continuous compliance. Therefore, the final rule was written to allow facilities the option of demonstrating continuous compliance using either a 15-minute or 3-hour averaging period.

For example, if a facility uses an analog chart recorder that provides a continuous record of the combustion device operating temperature on a strip chart, the facility would be allowed to determine compliance with the NESHAP by comparing the minimum temperature reading for each 15-minute period to the minimum 15-minute value established during the initial performance test (*i.e.*, the facility would not be required to manually average the readings on the strip chart over a 3-hour period to determine compliance with the standards).

Comment: One commenter asserted that facilities should be allowed to use CEMS and COMS to demonstrate continuous compliance with the standards.

Response: The proposed rule did not preclude facilities from using CEMS and COMS, and it was not EPA's intent to discourage facilities from using CEMS and COMS where feasible and beneficial to them. However, continuous monitoring is not required for the opacity standard, even though the opacity standard applies at all times (*i.e.*, EPA test method 9 could be used at any time by the regulating agency to determine compliance with the opacity standard). To allow you to use continuous monitors without first obtaining the approval from the Administrator to use an alternative monitoring procedure, the list of acceptable monitoring systems in the final rule has been written to include CEMS (and COMS) and their applicable performance specifications from 40 CFR part 60 Appendix B.

Comment: One commenter suggested that the EPA modify the proposed rule so that a facility using an ESP as a PM control device could select which parameters are appropriate for demonstrating compliance and have those parameters approved by the EPA in the same manner as "other" control devices.

Response: The EPA agrees with the commenter that ESP operate differently from filter-type PM control devices, and that parameters other than pressure drop could be used to show proper ESP operation. For these reasons, an alternative has been provided in the final rule to allow facilities using an ESP to monitor the voltage going to the ESP instead of the pressure drop across the device. The voltage going to the ESP is a direct measure of the strength of the corona field responsible for ionizing PM as it passes through the ESP. The value or range of ESP voltage must be determined during the performance test.

G. Overlap With Other Rules

Comment: One commenter stated that the rule should be clarified so that asphalt flux and oxidized asphalt storage tanks already regulated under another MACT rule (for example, the petroleum refinery NESHAP) are not further regulated under the asphalt NESHAP.

Response: The EPA recognizes that asphalt storage vessels subject to the asphalt NESHAP could also be subject to other regulations, such as the petroleum refinery NESHAP (40 CFR part 63, subpart CC) and the storage vessel NSPS (40 CFR part 60, subpart K, Ka, or Kb). Consequently, EPA is providing in the final rule that the NESHAP does not apply to any equipment that is subject to the petroleum refinery NESHAP or to subpart K, Ka, or Kb of part 60 since the requirements specified in those rules for the types of storage tanks used in this industry (fixed roof tanks) are as stringent as the standards in the asphalt processing and asphalt roofing manufacturing NESHAP.

The EPA also recognizes that storage tanks (and blowing stills, saturators, wet loopers, and coaters) at asphalt processing and asphalt roofing manufacturing facilities could be subject to both the asphalt NESHAP and the asphalt NSPS. In cases where the rule requirements overlap, the asphalt rule specifies that facilities are required to comply only with the asphalt NESHAP. However, any storage tank with a capacity less than 1.93 mg that is subject to the asphalt NSPS but not regulated under the asphalt NESHAP must comply with the asphalt NSPS.

IV. Summary of Environmental, Energy and Economic Impacts

Although MACT floors must be based exclusively on the emission limitation achieved by the requisite percentage of best-performing similar sources (or, for new sources, the best-performing source), the EPA has compiled information on air quality impacts, costs, non-air quality impacts, and energy impacts in compliance with Executive Orders. We estimate the final rule will affect a total of 19 existing facilities (ten asphalt processing and asphalt roofing facilities and nine petroleum refineries). We estimated the number of major sources by estimating potential emissions using emission factors and available production data. We identified major facilities only for the purposes of estimating potential emissions, emission reductions, control costs, and monitoring, recordkeeping, and reporting costs. It should be noted that facilities may not necessarily be major sources for the purposes of determining applicability of the final rule because they were identified as major by our estimates. Likewise, facilities would not be relieved from complying with the final rule because they were not identified as major sources in our estimates.

A. What Are the Air Quality Impacts?

Baseline HAP emissions from the asphalt processing and asphalt roofing manufacturing facilities that are projected to be subject to the final rule are estimated to be 295 Mg/yr (325 tpy). Baseline THC emissions are estimated to be 550 Mg/yr (605 tpy). The baseline emission estimates were developed using equipment, control device, and

production rate data reported in a 1995 industry survey. The final rule is projected to reduce HAP emissions by 86 Mg/yr (95 tpy) and THC emissions by 465 Mg/yr (512 tpy). The final rule will also reduce PM emissions from asphalt processing and asphalt roofing manufacturing facilities. However, we do not have sufficient data to estimate baseline emissions or emission reductions for PM. The baseline emissions and emission reductions do not include contributions from area sources because they are not subject to the final rule.

The final rule will also likely cause an increase in emissions of nitrogen oxides (NO_X), CO, sulfur dioxide (SO_2), PM, and volatile organic compounds (VOC) due to the increased use of thermal oxidizers as control devices. The estimated increases of NO_X, CO, and SO_2 are approximately, 476, 799, and 6 Mg/yr (524, 880, and 6 tpy), respectively. These estimates are based on the amount of exhaust and auxiliary fuel that will be burned at the asphalt processing and asphalt roofing manufacturing facilities that are estimated to be major sources.

B. What Are the Cost Impacts?

The total capital cost for the industry to achieve compliance with the final rule for existing facilities is estimated to be $2.71 million. The capital costs arise from the purchase of emission capture systems and control devices. The total annualized cost is estimated to be $1.41 million. The total annualized costs for the industry include the annualized capital cost of emission capture systems and control devices and operation, maintenance, supervisory labor, maintenance materials, utilities, administrative charges, taxes, and insurance. It is estimated that the industry will spend an additional industrywide average of $320,000 per year for monitoring, recordkeeping, and reporting to comply with the final rule. This results in a total annualized cost of $1.73 million.

C. What Are the Economic Impacts?

The Agency conducted an economic impact analysis to determine the market- and industry-level impacts associated with the final rule. The compliance costs of the final rule are expected to increase the prices of asphalt processing and roofing products by 0.02 percent or less across the directly affected product markets, and domestic production and consumption of the affected products are expected to decrease by less than 0.01 percent also.

In terms of industry impacts, the asphalt processors and asphalt roofing manufacturers are projected to experience a decrease in operating profits of about 0.08 percent, which reflects the compliance costs associated with the production of asphalt processing and roofing products and the resulting reductions in revenues due to the increase in the prices of the directly affected product markets and reduced quantities purchased. Through the market impacts described above, the final rule created both gainers and losers within the asphalt processing and asphalt roofing manufacturing industry. The majority of facilities, almost 92 percent, are expected to experience profit increases with the final rule; however, there are some facilities projected to lose profits (about 8 percent of affected facilities). Furthermore, the economic impact analysis indicates that of the 123 existing asphalt roofing and processing facilities, none are at risk of closure because of the final rule. Therefore, none of the companies that own asphalt processing and roofing manufacturing facilities are projected to close due to the final rule.

Based on the market analysis, the annual social costs of the final rule are projected to be about $1.73 million. The estimated social costs differ slightly from the projected engineering costs of the final rule. These two costs differ because social costs account for producer and consumer behavior. These social costs are distributed across the many consumers and producers of asphalt processing and roofing products. For the final rule, the producers of asphalt roofing and processing products, in aggregate, are expected to incur about $1.32 million annually in costs, while the consumers of asphalt roofing and processing products are expected to incur approximately $410 thousand annually across the product markets.

The economic analysis also addressed potential changes in new asphalt processing and roofing facility construction for the year following promulgation of the final rule. This was done by estimating the total annualized costs for new facilities and projecting changes in equilibrium output due to the final rule. The economic impact analysis estimated a very small reduction in the growth of the asphalt industry represented by a small reduction in equilibrium output of asphalt products in the year following promulgation. However, the reduction in equilibrium output was only a small fraction of estimated new plant capacity. Thus, the control costs are not expected to influence the decision to enter the market for asphalt products. For more information, consult the Economic Impact Analysis report supporting the final rule in the docket.

D. What Are the Non-air Health, Environmental and Energy Impacts?

Spent filter media from certain types of PM control devices (*e.g.*, high-efficiency air filters (HEAF)) are periodically replaced and disposed of as solid waste. Although many of the emission sources subject to the final rule are already controlled by PM devices, an increase in the generation of spent filter media is expected as a result of the final rule. However, we do not have sufficient data to quantify this anticipated increase in solid waste generation.

No water impacts are anticipated due to the final rule. None of the control devices expected to be used to comply with the final rule require the use of water nor do they generate wastewater streams.

Increased energy usage is expected due to the final rule. Electricity is required to power fans for emission capture systems, and new thermal oxidizers will require supplemental fuel (*e.g.*, natural gas) to efficiently combust the HAP vent streams. The estimated annual increase in electricity consumption is 5.58 million kilowatt hours. The approximate increase in natural gas consumption is 186 million standard cubic feet per year. These estimates are for the 19 facilities considered to be major sources.

V. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant," and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that the final rule is not a "significant regulatory action" because it is not expected to have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

B. Paperwork Reduction Act

The information collection requirements of the final rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by the EPA (ICR No. 2029.01) and a copy may be obtained from Susan Auby by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division, (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, by e-mail at *auby.susan@epa.gov* or by calling (202) 566–1672. A copy may also be downloaded off the internet at *http://www.epa.gov/icr.*

The information will be used by the EPA to ensure that the requirements of the asphalt processing and asphalt roofing manufacturing NESHAP are implemented properly and are complied with on a continuous basis. Records and reports are necessary to identify asphalt processing and asphalt roofing manufacturing facilities that might not be in compliance with the final rule. Based on reported information, the implementing agency will decide which asphalt processing and asphalt roofing manufacturing facilities should be inspected and what records or processes should be inspected. Records that owners and operators of asphalt processing and asphalt roofing manufacturing facilities maintain indicate whether personnel are operating and maintaining control equipment properly.

These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA for which a claim of confidentiality is made will be safeguarded according to the EPA policies in 40 CFR part 2, subpart B, Confidentiality of Business Information.

We estimate the final rule will affect a total of 19 existing facilities (ten asphalt processing and asphalt roofing facilities and nine petroleum refineries). We estimated the number of major sources by estimating emissions using emission factors and available production data and extrapolating potential emission from actual emissions. We identified major facilities for the purposes of estimating emissions, emission reductions, control costs, and monitoring, recordkeeping, and reporting costs only. Facilities would not necessarily be major sources for the purposes of determining applicability of the asphalt NESHAP because they were identified as major by our estimates. Likewise, facilities are not relieved from complying with the asphalt NESHAP because they were not identified as major sources in our estimates. We expect that existing facilities will be in compliance 3 years after promulgation of the final rule, but will perform related activities (*e.g.*, reading and understanding the rule, conducting performance tests) before they are in compliance. We project that one new asphalt processing and asphalt roofing facility will become subject to the final rule during each of the first 3 years.

The estimated average annual burden for industry for the first 3 years after implementation of the rule is approximately 1,962 person-hours annually. There will be no capital costs for monitoring or recordkeeping during the first 3 years. The total average annual reporting and recordkeeping burden (including industry and the EPA) for this collection is estimated at approximately 2,780 labor hours per year at an average annual cost of approximately $356,000.

Burden means 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 the EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act (RFA)

The 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 business, small organizations, and small government jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, a small entity is defined as: (1) A small business according to Small Business Administration (SBA) size standards by NAICS code (in this case, less than 750 employees for affected businesses classified in NAICS code 324122, Asphalt Shingles and Coating Materials Manufacturing and less than 1,500 employees for businesses in NAICS code 324110, Petroleum Refineries); (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.

In accordance with the RFA, the EPA conducted an assessment of the standards on small businesses within the asphalt roofing and processing industry. Based on SBA NAICS-based size definitions and reported employment data, the EPA identified 26 of the 40 companies that own potentially affected asphalt roofing and processing facilities and petroleum refineries as small businesses. Although small businesses represent 65 percent of the companies within the source category, they are expected to incur approximately 5 percent of the total industry compliance costs of about $1.73 million annually. There are no companies with compliance costs greater than 0.04 percent of their sales. No firms are expected to close rather than incur the costs of compliance with the rule.

After considering the economic impacts of today's rule on small entities, the EPA certifies that the final rule 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, or tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires the 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 the 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 the EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the final rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or the private sector in any 1 year. In the Economic Impact Assessment (EIA) for the final rule, the EPA estimates that the total nationwide capital cost for the standards is $2.71 million. The total nationwide annual cost for the standards is $1.73 million. In addition, the EPA has determined that the final 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. Therefore, the final rule is not subject to the requirements of sections 202 or 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires the 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 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. None of the affected facilities under the final rule are owned or operated by State or local governments. Thus Executive Order 13132 does not apply to the final 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 6, 2000), requires the 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." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

The final rule does not have tribal implications. 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, as specified in Executive Order 13175. No affected facilities are owned or operated by Indian tribal governments. 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 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 the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the 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 EPA.

The 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. The final rule is not subject to Executive Order 13045 because it is based on technology performance and not on health and safety risks.

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

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), provides that agencies shall prepare and submit to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, a Statement of Energy Effects for certain actions identified as "significant energy actions." Section 4(b) of Executive Order 13211 defines "significant energy actions" as "any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action." The final rule is not a "significant regulatory action" because it is not likely to have a significant adverse effect

on the supply, distribution, or use of energy.

We have estimated that the rule will result in an additional 5.58 million kilowatt hours of electricity usage and 186 million standard cubic feet of natural gas consumption. This represents an insignificant fraction of the over 3 trillion kilowatt hours and 21,000 trillion cubic feet of natural gas consumed in the United States (Energy Information Administration, Department of Energy, *www.eia.gov*).

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Public Law 104–113, section 12(d), (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards in their regulatory and procurement 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 one or more voluntary consensus bodies. The NTTAA directs the EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

The final rulemaking involves technical standards including EPA test methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 5A, 9, 10, 22, and 25A. Consistent with the NTTAA, the EPA conducted searches to identify voluntary consensus standards in addition to these EPA test methods. No applicable voluntary consensus standards were identified for EPA test methods 1A, 2A, 2D, 2F, 2G, 5A, 9, and 22.

The search for emissions measurement procedures identified 16 voluntary consensus standards potentially applicable to the final rule. Three of the voluntary consensus standards were not available at the time this review was conducted. For the remaining 13 standards identified for measuring emissions of the HAP or surrogates subject to emission standards in the final rule, we determined that they were impractical alternatives to EPA test methods for the purposes of the final rule. Therefore, the EPA does not intend to adopt these standards. The search and review methods can be found in docket A–95–32 (see **ADDRESSES** section of this preamble).

J. 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. The EPA will submit a report containing the 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**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). The final rule will be effective on April 29, 2003.

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: February 28, 2003.

Christine Todd Whitman,

Administrator.

■ For the reasons cited 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.*

■ 2. Part 63 is amended by adding a new subpart LLLLL to read as follows:

Subpart LLLLL—National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing

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Subpart LLLLL—National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing

What This Subpart Covers

§ 63.8680 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for existing and new asphalt processing and asphalt roofing manufacturing facilities. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations.

§ 63.8681 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate an asphalt processing facility or an asphalt roofing manufacturing facility, as defined in § 63.8698, that is a major source of hazardous air pollutants (HAP) emissions, or is located at, or is part of a major source of HAP emissions.

(b) After the applicable compliance date specified in § 63.8683, blowing stills, asphalt storage tanks, saturators, wet loopers, and coaters subject to the provisions of this subpart that are also subject to 40 CFR part 60, subpart UU, are required to comply only with provisions of this subpart.

(c) This subpart does not apply to any equipment that is subject to subpart CC of this part or to subpart K, Ka, or Kb of 40 CFR part 60.

(d) This subpart does not apply to asphalt processing and asphalt roofing manufacturing equipment used for research and development, as defined in § 63.8698.

(e) A major source of HAP emissions is any stationary source or group of stationary sources within a contiguous area under common control that emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (10 tons) or more per year or any combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year.

§ 63.8682 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, or existing affected source at asphalt processing and asphalt roofing manufacturing facilities.

(b) The affected source is:

(1) Each asphalt processing facility as defined in § 63.8698; or

(2) Each asphalt roofing manufacturing line as defined in § 63.8698.

(i) If the asphalt roofing manufacturing line is collocated with an asphalt processing facility, the storage tanks that store asphalt flux intended for oxidation in the blowing stills and those tanks that receive asphalt directly from the on-site blowing stills are part of the asphalt processing facility. The remaining asphalt storage tanks are considered to be part of the asphalt roofing facility.

(ii) If an asphalt storage tank is shared by two or more lines at an asphalt roofing manufacturing facility, the shared storage tank is considered part of the line to which the tank supplies the greatest amount of asphalt, on an annual basis.

(iii) If a sealant or adhesive applicator is shared by two or more asphalt roofing manufacturing lines, the shared applicator is considered part of the line that provides the greatest throughput to the applicator, on an annual basis.

(c) An affected source is a new affected source if you commenced construction of the affected source after November 21, 2001, and you met the applicability criteria at the time you commenced construction.

(d) An affected source is reconstructed if you meet the criteria in the reconstruction definition in § 63.2.

(e) An affected source is existing if it is not new or reconstructed.

§ 63.8683 When must I comply with this subpart?

(a) If you have a new or reconstructed affected source and start up:

(1) On or before April 29, 2003, then you must comply with the requirements for new and reconstructed sources in this subpart no later than April 29, 2003.

(2) After April 29, 2003, then you must comply with the requirements for new and reconstructed sources in this subpart upon startup.

(b) If you have an existing affected source, you must comply with the requirements for existing sources no later than May 1, 2006.

(c) If you have an area source that increases its emissions or its potential to emit such that it becomes a (or part of a) major source of HAP, then the following requirements apply:

(1) Any portion of the existing facility that becomes a new or reconstructed affected source must be in compliance with this subpart upon startup or by April 29, 2003, whichever is later.

(2) All other parts of the source to which this subpart applies must be in compliance with this subpart by 3 years after the date the source becomes a major source.

(d) You must meet the notification requirements in § 63.8692 according to the schedules in §§ 63.8692 and 63.9. Some of the notifications must be submitted before you are required to comply with the emission limitations in this subpart.

Emission Limitations

§ 63.8684 What emission limitations must I meet?

(a) You must meet each emission limitation in Table 1 to this subpart that applies to you.

(b) You must meet each operating limit in Table 2 to this subpart that applies to you.

General Compliance Requirements

§ 63.8685 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations (including operating limits) in this subpart at all times, except during periods of startup, shutdown, and malfunction.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) You must develop and implement a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

(d) You must develop and implement a written site-specific monitoring plan according to the provisions in § 63.8688(g) and (h).

Testing and Initial Compliance Requirements

§ 63.8686 By what date must I conduct performance tests or other initial compliance demonstrations?

(a) For existing affected sources, you must conduct performance tests no later than 180 days after the compliance date that is specified for your source in § 63.8683 and according to the provisions in § 63.7(a)(2).

(b) As an alternative to the requirement specified in paragraph (a) of this section, you may use the results of a previously-conducted emission test to demonstrate compliance with the emission limitations in this subpart if you demonstrate to the Administrator's satisfaction that:

(1) No changes have been made to the process since the time of the emission test; and

(2) The operating conditions and test methods used during testing conform to the requirements of this subpart; and

(3) The control device and process parameter values established during the previously-conducted emission test are used to demonstrate continuous compliance with this subpart.

(c) For new sources, you must demonstrate initial compliance no later than 180 calendar days after April 29, 2003 or within 180 calendar days after startup of the source, whichever is later.

§ 63.8687 What performance tests, design evaluations, and other procedures must I use?

(a) You must conduct each performance test in Table 3 to this subpart that applies to you.

(b) Each performance test must be conducted under normal operating conditions and under the conditions specified in Table 3 to this subpart.

(c) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(d) Except for opacity and visible emission observations, you must conduct three separate test runs for each performance test required in this section, as specified in § 63.7(e)(3). Each test run must last at least 1 hour.

(e) You must use the following equations to determine compliance with the emission limitations.

(1) To determine compliance with the particulate matter mass emission rate, you must use Equations 1 and 2 of this section as follows:

$$E = M_{PM}/P \qquad \text{(Eq. 1)}$$

Where:

E = Particulate matter emission rate, kilograms (pounds) of particulate matter per megagram (ton) of roofing product manufactured.

M_{PM} = Particulate matter mass emission rate, kilograms (pounds) per hour, determined using Equation 2.

P = The asphalt roofing product manufacturing rate during the emissions sampling period, including any material trimmed from the final product, megagram (tons) per hour.

$$M_{PM} = C * Q * K \qquad \text{(Eq. 2)}$$

Where:

M_{PM} = Particulate matter mass emission rate, kilograms (pounds) per hour.

C = Concentration of particulate matter on a dry basis, grams per dry standard cubic meter (g/dscm), as measured by the test method specified in Table 3 to this subpart.

Q = Vent gas stream flow rate (dry standard cubic meters per minute) at a temperature of 20°C as measured by the test method specified in Table 3 to this subpart.

K = Unit conversion constant (0.06 minute-kilogram/hour-gram.

(2) To determine compliance with the total hydrocarbon percent reduction standard, you must use Equations 3 and 4 of this section as follows:

$$RE = \left[(M_{THCi} - M_{THCo})/(M_{THCi})\right] * (100) \qquad \text{(Eq. 3)}$$

Where:

RE = Emission reduction efficiency, percent.

M_{THCi} = Mass flow rate of total hydrocarbons entering the control device, kilograms (pounds) per hour, determined using Equation 4.

M_{THCo} = Mass flow rate of total hydrocarbons exiting the control device, kilograms (pounds) per hour, determined using Equation 4.

$$M_{THC} = C * Q * K \qquad \text{(Eq. 4)}$$

Where:

M_{THC} = Total hydrocarbon emission rate, kilograms (pounds) per hour.

C = Concentration of total hydrocarbons on a dry basis, parts per million by volume (ppmv), as measured by the test method specified in Table 3 to this subpart.

Q = Vent gas stream flow rate (dscmm) at a temperature of 20 °C as measured by the test method specified in Table 3 to this subpart.

K = Unit conversion constant (3.00E–05) $(ppmv)^{-1}$ (gram-mole/standard cubic meter) (kilogram/gram) (minutes/hour)), where standard temperature for gram-mole/standard cubic meter is 20 °C.

(3) To determine compliance with the combustion efficiency standard, you must use Equation 5 of this section as follows:

$$CE = \left[1 - (CO/CO_2) - (THC/CO_2)\right] \qquad \text{(Eq. 5)}$$

Where:

CE = Combustion efficiency, percent.

CO = Carbon monoxide concentration at the combustion device outlet, parts per million by volume (dry), as measured by the test method specified in Table 3 to this subpart.

CO_2 = Carbon dioxide concentration at the combustion device outlet, parts per million by volume (dry), as measured by the test method specified in Table 3 to this subpart.

THC = Total hydrocarbon concentration at the combustion device outlet, parts per million by volume (dry), as measured by the test method specified in Table 3 to this subpart.

(4) To determine compliance with the total hydrocarbon destruction efficiency standard for a combustion device that does not use auxiliary fuel, you must use Equation 6 of this section as follows:

$$THC\ DE = \left[(CO + CO_2)/(CO + CO_2 + THC)\right] \qquad \text{(Eq. 6)}$$

Where:

THC DE = THC destruction efficiency, percent.

CO = Carbon monoxide concentration at the combustion device outlet, parts per million by volume (dry), as measured by the test method specified in Table 3 to this subpart.

CO_2 = Carbon dioxide concentration at the combustion device outlet, parts per million by volume (dry), as measured by the test method specified in Table 3 to this subpart.

THC = Total hydrocarbon concentration at the combustion device outlet, parts per million by volume (dry), as measured by the test method specified in Table 3 to this subpart.

§ 63.8688 What are my monitoring installation, operation, and maintenance requirements?

(a) You must install, operate, and maintain each continuous parameter monitoring system (CPMS) according to the following:

(1) The CPMS must complete a minimum of one cycle of operation for each successive 15-minute period.

(2) To determine the 3-hour average, you must:

(i) Have a minimum of four successive cycles of operation to have a valid hour of data.

(ii) Have valid data from at least three of four equally spaced data values for that hour from a CPMS that is not out-of-control according to your site-specific monitoring plan.

(iii) Determine the 3-hour average of all recorded readings for each operating day, except as stated in § 63.8690(c). You must have at least two of the three hourly averages for that period using only hourly average values that are based on valid data (*i.e.*, not from out-of-control periods).

(3) You must record the results of each inspection, calibration, and validation check.

(b) For each temperature monitoring device, you must meet the requirements in paragraph (a) of this section and the following:

(1) Locate the temperature sensor in a position that provides a representative temperature.

(2) For a noncryogenic temperature range, use a temperature sensor with a minimum measurement sensitivity of 2.8 °C or 1.0 percent of the temperature value, whichever is larger.

(3) If a chart recorder is used, it must have a sensitivity in the minor division of at least 20 °F.

(4) Perform an accuracy check at least semiannually or following an operating parameter deviation:

(i) According to the procedures in the manufacturer's documentation; or

(ii) By comparing the sensor output to redundant sensor output; or

(iii) By comparing the sensor output to the output from a calibrated temperature measurement device; or

(iv) By comparing the sensor output to the output from a temperature simulator.

(5) Conduct accuracy checks any time the sensor exceeds the manufacturer's specified maximum operating temperature range or install a new temperature sensor.

(6) At least quarterly or following an operating parameter deviation, perform visual inspections of components if redundant sensors are not used.

(c) For each pressure measurement device, you must meet the requirements of paragraph (a) of this section and the following:

(1) Locate the pressure sensor(s) in, or as close as possible, to a position that provides a representative measurement of the pressure.

(2) Use a gauge with a minimum measurement sensitivity of 0.12 kiloPascals or a transducer with a minimum measurement sensitivity of 5 percent of the pressure range.

(3) Check pressure tap pluggage daily. Perform an accuracy check at least quarterly or following an operating parameter deviation:

(i) According to the procedures in the manufacturer's documentation; or

(ii) By comparing the sensor output to redundant sensor output.

(4) Conduct calibration checks any time the sensor exceeds the manufacturer's specified maximum operating pressure range or install a new pressure sensor.

(5) At least monthly or following an operating parameter deviation, perform a leak check of all components for integrity, all electrical connections for continuity, and all mechanical connections for leakage.

(6) At least quarterly or following an operating parameter deviation, perform visible inspections on all components if redundant sensors are not used.

(d) For monitoring parameters other than temperature and pressure drop, you must install and operate a CPMS to provide representative measurements of the monitored parameters.

(e) For each flare, you must install a device (including but not limited to a thermocouple, an ultraviolet beam sensor, or an infrared sensor) capable of continuously detecting the presence of a pilot flame.

(f) As an option to installing the CPMS specified in paragraph (a) of this section, you may install a continuous emissions monitoring system (CEMS) or a continuous opacity monitoring system (COMS) that meets the requirements specified in § 63.8 and the applicable performance specifications of 40 CFR part 60, appendix B.

(g) For each monitoring system required in this section, you must develop and make available for inspection by the permitting authority, upon request, a site-specific monitoring plan that addresses the following:

(1) Installation of the CPMS, CEMS, or COMS sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (*e.g.*, on or downstream of the last control device);

(2) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system; and

(3) Performance evaluation procedures and acceptance criteria (*e.g.*, calibrations).

(h) In your site-specific monitoring plan, you must also address the following:

(1) Ongoing operation and maintenance procedures in accordance with the general requirements of § 63.8(c)(1), (c)(3), (c)(4)(ii), (c)(7), and (c)(8);

(2) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d); and

(3) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c), (e)(1), and (e)(2)(i).

(i) You must conduct a performance evaluation of each CPMS, CEMS, or COMS in accordance with your site-specific monitoring plan.

(j) You must operate and maintain the CPMS, CEMS, or COMS in continuous operation according to the site-specific monitoring plan.

§ 63.8689 How do I demonstrate initial compliance with the emission limitations?

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

(b) You must establish each site-specific operating limit in Table 2 to this subpart that applies to you according to the requirements in § 63.8687 and Table 3 to this subpart.

(c) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.8692(e).

Continuous Compliance Requirements

§ 63.8690 How do I monitor and collect data to demonstrate continuous compliance?

(a) You must monitor and collect data according to this section.

(b) Except for monitor malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating. This includes periods of startup, shutdown, and malfunction when the affected source is operating.

(c) You may not use data recorded during monitoring malfunctions, associated repairs, and required quality assurance or control activities in data averages and calculations used to report emission or operating levels, nor may such data be used in fulfilling a minimum data availability requirement, if applicable. You must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

§ 63.8691 How do I demonstrate continuous compliance with the operating limits?

(a) You must demonstrate continuous compliance with each operating limit in Table 2 to this subpart that applies to you according to test methods specified in Table 5 to this subpart.

(b) You must report each instance in which you did not meet each operating limit in Table 5 to this subpart that applies to you. This includes periods of startup, shutdown, and malfunction. These instances are deviations from the emission limitations in this subpart. These deviations must be reported according to the requirements in § 63.8693.

(c) During periods of startup, shutdown, and malfunction, you must operate in accordance with the SSMP.

(d) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the SSMP. The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

Notifications, Reports, and Records

§ 63.8692 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.6(h)(4) and (5), 63.7(b) and (c), 63.8(f), and 63.9(b) through (f) and (h) that apply to you by the dates specified.

(b) As specified in § 63.9(b)(2), if you start up your affected source before April 29, 2003, you must submit an Initial Notification not later than 120 calendar days after April 29, 2003.

(c) As specified in § 63.9(b)(3), if you start up your new or reconstructed affected source on or after April 29, 2003, you must submit an Initial Notification not later than 120 calendar days after you become subject to this subpart.

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

(e) If you are required to conduct a performance test, design evaluation, opacity observation, visible emission observation, or other initial compliance demonstration as specified in Table 3 or 4 to this subpart, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii). You must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2).

(f) If you are using data from a previously-conducted emission test to serve as documentation of conformance with the emission standards and operating limits of this subpart, you must submit the test data in lieu of the initial performance test results with the Notification of Compliance Status required under paragraph (e) of this section.

§ 63.8693 What reports must I submit and when?

(a) You must submit each report in Table 6 to this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report by the date in Table 6 to this subpart and according to the following dates:

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.8683 and ending on June 30 or December 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in § 63.8683.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date that is specified for your affected source in § 63.8683.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of the dates in paragraphs (b)(1) through (4) of this section.

(c) The compliance report must contain the following information:

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If you had a startup, shutdown or malfunction during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information in § 63.10(d)(5)(i).

(5) If there are no deviations from any emission limitations (emission limit, operating limit, opacity limit, and visible emission limit) that apply to you, a statement that there were no deviations from the emission limitations during the reporting period.

(6) If there were no periods during which the CPMS, CEMS, or COMS was out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which the CPMS, CEMS, or COMS was out-of-control during the reporting period.

(d) For each deviation from an emission limitation (emission limit, operating limit, opacity limit, and visible emission limit), you must include the information in paragraphs (c)(1) through (6) of this section, and the information in paragraphs (d)(1) through (12) of this section. This includes periods of startup, shutdown, and malfunction.

(1) The date and time that each malfunction started and stopped.

(2) The date and time that each CPMS, CEMS, or COMS was inoperative, except for zero (low-level) and high-level checks.

(3) The date, time and duration that each CPMS, CEMS, or COMS was out-of-control, including the information in § 63.8(c)(8).

(4) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(5) A summary of the total duration of the deviation during the reporting period and the total duration as a percent of the total source operating time during that reporting period.

(6) A breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(7) A summary of the total duration of CPMS, CEMS, or COMS downtime during the reporting period and the total duration of CPMS, CEMS, or COMS downtime as a percent of the total source operating time during that reporting period.

(8) An identification of each air pollutant that was monitored at the affected source.

(9) A brief description of the process units.

(10) A brief description of the CPMS, CEMS, or COMS.

(11) The date of the latest CPMS, CEMS, or COMS certification or audit.

(12) A description of any changes in CPMS, CEMS, or COMS, processes, or controls since the last reporting period.

(e) Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 40 CFR part 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If an affected source submits a compliance report pursuant to Table 6 to this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the compliance report includes all required information concerning deviations from any emission limitation (including any operating limit), submission of the compliance report shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permit authority.

(f) If acceptable to both the Administrator and you, you may submit reports and notifications electronically.

§ 63.8694 What records must I keep?

(a) You must keep the following records:

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(3) Records of performance tests, performance evaluations, and opacity and visible emission observations as required in § 63.10(b)(2)(viii).

(b) You must keep the records in § 63.6(h)(6) for visible emission observations.

(c) You must keep the records required in Table 5 to this subpart to show continuous compliance with each operating limit that applies to you.

(d) Records of any shared equipment determinations as specified in § 63.8682(b).

§ 63.8695 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.8696 What parts of the General Provisions apply to me?

Table 7 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

§ 63.8697 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. Environmental Protection Agency (U.S. EPA), or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the following authorities are retained by the Administrator of U.S. EPA:

(1) Approval of alternatives to the requirements in §§ 63.8681, 63.8682, 63.8683, 63.8684(a) through (c), 63.8686, 63.8687, 63.8688, 63.8689, 63.8690, and 63.8691.

(2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.8698 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in 40 CFR 63.2, the General Provisions of this part, and in this section as follows:

Adhesive applicator means the equipment used to apply adhesive to roofing shingles for producing laminated or dimensional roofing shingles.

Asphalt flux means the organic residual material from distillation of crude oil that is generally used in asphalt roofing manufacturing and paving and non-paving asphalt products.

Asphalt loading rack means the equipment at an asphalt processing facility used to transfer oxidized asphalt from a storage tank into a tank truck, rail car, or barge.

Asphalt processing facility means any facility engaged in the preparation of asphalt flux at stand-alone asphalt processing facilities, petroleum refineries, and asphalt roofing facilities. Asphalt preparation, called "blowing," is the oxidation of asphalt flux, achieved by bubbling air through the heated asphalt, to raise the softening point and to reduce penetration of the oxidized asphalt. An asphalt processing facility includes one or more asphalt flux blowing stills, asphalt flux storage tanks storing asphalt flux intended for processing in the blowing stills, oxidized asphalt storage tanks, and oxidized asphalt loading racks.

Asphalt roofing manufacturing facility means a facility consisting of one or more asphalt roofing manufacturing lines.

Asphalt roofing manufacturing line means the collection of equipment used to manufacture asphalt roofing products through a series of sequential process steps. The equipment that comprises an asphalt roofing manufacturing line varies depending on the type of substrate used (*i.e.*, organic or inorganic) and the final product manufactured (*e.g.*, roll roofing, laminated shingles). For example, an asphalt roofing manufacturing line that uses fiberglass mat as a substrate typically would not include a saturator/wet looper (or the saturator/wet looper could be bypassed if the line manufacturers multiple types of products). An asphalt roofing manufacturing line can include a saturator (including wet looper), coater, coating mixers, sealant applicators, adhesive applicators, and asphalt storage and process tanks. The number of asphalt roofing manufacturing lines at a particular facility is determined by the number of saturators (or coaters) operated in parallel. For example, an asphalt roofing manufacturing facility with two saturators (or coaters) operating in parallel would be considered to have two separate roofing manufacturing lines.

Asphalt storage tank means any tank used to store asphalt flux, oxidized asphalt, and modified asphalt, at asphalt roofing manufacturing facilities, petroleum refineries, and asphalt processing facilities. Storage tanks containing cutback asphalts (asphalts diluted with solvents to reduce viscosity for low temperature applications) and emulsified asphalts (asphalts dispersed in water with an emulsifying agent) are not subject to this subpart.

Blowing still means the equipment in which air is blown through asphalt flux to change the softening point and penetration rate of the asphalt flux, creating oxidized asphalt.

Boiler means any enclosed combustion device that extracts useful energy in the form of steam and is not an incinerator.

Coater means the equipment used to apply amended (filled or modified) asphalt to the top and bottom of the substrate (typically fiberglass mat) used to manufacture shingles and rolled roofing products.

Coating mixer means the equipment used to mix coating asphalt and a mineral stabilizer, prior to applying the stabilized coating asphalt to the substrate.

Combustion device means an individual unit of equipment such as a flare, incinerator, process heater, or boiler used for the combustion of organic hazardous air pollutant vapors.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart including, but not limited to, any emission limitation (including any operating limit), or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart, and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation (including any operating limit) or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Emission limitation means any emission limit, opacity limit, operating limit, or visible emission limit.

Group 1 asphalt loading rack means an asphalt loading rack loading asphalt with a maximum temperature of 260 °C (500 °F) or greater or with a maximum true vapor pressure of 10.4 kiloPascals (kPa) (1.5 pounds per square inch absolute (psia)) or greater.

Group 2 asphalt loading rack means an asphalt loading rack loading asphalt with a maximum temperature less than 260 °C (500 °F) or with a maximum true vapor pressure less than 10.4 kPa, 1.5 psia.

Group 1 asphalt storage tank means an asphalt storage tank that meets both of the following two criteria:

(1) Has a capacity of 177 cubic meters (47,000 gallons) of asphalt or greater; and

(2) Stores asphalt at a maximum temperature of 260 °C (500 °F) or greater, or has a maximum true vapor pressure of 10.4 kPa, (1.5, psia) or greater.

Group 2 asphalt storage tank means any asphalt storage tank with a capacity of 1.93 megagrams (Mg) of asphalt or greater that is not a Group 1 asphalt storage tank.

Incinerator means an enclosed combustion device that is used for destroying organic compounds. Auxiliary fuel may be used to heat waste gas to combustion temperatures. Any energy recovery section present is not physically formed into one manufactured or assembled unit with the combustion section; rather, the energy recovery section is a separate section following the combustion section and the two are joined by ducts or connections carrying flue gas.

Maximum true vapor pressure means the equilibrium partial pressure exerted by the stored asphalt at its maximum storage temperature.

Modified asphalt means asphalt that has been mixed with polymer modifiers.

Oxidized asphalt means asphalt that has been prepared by passing air through liquid asphalt flux in a blowing still.

Process heater means an enclosed combustion device that primarily transfers heat liberated by burning fuel directly to process streams or to heat transfer liquids other than water.

Research and development equipment means any equipment whose primary purpose is to conduct research and development to develop new processes and products, where such equipment is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for commercial sale in commerce, except in a *de minimis* manner.

Responsible official means responsible official as defined in 40 CFR 70.2.

Saturator means the equipment in which substrate (predominantly organic felt) is filled with asphalt. Saturators are predominantly used for the manufacture of saturated felt products. The term saturator includes the saturator and wet looper.

Sealant applicator means the equipment used to apply a sealant strip to a roofing product. The sealant strip is used to seal overlapping pieces of roofing product after they have been applied.

Work practice standard means any design, equipment, work practice, or operational standard, or combination thereof, that is promulgated pursuant to section 112(h) of the Clean Air Act.

Tables to Subpart LLLLL of Part 63

TABLE 1 TO SUBPART LLLLL OF PART 63.—EMISSION LIMITATIONS

For—	You must meet the following emission limitation—
1. Each blowing still, Group 1 asphalt loading rack, and Group 1 asphalt storage tank at existing, new, and reconstructed asphalt processing facilities; and each Group 1 asphalt storage tank at existing, new, and reconstructed roofing manufacturing lines; and each coating mixer, saturator (including wet looper), coater, sealant applicator, adhesive applicator, and Group 1 asphalt storage tank at new and reconstructed asphalt roofing manufacturing lines.	a. Reduce total hydrocarbon mass emissions by 95 percent, or to a concentration of 20 ppmv, on a dry basis corrected to 3 percent oxygen; b. Route the emissions to a combustion device achieving a combustion efficiency of 99.5 percent; c. Route the emissions to a combustion device that does not use auxiliary fuel achieving a total hydrocarbon (THC) destruction efficiency of 95.8 percent; d. Route the emissions to a boiler or process heater with a design heat input capacity of 44 megawatts (MW) or greater; e. Introduce the emissions into the flame zone of a boiler or process heater; or f. Route emissions to a flare meeting the requirements of § 63.11(b).

TABLE 1 TO SUBPART LLLLL OF PART 63.—EMISSION LIMITATIONS—Continued

For—	You must meet the following emission limitation—
2. The total emissions from the coating mixer, saturator (including wet looper), coater, sealant applicator, and adhesive applicator at each existing asphalt roofing manufacturing line.[a]	a. Limit particulate matter emissions to 0.04 kilograms emissions per megagram (kg/Mg) (0.08 pounds per ton, lb/ton) of asphalt shingle or mineral-surfaced roll roofing produced; or b. Limit particulate matter emissions to 0.4 kg/Mg (0.8 lb/ton) of saturated felt or smooth-surfaced roll roofing produced.
3. Each saturator (including wet looper) and coater at existing, new, and reconstructed asphalt roofing manufacturing lines.[a]	a. Limit exhaust gases to 20 percent opacity; and b. Limit visible emissions from the emission capture system to 20 percent of any period of consecutive valid observations totaling 60 minutes.
4. Each Group 2 asphalt storage tank at existing, new, and reconstructed asphalt processing facility and asphalt roofing manufacturing lines.[a]	Limit exhaust gases to 0 percent opacity.[b]

[a] As an alternative to meeting the particulate matter and opacity limits, these emission sources may comply with the THC percent reduction or combustion efficiency standards.

[b] The opacity limit can be exceeded for on consecutive 15-minute period in any 24-hour period when the storage tank transfer lines are being cleared. During this 15-minute period, the control device must not be bypassed. If the emissions from the asphalt storage tank are ducted to the saturator control device, the combined emissions from the saturator and storage tank must meet the 20 percent opacity limit (specified in 4.a of table 1) during this 15-minute period. At any other time, the opacity limit applies to Group 2 asphalt storage tanks.

TABLE 2 TO SUBPART LLLLL OF PART 63.—OPERATING LIMITS

For—	You must[a]
1. Non-flare combustion devices with a design heat input capacity less than 44 MW or where the emissions are not introduced into the flame zone.	Maintain the 3-hour average[b] combustion zone temperature at or above the operating limit established during the performance test.
2. Flares	Meet the operating requirements specified in §63.11(b).
3. Control devices used to comply with the particulate matter standards.	a. Maintain the 3-hour average[b] inlet gas temperature at or below the operating limit established during the performance test; and b. Maintain the 3-hour average[b] pressure drop across the device[c] at or below the operating limit established during the performance test.
4. Control devices other than combustion devices or devices used to comply with the particulate matter emission standards.	Maintain the approved monitoring parameters within the operating limits established during the performance test.

[a] The operating limits specified in Table 2 are applicable if you are monitoring control device operating parameters to demonstrate continuous compliance. If you are using a CEMS or COMS, you must maintain emissions below the value established during the initial performance test.

[b] A 15-minute averaging period can be used as an alternative to the 3-hour averaging period for this parameter.

[c] As an alternative to monitoring the pressure drop across the control device, owners or operators using an ESP to achieve compliance with the emission limits specified in Table 1 of this subpart can monitor the voltage to the ESP. If this option is selected, the ESP voltage must be maintained at or above the operating limit established during the performance test.

TABLE 3 TO SUBPART LLLLL OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS[a] [b]

For—	You must—	Using—	According to the following requirements—
1. All particulate matter, total hydrocarbon, carbon monoxide, and carbon dioxide emission tests.	a. Select sampling port's location and the number of traverse points.	i. EPA test method 1 or 1A in appendix A to part 60 of this chapter.	A. For demonstrating compliance with the total hydrocarbon percent reduction standard, the sampling sites must be located at the inlet and outlet of the control device and prior to any releases to the atmosphere. B. For demonstrating compliance with the particulate matter mass emission rate, THC destruction efficiency, THC outlet concentration, or combustion efficiency standards, the sampling sites must be located at the outlet of the control device and prior to any releases to the atmosphere.
2. All particulate matter and total hydrocarbon tests.	Determine velocity and volumetric flow rate.	EPA test method 2, 2A, 2C, 2D, 2F, or 2G, as appropriate, in appendix A to part 60 of this chapter.	
3. All particulate matter and total hydrocarbon tests.	Determine the gas molecular weight used for flow rate determination.	EPA test method 3, 3A, 3B, as appropriate, in appendix A to part 60 of this chapter.	
4. All particulate matter, total hydrocarbon, carbon monoxide, and carbon dioxide emission tests.	Measure moisture content of the stack gas.	EPA test method 4 in appendix A to part 60 of this chapter.	

TABLE 3 TO SUBPART LLLLL OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS [a] [b]—Continued

For—	You must—	Using—	According to the following requirements—
5. All particulate matter emission tests.	Measure the asphalt processing rate or the asphalt roofing manufacturing rate and the asphalt content of the product manufactured, as appropriate.		
6. Each control device used to comply with the particulate matter emission standards.	Measure the concentration of particulate matter.	EPA test method 5A in appendix A to part 60 of this chapter.	For demonstrating compliance with the particulate matter standard, the performance tests must be conducted under normal operating conditions and while manufacturing the roofing product that is expected to result in the greatest amount of hazardous air pollutant emissions.
7. All opacity tests	Conduct opacity observations ..	EPA test method 9 in appendix A to part 60 of this chapter.	Conduct opacity observations for at least 3 hours and obtain 30, 6-minute averages.
8. All visible emission tests	Conduct visible emission observations.	EPA test method 22 in appendix A to part 60 of this chapter.	Modify EPA test method 22 such that readings are recorded every 15 seconds for a period of consecutive observations totaling 60 minutes.
9. Each combustion device used to comply with the combustion efficiency or THC standards.	a. Measure the concentration of carbon dioxide.	EPA test method 3A in appendix A to part 60 of this chapter.	
	b. Measure the concentration of carbon monoxide.	EPA test method 10 in appendix A to part 60 of this chapter.	
	c. Measure the concentration of total hydrocarbons.	EPA test method 25A in appendix A to part 60 of this chapter.	
10. Each control device used to comply with the THC reduction efficiency or outlet concentration standards.	Measure the concentration of total hydrocarbons.	EPA test method 25A in appendix A to part 60 of this chapter.	
11. Each combustion device	Establish a site-specific combustion zone temperature limit.	Data from the CPMS and the applicable performance test method(s).	You must collect combustion zone temperature data every 15 minutes during the entire period of the initial 3-hour performance test, and determine the average combustion zone temperature over the 3-hour performance test by computing the average of all of the 15-minute readings.
12. Each control device used to comply with the particulate matter emission standards.	Establish a site-specific inlet gas temperature limit; and establish a site-specific limit for the pressure drop across the device.	Data from the CPMS and the applicable performance test method(s).	You must collect the inlet gas temperature and pressure drop [b] data every 15 minutes during the entire period of the initial 3-hour performance test, and determine the average inlet gas temperature and pressure drop [c] over the 3-hour performance test by computing the average of all of the 15-minute readings.
13. Each control device other than a combustion device or device used to comply with the particulate matter emission standards.	Establish site-specific monitoring parameters.	Process data and data from the CPMS and the applicable performance test method(s).	You must collect monitoring parameter data every 15 minutes during the entire period of the initial 3-hour performance test, and determine the average monitoring parameter values over the 3-hour performance test by computing the average of all of the 15-minute readings.
14. Each flare used to comply with the THC percent reduction or PM emission limits.	Assure that the flare is operated and maintained in conformance with its design.	The requirements of § 63.11(b).	

[a] As specified in § 63.8687(e), you may request that data from a previously-conducted emission test serve as documentation of conformance with the emission standards and operating limits of this subpart.

[b] Performance tests are not required if: (1) The emissions are routed to a boiler or process heater with a design heat input capacity of 44 MW or greater; or (2) the emissions are introduced into the flame zone of a boiler or process heater.

[c] As an alternative to monitoring the pressure drop across the control device, owners or operators using an ESP to achieve compliance with the emission limits specified in Table 1 of this subpart can monitor the voltage to the ESP.

TABLE 4 TO SUBPART LLLLL TO PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS

For—	For the following emission limitation—	You have demonstrated initial compliance if—
1. Each blowing still, Group 1 asphalt loading rack, and Group 1 asphalt storage tank, at existing, new, and reconstructed asphalt processing facilities.	a. Reduce total hydrocarbon mass emissions by 95 percent or to a concentration of 20 ppmv, on a dry basis corrected to 3 percent oxygen.	i. The total hydrocarbon emissions, determined using the equations in §63.8687 and the test methods and procedures in Table 3 to this subpart, over the period of the performance test are reduced by at least 95 percent by weight or to a concentration of 20 ppmv, on a dry basis corrected to 3 percent oxygen; and ii. You have a record of the average control device operating parameters[a] over the performance test during which emissions were reduced according to 1.a.i. of this table.
	b. Route the emissions to a combustion device achieving a combustion efficiency of 99.5 percent.	i. The combustion efficiency of the combustion device, determined using the equations in §63.8687 and the test methods and procedures in Table 3 to this subpart, over the period of the performance test is at least 99.5 percent; and ii. You have a record of the average combustion zone temperature[a] and carbon monoxide, carbon dioxide, and total hydrocarbon outlet concentrations over the performance test during which the combustion efficiency was at least 99.5 percent.
	c. Route the emissions to a combustion device that does not use auxiliary fuel achieving a THC destruction efficiency of 95.8 percent.	i. The THC destruction efficiency of the combustion device, determined using the equations in §63.8687 and the test methods and procedures in Table 3 to this subpart, over the period of the performance test is at least 95.8 percent; and ii. You have a record of the average combustion zone temperature[a] and carbon monoxide, carbon dioxide, and total hydrocarbon outlet concentrations over the performance test during which the THC destruction efficiency was at least 95.8 percent.
	d. Route emissions to a boiler or process heater with a design heat input capacity of 44 MW or greater.	You have a record of the boiler or process heater design heat capacity.
	e. Introduce the emissions into the flame zone of a boiler or process heater.	You have a record that shows the emissions are being introduced into the boiler or process heater flame zone.
	f. Route emissions to a flare meeting the requirements of §63.11(b).	You have a record of the flare design and operating requirements.
2. Each coating mixer, saturator (including wet looper), coater, sealant applicator, adhesive applicator, and Group 1 asphalt storage tank at new and reconstructed asphalt roofing manufacturing lines.	a. Reduce total hydrocarbon mass emissions by 95 percent or to a concentration of 20 ppmv, on a dry basis corrected to 3 percent oxygen.	See 1.a.i. and ii. of this table.
	b. Route the emissions to a combustion device achieving a combustion efficiency of 99.5 percent.	See 1.b.i. and ii. of this table.
	c. Route the emissions to a combustion device that does not use auxiliary fuel achieving a THC destruction efficiency of 95.8 percent.	See 1.c.i. and ii. of this table.
	d. Route emissions to a boiler or process heater with a design heat input capacity of 44 MW or greater.	See 1.d. of this table.
	e. Introduce the emissions into the flame zone of a boiler or process heater.	See 1.e. of this table.
	f. Route emissions to a flare meeting the requirements of §63.11(b).	See 1.f. of this table.
3. The total emissions from the coating mixer, saturator (including wet looper), coater, sealant applicator, and adhesive applicator at each existing asphalt roofing manufacturing line.	a. Limit PM emissions to 0.04 kg/Mg (0.08 lb/ton) of asphalt shingle or mineral-surfaced roll roofing produced.	i. The PM emissions, determined using the equations in §63.8687 and the test methods and procedures in Table 3 to this subpart, over the period of the performance test are no greater than the applicable emission limitation; and ii. You have a record of the average control device[a] or process parameters over the performance test during which the particulate matter emissions were no greater than the applicable emission limitation.

TABLE 4 TO SUBPART LLLLL TO PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS—Continued

For—	For the following emission limitation—	You have demonstrated initial compliance if—
	b. Limit PM emissions to 0.4 kg/Mg (0.8 lb/ton) of saturated felt or smooth-surfaced roll roofing produced.	See 3.a.i. and ii. of this table.
4. Each saturator (including wet looper) and coater at an existing, new, or reconstructed asphalt roofing manufacturing line.	a. Limit visible emissions from the emissions capture system to 20 percent of any period of consecutive valid observations totaling 60 minutes.	The visible emissions, measured using EPA test method 22, for any period of consecutive valid observations totaling 60 minutes during the initial compliance period described in §63.8686(b) do not exceed 20 percent.
	b. Limit opacity emissions to 20 percent.	The opacity, measured using EPA test method 9, for each of the first 30 6-minute averages during the initial compliance period described in §63.8686(b) does not exceed 20 percent.
5. Each Group 2 asphalt storage tank at existing, new, and reconstructed asphalt processing facilities and asphalt roofing manufacturing lines.	Limit exhaust gases to 0 percent opacity.	The opacity, measured using EPA test method 9, for each of the first 30 6-minute averages during the initial compliance period described in §63.8686(b) does not exceed 0 percent.

[a] If you use a CEMS or COMS to demonstrate compliance with the emission limits, you are not required to record control device operating parameters.

TABLE 5 TO SUBPART LLLLL OF PART 63.—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS [a]

For—	For the following operating limit—	You must demonstrate continuous compliance by—
1. Each non-flare combustion device.[b]	a. Maintain the 3-hour[c] average combustion zone temperature at or above the operating limit establishing during the performance test.	i. Passing the emissions through the control device; and ii. Collecting the combustion zone temperature data according to §63.8688(b); and iii. Reducing combustion zone temperature data to 3-hour[c] averages according to calculations in Table 3 to this subpart; and iv. Maintaining the 3-hour[c] average combustion zone temperature within the level established during the performance test.
2. Each flare	Meet the operating requirements specified in §63.11(b).	The flare pilot light must be present at all times and the flare must be operating at all times that emissions may be vented to it.
3. Control devices used to comply with the particulate matter emission standards.	a. Maintain the 3-hour[c] average inlet gas temperature and pressure drop across device[d] at or below the operating limits established during the performance test.	i. Passing the emissions through the control device; and ii. Collecting the inlet gas temperature and pressure drop[d] data according to §63.8688 (b) and (c); and iii. Reducing inlet gas temperature and pressure drop[d] data to 3-hour[c] averages according to calculations in Table 3 to this subpart; and iv. Maintaining the 3-hour[c] average inlet gas temperature and pressure drop[d] within the level established during the performance test.
4. Control devices other than combustion devices or devices used to comply with the particulate matter emission.	a. Maintain the monitoring parameters within the operating limits established during the performance test.	i. Passing the emissions through the devices; ii. Collecting the monitoring parameter data according to §63.8688(d); and iii. Reducing the monitoring parameter data to 3-hour[c] averages according to calculations in Table 3 to this subpart; and iv. Maintaining the monitoring parameters within the level established during the performance test.

[a] The operating limits specified in Table 2 and the requirements specified in Table 5 are applicable if you are monitoring control device operating parameters to demonstrate continuous compliance. If you use a CEMS or COMS to demonstrate compliance with the emission limits, you are not required to record control device operating parameters. However, you must maintain emissions below the value established during the initial performance test. Data from the CEMS and COMS must be reduced as specified in §63.9(g).

[b] Continuous parameter monitoring is not required if (1) the emissions are routed to a boiler or process heater with a with a design heat input capacity of 44 MW or greater; or (2) the emissions are introduced into the flame zone of a boiler or process heater.

[c] A 15-minute averaging period can be used as an alternative to the 3-hour averaging period for this parameter.

[d] As an alternative to monitoring the pressure drop across the control device, owners or operators using an ESP to achieve compliance with the emission limits specified in Table 1 of this subpart can monitor the voltage to the ESP. If this option is selected, the ESP voltage must be maintained at or above the operating limit established during the performance test.

TABLE 6 TO SUBPART LLLLL OF PART 63—REQUIREMENTS FOR REPORTS

You must submit—	The report must contain—	You must submit the report—
1. An initial notification	The information in §63.9(b)	According to the requirements in §63.9(b).
2. A notification of performance test	A written notification of the intent to conduct a performance test.	At least 60 calendar days before the performance test is scheduled to begin, as required in §63.9(e).
3. A notification of opacity and visible emission observations.	A written notification of the intent to conduct opacity and visible emission observations.	According to the requirements in §63.9(f).

TABLE 6 TO SUBPART LLLLL OF PART 63—REQUIREMENTS FOR REPORTS—Continued

You must submit—	The report must contain—	You must submit the report—
4. Notification of compliance status	The information in § 63.9(h)(2) through (5), as applicable	According to the requirements in § 63.9(h)(2) through (5), as applicable.
5. A compliance report	a. A statement that there were no deviations from the emission limitations during the reporting period, if there are no deviations from any emmission limitations (emission limit, operating limit, opacity limit, and visible emission limit) that apply to you.	Semiannually according to the requirements in § 63.8693(b).
	b. If there were no periods during which the CPMS, CEMS, or COMS was out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which the CPMS, CEMS, or COMS was out-of-control during the reporting period.	Semiannually according to the requirements in § 63.8693(b).
	c. If you have a deviation from any emission limitation (emission limit, operating limit, opacity limit, and visible emission limit), the report must contain the information in § 63.8693(c). If there were periods during which the CPMS, CEMS, or COMS was out-of-control, as specified in § 63.8(c)(7), the report must contain the information in § 63.8693(d).	Semiannually according to the requirements in § 63.8693(b).
	d. If you had a startup, shutdown or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).	Semiannually according to the requirements in § 63.8693(b).
6. An immediate startup, shutdown, and malfunction report if you have a startup, shutdown, or malfunction during the reporting period and actions taken were not consistent with your startup, shutdown, and malfunction plan.	The information in § 63.10(d)(5)(ii)	By fax or telephone within 2 working days after starting actions inconsistent with the plan followed by a letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority.

TABLE 7 TO SUBPART LLLLL OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLL

Citation	Subject	Brief description	Applies to subpart LLLLL
§ 63.1	Applicability	Initial Applicability Determination; Applicability After Standard Established; Permit Requirements; Extensions, Notifications.	Yes.
§ 63.2	Definitions	Definitions for part 63 standards	Yes.
§ 63.3	Units and Abbreviations	Units and abbreviations for part 63 standards	Yes.
§ 63.4	Prohibited Activities	Prohibited Activities; Compliance date; Circumvention, Severability.	Yes.
§ 63.5	Construction/Reconstruction	Applicability; applications; approvals	Yes.
§ 63.6(a)	Applicability	GP apply unless compliance extension GP apply to area sources that become major.	Yes.
§ 63.6(b)(1)–(4)	Compliance Dates for New and Reconstructed sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for section 112(f).	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes.
§ 63.6(b)(6)	[Reserved].		
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources That Become Major.	Area sources that become major must comply with major source standards immediately upon becoming major, regardless of whether required to comply when they were an area source.	Yes.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources	1. Comply according to date in subpart, which must be no later than 3 years after effective date. 2. For section 112(f) standards, comply within 90 days of effective date unless compliance extension has been granted.	Yes.
§ 63.6(c)(3)–(4)	[Reserved].		
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources That Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (for example, 3 years).	Yes.

TABLE 7 TO SUBPART LLLLL OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLL—Continued

Citation	Subject	Brief description	Applies to subpart LLLLL
§ 63.6(d)	[Reserved].		
§ 63.6(e)(1)	Operation & Maintenance	1. Operate to minimize emissions at all times ... 2. Correct malfunctions as soon as practicable 3. Operation and maintenance requirements independently enforceable; information Administrator will use to determine if operation and maintenance requirements were met.	Yes.
§ 63.6(e)(2)	[Reserved].		
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction (SSM) Plan (SSMP).	1. Requirement for SSM and startup, shutdown, malfunction plan. 2. Content of SSMP	Yes.
§ 63.6(f)(1)	Compliance Except During SSM	You must comply with emission standards at all times except during SSM.	Yes.
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes.
§ 63.6(g)(1)–(3)	Alternative Nonopacity Standard	Procedures for getting an alternative nonopacity standard.	Yes.
§ 63.6(h)	Opacity/Visible Emission (VE) Standards	Requirements for opacity and VE limits	Yes.
§ 63.6(h)(1)	Compliance with Opacity/VE Standards	You must comply with opacity/VE emission limitations at all times except during SSM.	Yes.
§ 63.6(h)(2)(i)	Determining Compliance with Opacity/VE Standards.	If standard does not state test method, use EPA test method 9, 40 CFR 60, appendix A for opacity and EPA test method 22, 40 CFR 60, appendix A for VE.	No. The test methods for opacity and visible emissions are specified in § 63.8687.
§ 63.6(h)(2)(ii)	[Reserved].		
§ 63.6(h)(2)(iii)	Using Previous Tests to Demonstrate Compliance with Opacity/VE Standards.	Criteria for when previous opacity/VE testing can be used to show compliance with this rule.	Yes.
§ 63.6(h)(3)	[Reserved].		
§ 63.6(h)(4)	Notification of Opacity/VE Observation Date	Must notify Administrator of anticipated date of observation.	Yes.
§ 63.6(h)(5)(i), (iii)–(v).	Conducting Opacity/VE Observations	Dates and Schedule for conducting opacity/VE observations.	Yes.
§ 63.6(h)(5)(ii)	Opacity Test Duration and Averaging Times	Must have at least 3 hours of observation with thirty 6-minute averages.	Yes.
§ 63.6(h)(6)	Records of Conditions During Opacity/VE Observations.	Must keep records available and allow Administrator to inspect.	Yes.
§ 63.6(h)(7)(i)	Report COMS Monitoring Data from Performance Test.	Must submit COMS data with other performance test data.	Yes, if COMS used.
§ 63.6(h)(7)(ii)	Using COMS instead of EPA test method 9, 40 CFR 60, appendix A.	Can submit COMS data instead of EPA test method 9, 40 CFR 60, appendix A results even if rule requires EPA test method 9, 40 CFR 60, appendix A, but must notify Administrator before performance test.	Yes, if COMS used.
§ 63.6(h)(7)(iii)	Averaging time for COMS during performance test.	To determine compliance, must reduce COMS data to 6-minute averages.	Yes, if COMS used.
§ 63.6(h)(7)(iv)	COMS requirements	Owner/operator must demonstrate that COMS performance evaluations are conducted according to § 63.8(e), COMS are properly maintained and operated according to § 63.8(c) and data quality as § 63.8(d).	Yes, if COMS used.
§ 63.6(h)(7)(v)	Determining Compliance with Opacity/VE Standards.	COMS is probative but not conclusive evidence of compliance with opacity standard, even if EPA test method 9, 40 CFR 60, appendix A observation shows otherwise. Requirements for COMS to be probative evidence, proper maintenance, meeting PS 1, and data have not been altered.	Yes, if COMS used.
§ 63.6(h)(8)	Determining Compliance with Opacity/VE Standards.	Administrator will use all COMS, EPA test method 9, 40 CFR 60, appendix A, and EPA test method 22, 40 CFR 60, appendix A results, as well as information about operation and maintenance to determine compliance.	Yes.
§ 63.6(h)(9)	Adjusted Opacity Standard	Procedures for Administrator to adjust an opacity standard.	Yes.
§ 63.6(i)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes.
§ 63.6(j)	Presidential Compliance Exemption	President may exempt source category from requirement to comply with rule.	Yes.

TABLE 7 TO SUBPART LLLLL OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLL—Continued

Citation	Subject	Brief description	Applies to subpart LLLLL
§ 63.7(a)(1)–(2) ...	Performance Test Dates	Dates for conducting initial performance testing and other compliance demonstrations. Must conduct 180 days after first subject to rule.	Yes.
§ 63.7(a)(3)	Section 114 Authority	Administrator may require a performance test under CAA section 114 at any time.	Yes.
§ 63.7(b)(1)	Notification of Performance Test	Must notify Administrator 60 days before the test.	Yes.
§ 63.7(b)(2)	Notification of Rescheduling	If rescheduling a performance test is necessary, must notify Administrator 5 days before scheduled date of rescheduled date.	Yes.
§ 63.7(c)	Quality Assurance/Test Plan	1. Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with: 2. Test plan approval procedures ..... 3. Performance audit requirements ..... 4. Internal and external QA procedures for testing.	Yes.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests ..	1. Performance tests must be conducted under representative conditions. Cannot conduct performance tests during SSM. 2. Not a violation to exceed standard during SSM.	Yes.
§ 63.7(e)(2)	Conditions for Conducting Performance Tests ..	Must conduct according to rule and EPA test methods unless Administrator approves alternative.	Yes.
§ 63.7(e)(3)	Test Run Duration	1. Must have three test runs of at least 1 hour each. 2. Compliance is based on arithmetic mean of three runs. 3. Conditions when data from an additional test run can be used.	Yes.
§ 63.7(f)	Alternative Test Method	Procedures by which Administrator can grant approval to use an alternative test method.	Yes.
§ 63.7(g)	Performance Test Data Analysis	1. Must include raw data in performance test report. 2. Must submit performance test data 60 days after end of test with the Notification of Compliance Status. 3. Keep data for 5 years	Yes.
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test.	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements	Subject to all monitoring requirements in standard.	Yes.
§ 63.8(a)(2)	Performance Specifications	Performance Specifications in appendix B of part 60 apply.	Yes, if CEMS used.
§ 63.8(a)(3)	[Reserved]		
§ 63.8(a)(4)	Monitoring with Flares	Unless your rule says otherwise, the requirements for flares in § 63.11 apply.	Yes.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes.
§ 63.8(b) (2)–(3) ..	Multiple Effluents and Multiple Monitoring Systems.	1. Specific requirements for installing monitoring systems. 2. Must install on each effluent before it is combined and before it is released to the atmosphere unless Administrator approves otherwise. 3. If more than one monitoring system on an emission point, must report all monitoring system results, unless one monitoring system is a backup.	Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance	Maintain monitoring system in a manner consistent with good air pollution control practices.	Yes.
§ 63.8(c)(1)(i)	Routine and Predictable CMS malfunction	1. Follow the SSM plan for routine repairs ..... 2. Keep parts for routine repairs readily available. 3. Reporting requirements for CMS malfunction when action is described in SSM plan.	Yes.
§ 63.8(c)(1)(ii)	CMS malfunction not in SSP plan	Reporting requirements for CMS malfunction when action is not described in SSM plan.	Yes.

TABLE 7 TO SUBPART LLLLL OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLL—Continued

Citation	Subject	Brief description	Applies to subpart LLLLL
§ 63.8(c)(1)(iii)	Compliance with Operation and Maintenance Requirements.	1. How Administrator determines if source complying with operation and maintenance requirements. 2. Review of source O&M procedures, records, manufacturer's instructions, recommendations, and inspection of monitoring system.	Yes.
§ 63.8(c)(2)–(3)	Monitoring System Installation	1. Must install to get representative emission and parameter measurements. 2. Must verify operational status before or at performance test.	Yes.
§ 63.8(c)(4)	CMS Requirements	CMS must be operating except during breakdown, out-of-control, repair, maintenance, and high-level calibration drifts.	No; § 63.8690 specifies the CMS requirements.
§ 63.8(c)(4)(i)–(ii)	CMS Requirements	1. COMS must have a minimum of one cycle of sampling and analysis for each successive 10-second period and one cycle of data recording for each successive 6-minute period. 2. CEMS must have a minimum of one cycle of operation for each successive 15-minute period.	Yes, if COMS used.
§ 63.8(c)(5)	COMS Minimum Procedures	COMS minimum procedures	Yes.
§ 63.8(c)(6)	CMS Requirements	Zero and High level calibration check requirements.	No; § 63.8688 specifies the CMS requirements.
§ 63.8(c)(7)–(8)	CMS Requirements	Out-of-control periods, including reporting	Yes.
§ 63.8(d)	CMS Quality Control	1. Requirements for CMS quality control, including calibration, etc. 2. Must keep quality control plan on record for the life of the affected source. 3. Keep old versions for 5 years after revisions	No; § 63.8688 specifies the CMS requirements.
§ 63.8(e)	CMS Performance Evaluation	Notification, performance evaluation test plan, reports.	No; § 63.8688 specifies the CMS requirements.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method	Procedures for Administrator to approve alternative monitoring.	Yes.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	Procedures for Administrator to approve alternative relative accuracy tests for CEMS.	Yes, if CEMS used.
§ 63.8(g)(1)–(4)	Data Reduction	1. COMS 6-minute averages calculated over at least 36 evenly spaced data points. 2. CEMS 1-hour averages computed over at least 4 equally spaced data points.	Yes, if CEMS or COMS used.
§ 63.8(g)(5)	Data Reduction	Data that cannot be used in computing averages for CMS.	No; § 63.8690 specifies the CMS requirements.
§ 63.9(a)	Notification Requirements	Applicability and State Delegation	Yes.
§ 63.9(b)(1)–(5)	Initial Notifications	1. Submit notification 120 days after effective date. 2. Notification of intent to construct/reconstruct; notification of commencement of construct/reconstruct; notification of startup. 3. Contents of each	Yes.
§ 63.9(c)	Request for Compliance Extension	Can request if cannot comply by date or if installed Best Achievable Control Technology (BACT)/Lowest Achievable Emission Rate (LAER).	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes.
§ 63.9(e)	Notification of Performance Test	Notify Administrator 60 days prior	Yes.
§ 63.9(f)	Notification of VE/Opacity Test	Notify Administrator 30 days prior	Yes.
§ 63.9(g)	Additional Notifications When Using CMS	1. Notification of performance evaluation 2. Notification using COMS data 3. Notification that the criterion for use of alternative to relative accuracy testing was exceeded.	No; § 63.8692 specifies the CMS notification requirements.
§ 63.9(h)(1)–(6)	Notification of Compliance Status	1. Contents. 2. Due 60 days after end of performance test or other compliance demonstration, except for opacity/VE, which are due 30 days after. 3. When to submit to Federal vs. State authority	Yes.

TABLE 7 TO SUBPART LLLLL OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLL—Continued

Citation	Subject	Brief description	Applies to subpart LLLLL
§ 63.9(i)	Adjustment of Submittal Deadlines	Procedures for Administrator to approve change in dates when notifications must be submitted.	Yes.
§ 63.9(j)	Change in Previous Information	Must submit within 15 days after the change	Yes.
§ 63.10(a)	Recordkeeping/Reporting	1. Applies to all, unless compliance extension 2. When to submit to Federal vs. State authority 3. Procedures for owners of more than 1 source.	Yes.
§ 63.10(b)(1)	Recordkeeping/Reporting	1. General Requirements 2. Keep all records readily available. 3. Keep for 5 years	Yes.
§ 63.10(b)(2)(i)–(v).	Records related to Startup, Shutdown, and Malfunction.	1. Occurrence of each of operation (process equipment). 2. Occurrence of each malfunction of air pollution equipment. 3. Maintenance on air pollution control equipment. 4. Actions during startup, shutdown, and malfunction.	Yes.
§ 63.10(b)(2)(vi) and (x–xi).	CMS Records	1. Malfunctions, inoperative, out-of-control 2. Calibration checks 3. Adjustments, maintenance	Yes.
§ 63.10(b)(2)(vii)–(ix).	Records	1. Measurements to demonstrate compliance with emission limitations. 2. Performance test, performance evaluation, and visible emission observation results. 3. Measurements to determine conditions of performance tests and performance evaluations.	Yes.
§ 63.10(b)(2)(xii)	Records	Records when under waiver	Yes
§ 63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test.	Yes.
§ 63.10(b)(2)(xiv)	Records	All documentation supporting Initial Notification and Notification of Compliance Status.	Yes.
§ 63.10(b)(3)	Records	Applicability determinations	Yes.
§ 63.10(c)(1)–(6), (9)–(15).	Records	Additional records for CMS	No; § 63.8694 specifies the CMS recordkeeping requirements.
§ 63.10(c)(7)–(8)	Records	Records of excess emissions and parameter monitoring exceeedances for CMS.	No; § 63.8694 specifies the CMS recordkeeping requirements.
§ 63.10(d)(1)	General Reporting Requirements	Requirement to report	Yes.
§ 63.10(d)(2)	Report of Performance Test Results	When to submit to Federal or State authority	Yes.
§ 63.10(d)(3)	Reporting Opacity or VE Observations	What to report and when	Yes.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes.
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports	Contents and submission	Yes.
§ 63.10(e)(1), (2)	Additional CMS Reports	1. Must report results for each CEM on a unit 2. Written copy of performance evaluation 3. Three copies of COMS performance evaluation.	Yes.
§ 63.10(e)(3)	Reports	Excess emission reports	No; § 63.8693 specifies the reporting requirements.
§ 63.10(e)(3)(i)–(iii).	Reports	Schedule for reporting excess emissions and parameter monitor exceedances (now defined as deviations).	No; § 63.8693 specifies the reporting requirements.
§ 63.10(e)(3)(iv)–(v).	Excess Emissions Reports	1. Requirement to revert to the frequency specified in the relevant standard if there is an excess emissions and parameter monitor exceedances (now defined as deviations). 2. Provision to request semiannual reporting after compliance for one year. 3. Submit report by 30th day following end of quarter or calendar half. 4. If there has not been an exceedance or excess emission (now defined as deviations), report content is a statement that there have been no deviations.	No; § 63.8693 specifies the reporting requirements.

TABLE 7 TO SUBPART LLLLL OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLL—Continued

Citation	Subject	Brief description	Applies to subpart LLLLL
§ 63.10(e)(3)(iv)–(v).	Excess Emissions Reports	Must submit report containing all of the information in § 63.10(c)(5)(13), § 63.8(c)(7)–(8).	No; § 63.8693 specifies the reporting requirements.
§ 63.10(e)(3)(vi)–(viii).	Excess Emissions Report and Summary Report	1. Requirements for reporting excess emissions for CMS (now called deviations). 2. Requires all of the information in § 63.10(c)(5)(13), § 63.8(c)(7)–(8).	No; § 63.8693 specifies the reporting requirements.
§ 63.10(e)(4)	Reporting COMS data	Must submit COMS data with performance test data.	Yes, if COMS used.
§ 63.10(f)	Waiver for Recordkeeping/Reporting	Procedures for Administrator to waive	Yes.
§ 63.11	Flares	Requirements for flares	Yes.
§ 63.12	Delegation	State authority to enforce standards	Yes.
§ 63.13	Addresses	Addresses where reports, notifications, and requests are sent.	Yes.
§ 63.14	Incorporation by Reference	Test methods incorporated by reference	Yes.
§ 63.15	Availability of Information	Public and confidential information	Yes.

Editorial Note: Due to numerous errors this document is being reprinted in its entirety. It was originally printed in the **Federal Register** on Tuesday, April 29, 2003 at 68 FR 22975–23007.

[FR Doc. R3–5624 Filed 5–6–03; 8:45 am]
BILLING CODE 1505–01–U

§ 950.16 [Amended]

■ 4. Section 950.16 is amended by removing and reserving paragraphs (j), (k), (n), (y) and (z).

[FR Doc. 03–11219 Filed 5–7–03; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0045—FRL–7495–6]

RIN 2060–AK53

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correcting administrative amendments; change in effective date.

SUMMARY: On February 18, 2003, EPA published a direct final rule on the national emission standards for hazardous air pollutants (NESHAP) for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills (68 FR 7706). The effective date of that direct final rule is May 19, 2003, and remain unchanged, except the amendment adding Incorporation by Reference (IBR) material which must, for administrative purposes, become effective prior to May 19, 2003. This correction moves up the effective date for that amendment, which affects the centralized IBR section for 40 CFR part 63. In addition, the IBR amendment included in the February 18 direct final rule added a new IBR addressing test method ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]; thus the effective date of this IBR material must also match the effective date of the centralized IBR section. This correction moves up the effective date in 40 CFR 63.865(b)(3) and 40 CFR 63.865(b)(5)(iii).

DATES: Effective Dates: The revision of 40 CFR 63.14(i) and the removal of 40 CFR 63.14(j), published on February 18, 2003 (68 FR 7713) are effective May 8, 2003. The IBR amendments to 40 CFR 63.865(b), published on February 18, 2003 (68 FR 7716) are effective May 8, 2003. The IBR of certain publications in the NESHAP is approved by the Director of the Office of the Federal Register on May 8, 2003.

FOR FURTHER INFORMATION CONTACT: For information regarding the administration of the IBR, contact Ms. Janet Eck, Coatings and Consumer Products Group, Emission Standards Division (C539–03), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–7946, facsimile number (919) 541–5689, electronic mail (e-mail) address: *eck.janet@epa.gov*. All other inquiries regarding the NESHAP for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills should be addressed to Mr. Jeff Telander, Minerals and Inorganic Chemicals Group, Emission Standards Division (C504–05), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5427, facsimile number (919) 541–5600, e-mail address: *telander.jeff@epa.gov*.

SUPPLEMENTARY INFORMATION: An electronic copy of today's notice will be available on the Worldwide Web through the Technology Transfer Network (TTN). Following the Assistant Administrator's signature, a copy of this notice will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg*. In addition, an electronic version of all of the above mentioned promulgated NESHAP is currently available on the TTN at *http://www.epa.gov/ttn/oarpg/new.html*. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Dated: April 29, 2003.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 03–11461 Filed 5–7–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107, 171, 173, 177 and 180

[Docket No. RSPA–01–10373 (HM–220D)]

RIN 2137–AD58

Hazardous Materials: Requirements for Maintenance, Requalification, Repair and Use of DOT Specification Cylinders; Response to Appeals and Extension of Compliance Dates

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; response to appeals.

SUMMARY: On August 8, 2002, RSPA published a final rule under Docket No. RSPA–01–10373 (HM–220D) amending the requirements of the Hazardous Materials Regulations applicable to the maintenance, requalification, repair, and use of DOT specification cylinders. The revisions simplified the regulations, responded to petitions for rulemaking, addressed recommendations of the National Transportation Safety Board, and enhanced the safe transportation of hazardous materials in cylinders. In response to appeals submitted by persons affected by the August 8, 2002 final rule, this final rule amends certain requirements, extends certain compliance dates, and makes minor editorial corrections.

DATES: *Effective Date:* This rule is effective June 9, 2003.

Compliance Date: Delayed compliance dates for certain regulatory provisions are set forth in the regulatory text.

FOR FURTHER INFORMATION CONTACT: Sandra Webb, (202) 366–8553, Office of Hazardous Materials Standards or Mark Toughiry, 202–366–4545, Office of Hazardous Materials Technology, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

On August 8, 2002, the Research and Special Programs Administration (RSPA, we) published a final rule under Docket No. 01–10373 (HM–220D) (67 FR 51625) amending the requirements of the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) applicable to the maintenance, requalification, repair, and use of DOT specification cylinders.



Federal Register

Friday,
May 16, 2003

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing; and National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0054 and OAR–2002–0055, FRL–7459–9]

RIN 2060–A167 and 2060–A168

National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing; and National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for new and existing sources at brick and structural clay products (BSCP) manufacturing facilities and NESHAP for new and existing sources at clay ceramics manufacturing facilities. This action will implement section 112(d) of the Clean Air Act (CAA) by requiring major sources to meet hazardous air pollutant (HAP) emission standards reflecting the application of the maximum achievable control technology (MACT). The two subparts will protect air quality and promote the public health by reducing emissions of several of the HAP listed in section 112(b)(1) of the CAA. The rules will reduce HAP emissions from existing sources by 2,300 tons per year nationwide, with hydrogen fluoride (HF) and hydrogen chloride (HCl) accounting for 2,290 tons per year (99.6 percent) of the total HAP emissions reductions from existing sources. The associated metals (antimony, arsenic, beryllium, cadmium, chromium, cobalt, mercury, manganese, nickel, lead, and selenium) reductions from existing sources account for approximately 6 tons per year nationwide (0.4 percent). Exposure to these substances has been demonstrated to cause adverse health effects such as irritation of the lung, skin, and mucus membranes, effects on the central nervous system, and kidney damage. The EPA has classified three of the HAP as known human carcinogens, four as probable human carcinogens, and one as a possible human carcinogen. We estimate that the two subparts will reduce nationwide emissions of HAP from these facilities by approximately 2,100 megagrams per year (Mg/yr)(2,300 tons per year (tpy)), a reduction of approximately 35 percent from the current level of emissions.

EFFECTIVE DATE: The final rule is effective May 16, 2003.

ADDRESSES: Docket No. OAR–2002–0054 contains supporting documentation used in developing the final BSCP rule. Docket No. OAR–2002–0055 contains supporting documentation used in developing the final clay ceramics rule. The dockets are located at the Air and Radiation Docket and Information Center in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC 20460, telephone (202) 566–1744. The dockets are available for public inspection from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: For further information concerning applicability and rule determinations, contact the appropriate State or local agency representative. If no State or local representative is available, contact the EPA Regional Office staff listed in 40 CFR 63.13. For information concerning the analyses performed in developing the final rules, contact Ms. Mary Johnson, Combustion Group, Emission Standards Division (MC–C439–01), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5025, e-mail address: *johnson.mary@epa.gov*.

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Entities potentially regulated by this action are those industrial facilities that manufacture BSCP and clay ceramics. Brick and structural clay products manufacturing is classified under Standard Industrial Classification (SIC) codes 3251, Brick and Structural Clay Tile; 3253, Ceramic Wall and Floor Tile; and 3259, Other Structural Clay Products. The North American Industry Classification System (NAICS) codes for BSCP manufacturing are 327121, Brick and Structural Clay Tile; 327122, Ceramic Wall and Floor Tile Manufacturing; and 327123, Other Structural Clay Products. Clay ceramics manufacturing is classified under SIC codes 3253, Ceramic Wall and Floor Tile; and 3261, Vitreous Plumbing Fixtures (Sanitaryware). The NAICS codes for clay ceramics manufacturing are 327122, Ceramic Wall and Floor Tile Manufacturing; and 327111, Vitreous China Plumbing Fixture and China and Earthenware Bathroom Accessories Manufacturing. Regulated categories and entities are shown in Table 1 of this preamble.

TABLE 1.—REGULATED CATEGORIES AND ENTITIES

Category	SIC	NAICS	Examples of potentially regulated entities
Industrial	3251	327121	Brick and structural clay tile manufacturing facilities (BSCP NESHAP)
Industrial	3253	327122	Ceramic wall and floor tile manufacturing facilities (Clay Ceramics NESHAP) and extruded tile manufacturing facilities (BSCP NESHAP).
Industrial	3259	327123	Other structural clay products manufacturing facilities (BSCP NESHAP)
Industrial	3261	327111	Vitreous plumbing fixtures (sanitaryware) manufacturing facilities (Clay Ceramics NESHAP).

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 § 63.8385 of today's final BSCP rule and § 63.8535 of today's final clay ceramics 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.**

Electronic Docket (E-Docket). The EPA has established official public dockets for this action under Docket ID No. OAR–2002–0054 for the final BSCP rule and Docket ID No. OAR–2002–0055 for the final clay ceramics rule. The official public dockets are the collection of materials that is available for public viewing at the EPA Docket Center (Air Docket), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC 20460. The Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742. A reasonable fee may be charged for copying docket materials.

Electronic Access. Electronic versions of the public dockets are available through EPA's electronic public docket

and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the indexes of the contents of the official public dockets, and to access those documents in the public dockets that are available electronically. Once in the system, select "search" and key in the appropriate docket identification number. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in this document.

Worldwide Web (WWW). In addition to being available in the dockets, an electronic copy of today's document also will be available on the WWW. Following the Administrator's signature, a copy of this action will be posted at *www.epa.gov/ttn/oarpg* on EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of the final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by July 15, 2003. 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 public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by the final rule may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce the requirements.

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I. Background

A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. Clay products manufacturing was listed as a category of major sources on the initial source category list published in the **Federal Register** on July 16, 1992 (57 FR 31576). In the July 22, 2002 **Federal Register** notice (67 FR 47894) that proposed NESHAP for BSCP manufacturing and clay ceramics manufacturing, the clay products manufacturing source category was replaced by the BSCP manufacturing source category and the clay ceramics manufacturing source category. Today's action contains final rules for the two source categories. Major sources of HAP are those stationary sources or groups of stationary sources that are located within a contiguous area and under common control that emit or have the potential to emit considering controls, in the aggregate, 9.07 Mg/yr (10 tpy) or more of any one HAP or 22.68 Mg/yr (25 tpy) or more of any combination of HAP. Area sources are those stationary sources that are not major sources.

B. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major

sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standards are set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory for which the Administrator has emissions information (or the best-performing 5 sources for which the Administrator has or could reasonably obtain emissions information for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost of achieving the emissions reductions, any health and environmental impacts, and energy requirements.

C. How Were the Final Rules Developed?

We proposed standards for BSCP manufacturing and clay ceramics manufacturing on July 22, 2002 (67 FR 47894). The preamble for the proposed standards described the rationale for the proposed standards. Public comments were solicited at the time of proposal. The public comment period lasted from July 22, 2002 to September 20, 2002. Industry representatives, regulatory agencies, environmental groups, and the general public were given the opportunity to comment on the proposed rules and to provide additional information during the public comment period. We also offered at proposal the opportunity for oral presentation of data, views, or arguments concerning the proposed rules. A public hearing on the proposed BSCP rule was held on August 21, 2002, during which 21 presentations were made. Following the public hearing, we met with representatives of industry and environmental groups on several occasions.

We received a total of 80 public comment letters on the proposed BSCP rule and 9 public comments letters on the proposed clay ceramics rule. Comments were submitted by industry trade associations, BSCP and clay ceramics manufacturing companies, State regulatory agencies and their representatives, and environmental groups. Today's final rules reflect our consideration of all of the comments received. Major public comments on the proposed rules, along with our responses to those comments, are summarized in this preamble.

D. What Are the Health Effects of Pollutants Emitted From the Brick and Structural Clay Products Manufacturing and Clay Ceramics Manufacturing Source Categories?

Today's proposed rules protect air quality and promote the public health by reducing emissions of some of the HAP listed in section 112(b)(1) of the CAA. Emissions data collected during development of the proposed rules show that HF, HCl, and small amounts of metals (antimony, arsenic, beryllium, cadmium, chromium, cobalt, mercury, manganese, nickel, lead, and selenium) are emitted from BSCP and clay ceramics manufacturing facilities. Exposure to these HAP is associated with a variety of adverse health effects. These adverse health effects include chronic health disorders (*e.g.*, irritation of the lung, skin, and mucus membranes, effects on the central nervous system, and damage to the kidneys), and acute health disorders (*e.g.*, lung irritation and congestion, alimentary effects such as nausea and vomiting, and effects on the kidney and central nervous system). We have classified three of the HAP as human carcinogens, four as probable human carcinogens, and one as a possible human carcinogen. We do not know the extent to which the adverse health effects described above occur, or if any adverse effects occur, in the populations surrounding these facilities. However, to the extent the adverse effects do occur, today's proposed rules would reduce emissions and subsequent exposures. The majority of the emissions reductions from this rule are HF (1900 tons per year nationwide) and HCl (390 tons per year nationwide), while the rule will only reduce emissions of the HAP metals listed below by a small amount (approximately 6 tons nationwide per year).

1. Hydrogen Fluoride

Acute (short-term) inhalation exposure to gaseous HF can cause severe respiratory damage in humans, including severe irritation and pulmonary edema. Chronic (long-term) exposure to fluoride at low levels has a beneficial effect of dental cavity prevention and may also be useful for the treatment of osteoporosis. Exposure to higher levels of fluoride may cause dental fluorosis or mottling, while very high exposures through drinking water or air can result in crippling skeletal fluorosis. One study reported menstrual irregularities in women occupationally exposed to fluoride. We have not classified HF for carcinogenicity.

2. Hydrogen Chloride

Hydrogen chloride, also called hydrochloric acid, is corrosive to the eyes, skin, and mucous membranes. Acute (short-term) inhalation exposure may cause eye, nose, and respiratory tract irritation and inflammation and pulmonary edema in humans. Chronic (long-term) occupational exposure to HCl has been reported to cause gastritis, bronchitis, and dermatitis in workers. Prolonged exposure to low concentrations may also cause dental discoloration and erosion. No information is available on the reproductive or developmental effects of HCl in humans. In rats exposed to HCl by inhalation, altered estrus cycles have been reported in females and increased fetal mortality and decreased fetal weight have been reported in offspring. We have not classified HCl for carcinogenicity.

3. Antimony

Acute (short-term) exposure to antimony by inhalation in humans results in effects on the skin and eyes. Respiratory effects, such as inflammation of the lungs, chronic bronchitis, and chronic emphysema, are the primary effects noted from chronic (long-term) exposure to antimony in humans via inhalation. Human studies are inconclusive regarding antimony exposure and cancer, while animal studies have reported lung tumors in rats exposed to antimony trioxide via inhalation. Effects of oral exposure to antimony are not well-described, but a single study has reported decreased longevity and changes in serum glucose and cholesterol in rats. We have not classified antimony for carcinogenicity.

4. Arsenic

Acute (short-term) high-level inhalation exposure to arsenic dust or fumes has resulted in gastrointestinal effects (nausea, diarrhea, abdominal

pain), and central and peripheral nervous system disorders. Chronic (long-term) inhalation exposure to inorganic arsenic in humans is associated with irritation of the skin and mucous membranes. Human data suggest a relationship between inhalation exposure of women working at or living near metal smelters and an increased risk of reproductive effects, such as spontaneous abortions. Inorganic arsenic exposure in humans by the inhalation route has been shown to be strongly associated with lung cancer, while ingestion of inorganic arsenic in humans has been linked to a form of skin cancer and also to bladder, liver, and lung cancer. We have classified inorganic arsenic as a Group A, human carcinogen.

5. Beryllium

Acute (short-term) inhalation exposure to high levels of beryllium has been observed to cause inflammation of the lungs or acute pneumonitis (reddening and swelling of the lungs) in humans; after exposure ends, these symptoms may be reversible. Chronic (long-term) inhalation exposure of humans to beryllium has been reported to cause chronic beryllium disease (berylliosis), in which granulomatous (noncancerous) lesions develop in the lung. Inhalation exposure to beryllium has been demonstrated to cause lung cancer in rats and monkeys. Human studies are limited, but suggest a causal relationship between beryllium exposure and an increased risk of lung cancer. Oral exposure to beryllium was found to cause stomach lesions in dogs, but effects on humans are not well-described. We have classified beryllium as a Group B1, probable human carcinogen, when inhaled; data are inadequate to determine whether beryllium is carcinogenic when ingested.

6. Cadmium

The acute (short-term) effects of cadmium inhalation in humans consist mainly of effects on the lung, such as pulmonary irritation. Chronic (long-term) inhalation or oral exposure to cadmium leads to a build-up of cadmium in the kidneys that can cause kidney disease. Cadmium has been shown to be a developmental toxicant in animals, resulting in fetal malformations and other effects, but no conclusive evidence exists in humans. An association between cadmium inhalation exposure and an increased risk of lung cancer has been reported from human studies, but these studies are inconclusive due to confounding factors. Animal studies have demonstrated an increase in lung cancer from long-term inhalation exposure to cadmium. We have classified cadmium as a Group B1, probable human carcinogen when inhaled; data are inadequate to determine whether cadmium is carcinogenic when ingested.

7. Chromium

Chromium may be emitted in two forms, trivalent chromium (chromium III) or hexavalent chromium (chromium VI). The respiratory tract is the major target organ for chromium VI toxicity, for acute (short-term) and chronic (long-term) inhalation exposures. Shortness of breath, coughing, and wheezing have been reported from acute exposure to chromium VI, while perforations and ulcerations of the septum, bronchitis, decreased pulmonary function, pneumonia, and other respiratory effects have been noted from chronic exposure. Limited human studies suggest that chromium VI inhalation exposure may be associated with complications during pregnancy and childbirth, while animal studies have not reported reproductive effects from inhalation exposure to chromium VI. Human and animal studies have clearly established that inhaled chromium VI is a carcinogen, resulting in an increased risk of lung cancer. We have classified chromium VI as a Group A, human carcinogen by the inhalation exposure route. Oral exposure of humans to chromium VI has been reported to cause sores in the mouth, gastrointestinal effects, and elevated white blood cell counts. Animal studies of oral chromium VI exposure have reported testicular degeneration and fetal damage in mice and rats. Chromium IV is also a potent contact sensitizer, producing allergic dermatitis in previously-exposed humans. Data are inadequate to determine if chromium VI is carcinogenic by oral exposure.

Chromium III is much less toxic than chromium VI. The respiratory tract is also the major target organ for chromium III toxicity, similar to chromium VI. Chromium III is an essential element in humans, with a daily oral intake of 50 to 200 micrograms per day (μg/d) recommended for an adult. Data on adverse effects of high oral exposures of chromium III are not available for humans, but a study with mice suggests possible damage to the male reproductive tract. We have not classified chromium III for carcinogenicity.

8. Cobalt

Acute (short-term) exposure to high levels of cobalt by inhalation in humans and animals results in respiratory effects such as a significant decrease in ventilatory function, congestion, edema, and hemorrhage of the lung. Respiratory effects are also the major effects noted from chronic (long-term) exposure to cobalt by inhalation, with respiratory irritation, wheezing, asthma, pneumonia, and fibrosis noted. Cardiac effects, congestion of the liver, kidneys, and conjunctiva, and immunological effects have also been associated with cobalt inhalation in humans. Cobalt is an essential element in humans, as a constituent of vitamin B12, but excessive oral intake has been reported to damage the heart, and to cause gastrointestinal effects and contact dermatitis. Human and animal studies are inconclusive with respect to potential carcinogenicity of cobalt. We have not classified cobalt for carcinogenicity.

9. Mercury

Mercury exists in three forms: Elemental mercury, inorganic mercury compounds (primarily mercuric chloride), and organic mercury compounds (primarily methylmercury). Each form exhibits different health effects. Brick, structural clay products, and clay ceramics manufacturing may release elemental or inorganic mercury, but not methylmercury. However, elemental and inorganic mercury are deposited on surface water, where they are converted to methylmercury, an important food contaminant.

Acute (short-term) exposure to high levels of elemental mercury in humans results in central nervous system (CNS) effects such as tremors, mood changes, and slowed sensory and motor nerve function. High inhalation exposures can also cause kidney damage and effects on the gastrointestinal tract and respiratory system. Chronic (long-term) inhalation exposure to elemental mercury in humans also affects the CNS, with effects such as increased excitability, irritability, excessive shyness, and tremors. Data on toxic effects of oral exposure to elemental mercury are sparse. We have not classified elemental mercury for carcinogenicity.

Acute exposure to inorganic mercury by the oral route may result in effects such as nausea, vomiting, and severe abdominal pain. The major effect from chronic exposure, either oral or inhalation, to inorganic mercury is kidney damage. Reproductive and developmental animal studies have reported effects such as alterations in

testicular tissue, increased embryo resorption rates, and abnormalities of development. Mercuric chloride (an inorganic mercury compound) exposure has been shown to result in forestomach, thyroid, and renal tumors in experimental animals. We have classified mercuric chloride as a Group C, possible human carcinogen.

Both acute and chronic oral exposure to methylmercury have been found to cause developmental damage to the central nervous system in fetuses and children, with effects including mental retardation, deafness, blindness, and cerebral palsy. Lower exposures may cause developmental delays and abnormal reflexes. The most important source of methylmercury exposure for most people is eating fish. Although fish is an important part of a balanced diet federal and state fish advisories recommend limiting intake of certain fish that contain elevated methylmercury levels.

10. Manganese

Health effects in humans have been associated with both deficiencies and excess intakes of manganese. Chronic (long-term) exposure to low levels of manganese in the diet is considered to be nutritionally essential in humans, with a recommended daily allowance of 2 to 5 milligrams per day (mg/d). Chronic inhalation exposure to high levels of manganese by inhalation in humans results primarily in CNS effects. Visual reaction time, hand steadiness, and eye-hand coordination were affected in chronically-exposed workers. Manganism, characterized by feelings of weakness and lethargy, tremors, a mask-like face, and psychological disturbances, may result from chronic exposure to higher levels. Impotence and loss of libido have been noted in male workers afflicted with manganism attributed to inhalation exposures. We have classified manganese as Group D, not classifiable as to human carcinogenicity.

11. Nickel

Nickel is an essential element in some animal species, and it has been suggested it may be essential for human nutrition. Nickel dermatitis, consisting of itching of the fingers, hands, and forearms, is the most common effect in humans from chronic (long-term) skin contact with nickel. Respiratory effects have also been reported in humans from inhalation exposure to nickel. No information is available regarding the reproductive or developmental effects of nickel in humans, but animal studies have reported such effects. Human and animal studies have reported an increased risk of lung and nasal cancers from exposure to nickel refinery dusts and nickel subsulfide. Animal inhalation studies of soluble nickel compounds (*i.e.*, nickel carbonyl) have reported lung tumors. Dermal exposure to nickel may produce contact dermatitis. Adverse effects of oral nickel exposure are not well-described. We have classified nickel refinery dust and nickel subsulfide as Group A, human carcinogens, and nickel carbonyl as a Group B2, probable human carcinogen, by inhalation exposure.

12. Lead

Lead is a very toxic element, causing a variety of effects at low oral or inhaled dose levels. Brain damage, kidney damage, and gastrointestinal distress may occur from acute (short-term) exposure to high levels of lead in humans. Chronic (long-term) exposure to lead in humans results in effects on the blood, CNS, blood pressure, and kidneys. Children are particularly sensitive to the chronic effects of lead, with slowed cognitive development, reduced growth, and other effects reported. Reproductive effects, such as decreased sperm count in men and spontaneous abortions in women, have been associated with lead exposure. The developing fetus is at particular risk from maternal lead exposure, with low birth weight and slowed postnatal neurobehavioral development noted. Human studies are inconclusive regarding lead exposure and cancer, while animal studies have reported an increase in kidney cancer from lead exposure by the oral route. We have classified lead as a Group B2, probable human carcinogen.

13. Selenium

Selenium is a naturally occurring substance that is toxic at high concentrations but is also a nutritionally essential element. Acute (short-term) exposure to elemental selenium, hydrogen selenide, and selenium dioxide by inhalation results primarily in respiratory effects, such as irritation of the mucous membranes, pulmonary edema, severe bronchitis, and bronchial pneumonia. Studies of humans chronically (long-term) exposed to high levels of selenium in food and water have reported discoloration of the skin, pathological deformation and loss of nails, loss of hair, excessive tooth decay and discoloration, lack of mental alertness, and listlessness. The consumption of high levels of selenium by pigs, sheep, and cattle has been shown to interfere with normal fetal development and to produce birth defects. Results of human and animal studies suggest that supplementation with some forms of selenium may result in a reduced incidence of several tumor types. One selenium compound, selenium sulfide, is carcinogenic in animals exposed orally. We have classified elemental selenium as a Group D, not classifiable as to human carcinogenicity, and selenium sulfide as a Group B2, probable human carcinogen.

II. Summary of Responses to Major Comments and Changes to the Brick and Structural Clay Products Manufacturing Proposed NESHAP

In response to the public comments received on the proposed BSCP rule, we made several changes in developing today's final BSCP rule. The major comments and our responses and rule changes are summarized in the following sections. A more detailed summary can be found in the Response-to-Comments document, which is available from several sources (see **SUPPLEMENTARY INFORMATION** section).

A. Air Pollution Control Devices

The most significant change to the proposed BSCP rule concerns our conclusions regarding the effective application of air pollution control devices (APCD) to existing kilns. The EPA received numerous comments from industry representatives, kiln manufacturers, and air pollution control device vendors on issues related to the application and performance of APCD. The MACT floor in the proposed rule was based on the use of dry lime injection fabric filters (DIFF), dry lime scrubber/fabric filters (DLS/FF), or wet scrubbers (WS). Another technology commonly used to control emissions from brick kilns, dry limestone adsorbers (DLA), was not considered to be a MACT floor technology at the time of proposal because we had concerns with monitoring options and our data indicated that the DLA could not achieve HAP emissions reductions equivalent to the reductions achieved by DIFF, DLS/FF, or WS technologies. However, as discussed in the paragraphs below, many commenters reported disadvantages of the DIFF, DLS/FF, and WS technologies for BSCP kilns and provided information to address our concerns about DLA technology. Consequently, the final rule allows some sources to use the DLA technology.

Several commenters argued that DIFF, DLS/FF, and WS technologies are not proven or commercially available for BSCP kilns. Commenters pointed out that, with the exception of one facility, full-scale WS have never been used on

BSCP kilns, although some short-term pilot tests of WS have been conducted. The commenters pointed out that injection systems (such as DIFF and DLS/FF) and wet control devices need a certain airflow to operate properly, and different products may require different airflows, some of which could be outside of the range within which the APCD operates properly. In addition, commenters pointed out that during kiln slowdowns (which could be caused by a situation such as an economic slowdown), the APCD may not be able to operate at all because of reduced kiln airflow.

Several commenters expressed concerns about waste disposal. Commenters stated that DIFF and DLS/FF systems produce large amounts of solid waste that is difficult and expensive to dispose of. Commenters stated that WS would not be viable options for many BSCP plants because of wastewater treatment issues (*e.g.*, limited or no sewer access, wastewater treatment costs). Commenters added that recycling of WS wastewater back into the brick body is not an option because of problems created by the soluble salts in the water (*e.g.*, scumming and efflorescence) and because the volume of wastewater generated would exceed process water needs even if recycling were possible.

Commenters also raised concerns about retrofitting existing BSCP kilns with DIFF, DLS/FF, and WS technologies. Commenters pointed out that brick color, the primary factor in brick sales, is affected by kiln airflow. Thus, retrofitting with an APCD that changes the kiln airflow would change the recipes for the manufacture of brick in a tunnel kiln. Thus, years of experience in the colors produced by the unique firing characteristics of a kiln would be lost. Implications are serious if a facility cannot match its existing product line.

The commenters also charged that we did not account for other retrofitting problems associated with installing DIFF, DLS/FF, or WS on older kilns, and the costs associated with these problems. Commenters also described how attempts at retrofitting kilns with these APCD have resulted in significant amounts of kiln downtime and permanent reductions in kiln production capacities. As stated by the commenters, none of the retrofits have been entirely successful in terms of reducing emissions while not disrupting the production process, and several have had dramatic negative impacts on the production process. At one facility that retrofitted two kilns with DIFF, the capacities of the two kilns decreased from 13.5 cars per day to 12.2 cars per day because of changes in the kiln airflow that resulted from the retrofit. This resulted in a loss of revenue of about $1 million per year. Another retrofit DIFF (multi-stage injection system) installation at a different facility was reported to be extremely problematic, and the cost of the APCD, which was originally estimated at $1 million, is now over $2 million and the system is still not operating correctly more than 2 years later. The facility has experienced numerous problems with the basic design of the unit, including improperly designed dampers and reagent feeding systems. A facility representative stated that the problems are largely due to the fact that few systems have been developed for brick kiln operations; therefore, vendors are still learning (often on the industry's nickel) how to design these systems. In the facility's public comments, they stated that they plan to never build another hot baghouse (DIFF or DLS/FF) due to the massive operating problems associated with them. A retrofit DLS/FF system, the only one that has been attempted in the U.S. to date, also was problematic. The facility stated that they have experienced maintenance and material quality problems that have resulted in kiln downtime. The facility added that the problems stem from the fact that the system is a prototype without a substantial operational, troubleshooting and maintenance history, which has left the facility in the position of having to diagnose and solve the problems as the system operates. In addition, the company that installed this system is no longer quoting systems to the BSCP industry.

Numerous commenters recommended that EPA allow use of DLA. The commenters described the operating benefits of DLA, including ease of operation, low operating cost, little down time, and the ability to handle kiln fluctuations with changing throughputs. Most importantly, DLA do not impact kiln operation. The commenters pointed out that DLA do not require a minimum airflow like DIFF, DLS/FF, or WS technologies. One commenter pointed out that once a DLA is designed for maximum airflow, any fluctuations below this maximum only create more contact time between the kiln exhaust gases and the limestone, which would likely increase the effectiveness of the DLA and would not impact the operation of the kiln. The commenters pointed out that DLA have been used extensively in Europe for many years and also are the most prevalent APCD used in the BSCP industry in the United States. Many commenters stated that DLA should be allowed if they can meet the BSCP standards. The commenters indicated that plants should not have to request site-specific monitoring parameters for DLA because they are the most prevalent technology. In addition, some commenters discussed the high costs and limited additional HAP reduction associated with replacing existing DLA with a DIFF system.

Several commenters felt that EPA disregarded or "bashed" DLA and disagreed with EPA's conclusions regarding DLA in the preamble to the proposed rule. Specifically, the commenters disagreed that: DLA generate particulate matter (PM) emissions; long-term test data that demonstrate DLA performance over the life of the sorbent are not available; DLA limestone is not continuously replaced; and the performance of DLA decreases as the sorbent is re-used because the ability of the sorbent to adsorb HF and HCl decreases.

We disagree with commenters that the use of DIFF has not been proven in the brick industry. The DIFF and DLS/FF systems are a proven control technology for kilns with a given minimum airflow rate. We do, however, believe that retrofitting existing kilns with DIFF or DLS/FF systems is not feasible in many cases. We recognize that WS may not be practical or low-cost for most facilities, but believe they could be a legitimate option for some facilities (*e.g.*, facilities with sewer access). We acknowledge that retrofitting existing BSCP kilns with certain APCD (particularly those that affect kiln airflow) can alter time-honored recipes for brick color, thereby changing the product. We acknowledge that DLA are used extensively around the world to control emissions from brick kilns. In developing the description of DLA technology for the preamble to the proposed rule, we used the technical data available to us at the time. We had no intention of "bashing" DLA but simply reported the data at hand.

After consideration of the comments received regarding DIFF, DLS/FF, WS, and DLA technologies, we have come to new conclusions regarding the effective application of these devices. We now believe that DLA are the only currently available technology that can be used to retrofit existing kilns without potentially significant impacts on the production process, and we have revised today's final rule accordingly. In addition, we believe that, because of the retrofit concerns that we have identified, it is not technologically and economically feasible for an existing

small tunnel kiln that would otherwise meet the criteria for reconstruction in 40 CFR 63.2 and whose design capacity is increased such that it is equal to or greater than 9.07 Mg/hr (10 tph) of fired product (for the remainder of this preamble, these sources will be referred to as "existing small kilns that are rebuilt such that they become large kilns") to meet the relevant standards (*i.e.*, new source MACT) by retrofitting with a DIFF, DLS/FF, or WS. In addition, we believe that it is not technologically and economically feasible for an existing large DLA-controlled kiln that would otherwise meet the criteria for reconstruction in 40 CFR 63.2 (for the remainder of this preamble, these sources will be referred to as "existing large DLA-controlled kilns that are rebuilt") to meet the relevant (*i.e.*, new source MACT) standards by retrofitting with a DIFF, DLS/FF, or WS. Accordingly, we have added regulatory language in 40 CFR 63.8390(i) to provide that an existing small kiln that is rebuilt such that it becomes a large kiln and an existing large DLA-controlled tunnel kiln that is rebuilt do not meet the definition of reconstruction in 40 CFR 63.2 and are not subject to the same requirements as new and reconstructed large tunnel kilns. However, it is technologically and economically feasible for both types of kilns described in 40 CFR 63.8390(i) to retrofit with a DLA (or to continue operating an existing DLA) and we have revised today's final rule to require that such kilns meet emission limits that correspond to the level of control provided by a DLA. We continue to believe that DIFF, DLS/FF, and WS are appropriate technologies for new large tunnel kilns and for reconstructed large tunnel kilns that were equipped with DIFF, DLS/FF, or WS prior to reconstruction. However, DLA are the only APCD that have been demonstrated on small tunnel kilns (which have smaller airflows than large tunnel kilns), and, therefore, the requirements for new and reconstructed small tunnel kilns are based on the level of control that can be achieved by a DLA. We note that facilities have the flexibility to select any control device or technique that ensures that emissions from their brick kilns are in compliance with the emission limits set forth in the final rule. Each of the APCD described above have advantages and disadvantages to their use, and the selection of the APCD to meet the requirements of the final rule will be dependent on site-specific parameters.

B. Affected Source

1. Production-Rate Limit

The proposed rule subcategorized tunnel kilns based on a 9.07 Mg/hr (10 tph) design capacity. We requested comment on the appropriate design capacity-based subcategorization level in the preamble to the proposed rule. We received numerous comments regarding subcategorization of tunnel kilns. While some commenters agreed with the 9.07 Mg/hr (10 tph) distinction among tunnel kiln subcategories, several commenters thought that the 9.07 Mg/hr (10 tph) limit was arbitrarily assigned. The commenters charged that EPA did not use all available data in determining the appropriate size cutoff. Many commenters argued that the design capacity limit should be higher based on available data (*i.e.*, 10.1 Mg/hr (11.1 tph) or 12.1 Mg/hr (13.3 tph)). The commenters disagreed that the cutoff should be rounded down from 10.1 Mg/hr (11.1 tph) to 9.07 Mg/hr (10 tph).

Some commenters noted that a design capacity distinction gives a competitive advantage to facilities operating smaller kilns. One commenter disagreed that there was a technological basis for differentiating among tunnel kilns producing above or below 9.07 Mg/hr (10 tph). The commenter stated that EPA may not subcategorize tunnel kilns to reduce costs.

Through subcategorization, we are able to define subsets of similar emission sources within a source category if differences in emissions characteristics, processes, APCD viability, or opportunities for pollution prevention exist within the source category. Section 112(d)(1) of the CAA states "the Administrator may distinguish among classes, types, and sizes of sources within a category or subcategory" in establishing emission standards. Thus, we have discretion in determining appropriate subcategories based on classes, types, and sizes of sources. We used this discretion in developing subcategories for the BSCP source category. We first subcategorized kilns based on type (*i.e.*, periodic kilns versus tunnel kilns). We then further subcategorized tunnel kilns based on kiln size. Our distinctions are based on technological differences in the equipment. For example, periodic kilns are smaller than tunnel kilns and operate in batch cycles, whereas tunnel kilns operate continuously. There are also differences in the effective application of air pollution controls. To our knowledge, HAP emissions from periodic kilns have not successfully been controlled. Similarly, we distinguished between tunnel kilns with design capacities above and below 9.07 Mg/hr (10 tph) at proposal in part because the APCD we believed to be the best performers (DIFF, DLS/FF, and WS) were not demonstrated on existing tunnel kilns with design capacities below roughly 9.07 Mg/hr (10 tph). For the reasons discussed below, we revisited the appropriate subcategorization level in response to comments on the proposal when developing today's final rule. While we continue to believe that 9.07 Mg/hr (10 tph) is the appropriate subcategorization level, our reasons for choosing that level have changed since proposal in light of new information that we received during the public comment period about DLA controls and the three proposed MACT controls (DIFF, DLS/FF, and WS).

As discussed earlier, numerous commenters pointed out serious concerns regarding retrofitting existing kilns with APCD such as DIFF, DLS/FF, and WS. Therefore, we now consider DLA to be the only currently available technology that can be used to retrofit existing kilns, including existing small kilns that are rebuilt such that they become large kilns and existing large DLA-controlled kilns that are rebuilt, without potentially significant impacts on the production process.

In response to comments suggesting that we include new data in our analyses, we updated our data base with information on new kilns, new APCD (except those controls that we consider to achieve the lowest achievable emission rate (LAER) as specified in section 112(d)(3)(A) of the CAA), changes in kiln capacities, and changes in facility ownership. We used the information submitted by commenters and made followup calls to States and individual facilities for additional clarification as necessary to update our data base.

We used our updated data base in reevaluating all aspects of the proposed standards. The smallest tunnel kiln with MACT floor controls (*i.e.*, with DLA controls reflecting the existing source MACT floor under today's final rule) in our updated database has a capacity of 8.3 Mg/hr (9.1 tph). Rounding up to the nearest integer, based on current application of APCD to BSCP tunnel kilns, we believe that 9.07 Mg/hr (10 tph) continues to be an appropriate subcategorization level. Commenters have stated that a smaller tunnel kiln (*e.g.*, 4.5 Mg/hr (5 tph) capacity) is dissimilar from a larger tunnel kiln (*e.g.*, 13.6 Mg/hr (15 tph) capacity), especially with regard to the airflow, which is a key operating parameter for APCD. Airflow is particularly important for

lime injection-type systems (DIFF and DLS/FF), because the injected lime is carried through the reaction chamber (or duct) by the kiln exhaust gas. For a given lime injection rate, if a minimum exhaust flow is not maintained, the sorbent can settle in the duct work and cause APCD malfunction. Furthermore, APCD malfunctions can affect the airflow within the kiln, and can destroy product that is in the kiln. We believe that DIFF and DLS/FF systems, if attempted on smaller kilns, would experience more difficulties with respect to airflow than systems on larger kilns because as the design airflow decreases, the acceptable operating range also would be expected to decrease. Any fluctuation in airflow would be expected to have a greater impact on APCD operation as the size of the system decreases. Given the technological concerns and the capacities of currently-controlled tunnel kilns, we maintain that a design capacity-based subcategorization level of 9.07 Mg/hr (10 tph) is appropriate for existing tunnel kilns.

We acknowledge the comments suggesting that 10.1 Mg/hr (11.1 tph) should be the size cutoff based on the smallest DIFF-controlled tunnel kiln. However, because we now consider that the performance of a DLA represents the MACT floor for existing sources (and DIFF, DLS/FF, and WS also can meet the emission limits), we considered the smallest non-LAER DLA-controlled kiln in setting the subcategorization level. We disagree that 12.1 Mg/hr (13.3 tph) would have been the proper level for proposal or for the final rule. We believe that consideration of technological differences and the effective application of APCD to kilns of different sizes is the appropriate method of selecting a subcategorization level. We maintain that 9.07 Mg/hr (10 tph) is appropriate.

We understand that, regardless of the particular subcategorization level selected, there will be facilities that operate kilns with throughputs slightly above the level and some that operate kilns at slightly below the level. Facilities operating kilns slightly above the subcategorization level have the option of accepting a federally enforceable permit limit to limit their throughput to below the level. Facilities operating just below the level must make careful decisions regarding expansion of their kilns. We acknowledge that facilities operating near the subcategorization level must make decisions regarding permit limits and expansions based on facility-specific considerations (*e.g.*, control costs, impact on revenue). However, as some commenters have pointed out, cost is not an appropriate criteria for us to use in establishing subcategories, because our discretion for establishing subcategories is limited, under the CAA, to distinguishing among classes, types, and sizes of sources.

2. R&D Kiln Definition

One commenter requested that we change the definition of research and development (R&D) kiln so that it is consistent with the definition of R&D in section 112(c)(7) of the CAA and most other NESHAP. Therefore, today's final rule includes a revised definition of research and development kiln that is consistent with section 112(c)(7) of the CAA and other NESHAP.

C. Existing Source MACT

1. Consideration of Synthetic Area Sources in the MACT Floor Determinations for Existing Sources

In the preamble to the proposed BSCP rule, we requested comment on inclusion of synthetic area sources (also called synthetic minor sources) in the MACT floor determinations for existing tunnel kilns. For the remainder of this preamble, we will refer to these sources as synthetic minor sources. Synthetic minor sources are those facilities that emit fewer than 10 tons per year of any HAP and fewer than 25 tons per year of any combination of HAP because they use some emission control device (or devices), the operation of which is required by a Federally Enforceable State Operating Permit (FESOP). In the absence of such controls, these sources would be major.

Inclusion of synthetic minor sources in the MACT floor determination was an issue prior to proposal because whether or not synthetic minor sources were included would affect the level of control represented by the floor determinations for existing large tunnel kilns (*i.e.*, tunnel kilns with design capacities equal to or greater than 9.07 Mg/hr (10 tph)). Had synthetic minor sources been excluded, the MACT floor for existing tunnel kilns would have been "no emissions reductions." With synthetic minor sources included (as we proposed), the MACT floor for existing tunnel kilns was based on a DIFF, DLS/FF or WS.

Industry representatives asserted, prior to proposal, that the BSCP MACT floor determination should not include synthetic minor sources. We rejected the idea of excluding synthetic minor sources from the MACT floor determination for several reasons discussed in the preamble to the proposed rule. (See 67 FR 47894, 47911–47912, July 22, 2002.) Nevertheless, because of the industry representatives' arguments, we requested comment from all interested parties on inclusion of synthetic minor sources in MACT floor determinations.

Following proposal, numerous industry representatives commented on the issue of whether to include synthetic minor sources in MACT floor determinations. The industry representatives commented that only major sources are included in the listed BSCP source category, and therefore, only major sources are to be used in the MACT floor determination. The commenters referenced section 112(a)(1) of the CAA, which defines major source as a source that "emits or has the potential to emit *considering controls* 10 tons per year * * *." (emphasis added), and stated that by definition, synthetic minor sources are not major sources. The commenters noted that EPA did not include true area sources (or minor sources) in the MACT floor determination and stated that synthetic minor sources should be treated similarly for purposes of establishing MACT floors.

An environmental group also commented on the issue of including synthetic minor sources in MACT floor determinations. The commenter supported EPA's decision to include synthetic minor sources in the MACT floor for BSCP. The commenter stated that the CAA requires EPA to include synthetic minor sources in MACT floor determinations. The commenter stated that excluding consideration of the best-controlled sources (which became synthetic minor sources as a result of effective controls) would contradict the CAA section 112(d) MACT floor methodology established by Congress. The commenter argued that such exclusion would weaken emission standards required for existing sources, and increase the levels of air toxics released into the environment.

Section 112(d) of the CAA directs us to establish emission standards for each category or subcategory of major sources and minor sources of HAP listed for regulation pursuant to section 112(c) of the CAA. Each such standard must reflect a minimum level of control known as the MACT floor. (See CAA section 112(d).) However, section 112 of the CAA does not specifically address synthetic minor or synthetic area sources, which include those sources that emit fewer than 10 tons per year of any HAP or fewer than 25 tons per year of any combination of HAP because they use some emission control device(s), pollution prevention techniques or other measures (collectively referred to as controls in this preamble) adopted

under Federal or State regulations. If not for the enforceable controls they have implemented, synthetic minor sources would be major sources under section 112 of the CAA.

We believe that the better interpretation of the CAA's plain language and legislative history requires that synthetic minor sources be included in MACT floor determinations. First, the plain language of the statute makes clear that our MACT floor determinations are to reflect the best sources in a category. For new sources in a category or subcategory, the MACT floor shall not be less stringent than the emission control that is achieved in practice by the *best-controlled* similar source, as determined by EPA. (See CAA section 112(d)(3), emphasis added.) For existing sources in a category or subcategory with 30 or more sources, the MACT floor may be less stringent than the floor for new sources in the same category or subcategory but shall not be less stringent than the average emission limitation achieved by the *best performing* 12 percent of the existing sources (for which the Administrator has emissions information). (See CAA section 112(d)(3)(A), emphasis added.[1]) Thus, section 112(d)(3) of the CAA requires that MACT floors reflect what the best-controlled new sources and the best-performing existing sources achieve in practice. These phrases contain no exemptions and are not limited by references to sources with or without controls. Therefore, they suggest that all of the best-controlled or best-performing sources should be considered in MACT floor determinations, regardless of whether or not such sources rely upon controls.

Furthermore, section 112(d)(3) of the CAA expressly excludes certain sources that meet LAER requirements from MACT floor determinations for existing sources. (See CAA section 112(d)(3)(A).) The fact that Congress expressly excluded such LAER sources but did not also exclude synthetic minor sources suggests that no exclusion was intended for synthetic minor sources. Indeed, nothing in the statute suggests that EPA should exclude a control technology from its consideration of the MACT floor because the technology is so effective that it reduces source emissions such that the source is no longer a major source of HAP. (See 67 FR 36,460 and 36,464, May 23, 2002, stating this rationale for including synthetic minor sources in the floor determination for the proposed NESHAP for municipal solid waste landfills.)

Some commenters argue that because the BSCP source category only includes major sources and synthetic minor sources are non-major by definition, synthetic minor sources (like true area sources) fall outside the regulated source category and should not be considered in MACT floor determinations. EPA agrees that the BSCP source category includes only major sources. (See 67 FR 47,894 and 47,898, July 22, 2002.) However, EPA disagrees that the CAA contemplates that synthetic minor sources must be treated like true area sources and excluded from MACT floor determinations. Section 112(a) of the CAA defines a major source as:

> any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants * * *.

(*See* CAA section 112(a)(1).) An area source is defined as any stationary source of hazardous air pollutants that is not a major source. (See CAA section 112(a)(1).) In the major source definition, the reference to a source's potential to emit considering controls allows the interpretation that a source's potential to emit before and after controls is relevant, such that synthetic minor sources may be considered within the meaning of this definition and included in MACT floor determinations for categories of major sources.[2] Some commenters appear to suggest that the reference to a source's potential to emit considering controls can only mean a source's potential to emit after controls have been implemented. While it is possible to read the phrase in this manner in isolation, this interpretation would have the effect of excluding the best-performing sources in a category from MACT floor determinations and therefore would be contrary to the statutory mandate that EPA set MACT floors based on the levels the best-controlled new sources and the best-performing existing sources achieve in practice. We believe the statutory reference to potential to emit considering controls should be read in a manner consistent with the other requirements of section 112(d) of the CAA to allow for the consideration of synthetic minor sources in MACT floor determinations for categories of major sources.

In addition, the legislative history suggests that synthetic minor sources should be included in MACT floor determinations. In a floor statement, Senator Durenberger stated that in implementing section 112(d)(3) of the CAA, "the [Senate] managers intend the Administrator to take whatever steps are necessary to assure that [the Administrator] has collected data on *all of the better-performing sources within each category.* [The Administrator] must have a data-gathering program sufficient to assure that [EPA] does not miss *any sources that have superior levels of emission control.*" (See Environment and Natural Resources Policy Division, Congressional Research Service, 103d Cong., S.Prt. 103–38 (prepared for the U.S. Senate Committee on Environment and Public Works), A Legislative History of the Clean Air Act Amendments of 1990 at 870, Nov. 1993, emphasis added.) This statement underscores that Congress intended for MACT floor determinations to reflect consideration of all of the sources in each category with the best emission controls. We believe it would be inconsistent with Congress's intent and the plain language of the CAA to exclude synthetic minor sources—those sources with superior controls which became synthetic minor sources by implementing such controls—from MACT floor determinations.

We believe that the inclusion of synthetic minor sources in MACT floor determinations is justified because of the reasons explained above. Even if the MACT floor determination had been "no emissions reductions" we believe that a departure from the MACT floor to a beyond-the-floor standard, based on DLA technology, is viable because the benefits associated with the emissions reductions will exceed the cost of installing and operating the technology.

2. MACT Floors for Existing Sources

Some commenters questioned how the MACT floor for existing sources was

[1] If a category or subcategory has fewer than 30 sources, the floor shall be "the average emission limitation achieved by the *best performing* 5 sources (for which the Administrator has or could reasonably obtain emissions information) in the category or subcategory." (See CAA section 112(d)(3)(B), emphasis added.)

[2] We believe this approach is not inconsistent with our policy that existing sources that limit their potential to emit to below the major source threshold prior to the first compliance deadline under a MACT standard will not be subject to the standard, as one commenter suggests. (See Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, EPA, to EPA Regions, "Potential to Emit for MACT Standards—Guidance on Timing Issues," May 16, 1995.) Including synthetic minor sources in MACT floor determinations ensures that MACT floors reflect the best-performing sources, as the CAA requires. At the same time, our policy recognizes that sources that already achieve or perform better than the MACT floors need not be subject to the MACT standards.

set. Some commenters thought that control devices installed for sulfur oxides (SO_x) control (rather than for HAP control) should not be considered in the MACT floor. Other commenters felt that costs should be a consideration.

One commenter charged that EPA has simply set MACT floors based on control technology type and that EPA did not identify the relevant best performers and set floors reflecting their average emission level. The commenter noted that factors other than control device type affect emissions and that EPA must consider all non-negligible factors in setting MACT floors and considering beyond-the-floor measures. The commenter stated that if EPA believes it is unworkable to consider all factors, then perhaps EPA should base standards on actual emissions data which reflects all the factors influencing a source's performance. The commenter also noted that EPA picked the worst performance of any source that used the chosen technology to set the floor for PM.

A detailed discussion of how we determined the MACT floor for existing large tunnel kilns (*i.e.*, tunnel kilns with design capacities equal to or greater than 9.07 Mg/hr (10 tph)) is provided below. Although the discussion in the example below focuses on existing large tunnel kilns that exhaust directly to the atmosphere or to an APCD, the same MACT floor methodology was used for existing large tunnel kilns that exhaust to sawdust dryers prior to exhausting to the atmosphere, existing small tunnel kilns that exhaust directly to the atmosphere or to an APCD, existing small sawdust-fired tunnel kilns that duct to sawdust dryers, and existing periodic kilns. Details of these MACT floor determinations were discussed in the preamble to the proposed rule. (See 67 FR 47909–47912, July 22, 2002.) Section 112(d)(3) is the section of the CAA that dictates how we must establish MACT floors. Section 112(d)(3) of the CAA states that:

> The maximum degree of reduction in emissions that is deemed achievable for new sources in a category or subcategory shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source, as determined by the Administrator. Emission standards promulgated under this subsection for existing sources in a category or subcategory may be less stringent than standards for new sources in the same category or subcategory but shall not be less stringent, and may be more stringent than—
>
> (A) Rhe average emission limitation achieved by the best performing 12 percent of the existing sources (for which the Administrator has emissions information), excluding those sources that have, within 18 months before the emission standard is proposed or within 30 months before such standard is promulgated, whichever is later, first achieved a level of emission rate or emission reduction which complies, or would comply if the source is not subject to such standard, with the lowest achievable emission rate (as defined by section 171) applicable to the source category and prevailing at the time, in the category or subcategory for categories and subcategories with 30 or more sources * * *.

With the exception of the LAER provisions in section 112(d)(3)(A) of the CAA, the CAA requires us to base the MACT floor on the best-performing sources without consideration of why facilities decided to control emissions. Therefore, if an APCD is reducing HAP emissions (*e.g.*, HF, HCl, or HAP metals), it is irrelevant if sources installed APCD for SO_X or visible emissions control for purposes of conducting MACT floor determinations.

We determined the MACT floor control level for existing sources using the following general procedure:

(1) We reviewed available data on pollution prevention techniques (including substitution of raw materials and/or fuels) and the performance of add-on control devices to determine the techniques that were viable for and effective at reducing HAP emissions;

(2) For each subcategory, we ranked the kilns from the best performing to the worst performing based on the emission reduction technique used on the kilns;

(3) For each subcategory, we then identified the 94th percentile kiln and the emission reduction technique that represented the MACT floor technology; and

(4) For each subcategory, we then selected production-based or percent-reduction emission limits that correspond to the 94th percentile kiln and emission reduction technique, and we based our selections on the available data while considering variability in the performance of a given emission reduction technique.

To identify the best-performing emission reduction techniques, we reviewed available data on pollution prevention techniques (*i.e.*,, substitution of raw materials and/or fuels) and the performance of add-on control devices. We determined that substitution of raw materials and/or fuels is not an option because substitution of raw materials and/or fuels could affect the ability of a facility to duplicate its current product line. In addition, it is impractical for facilities to import, from a distance of more than a few miles, the large amounts of raw material that are required (most facilities are located in close proximity to their raw material source). With respect to use of low-HAP fuels, our available test data for the BSCP industry do not show identifiable differences in emissions based on kiln fuel type; that is, the contribution of raw materials to HAP emissions far outweighs the contribution of the fuels. In addition, fuel type can impact the color of a product, and any requirement that would require a kiln to change fuel type could cause the kiln to be unable to match an existing product line. While we agree that factors other than APCD type can affect emissions, we do not have the data to determine the specific degree of the effect of factors other than APCD on emissions, and we believe that, for the BSCP industry, factors other than APCD use are not viable MACT floor or beyond-the-floor control options. Our data show that add-on APCD have a large effect on emissions, and further show that the presence or absence of an APCD is likely the greatest factor in determining a BSCP kiln's actual performance. It follows that the subset of BSCP kilns that are the best performers are those with add-on APCD. Therefore, our analysis focused on the performance of add-on control devices.

Prior to proposal we concluded that the best-performing add-on control devices were DIFF, DLS/FF, and WS. Based on the comments received following proposal (as discussed elsewhere in this preamble) regarding retrofit concerns with these technologies, we now believe that DLA are the only currently available technology that can be used to retrofit existing large kilns without potentially significant impacts on the production process. Thus, DLA are the best-performing APCD for existing large tunnel kilns.

We ranked the kilns within each subcategory according to APCD use. Information on the number of kilns and the types of APCD was based primarily on responses to a survey of the industry and additional information gathered following the survey including public comments on the proposed rule. Equipment in use at major sources and synthetic minor sources was used in the equipment ranking. In accordance with section 112(d)(3)(A) of the CAA, equipment at kilns that achieved LAER less than 18 months before proposal was not included in the equipment ranking. When we ranked the large tunnel kilns, we treated kilns equipped with DLA as the best-controlled sources, although DIFF, DLS/FF, and WS also can achieve the level of performance of a DLA. We ranked the kilns by APCD rather than actual unit-specific emissions reductions because we do not have emissions test data for all kilns.

Section 112(d)(3) of the CAA specifies that we set standards for existing sources that are no less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources (for which the Administrator has emissions information) where there are 30 or more sources in the category or subcategory. Our interpretation of average emission limitation is that it is a measure of central tendency, such as the arithmetic mean or the median. If the median is used when there are at least 30 sources, then the emission level achievable by the source and its APCD that is at the bottom of the top 6 percent of the best-performing sources (*i.e.*, the 94th percentile) represents the MACT floor control level. We based our MACT floors for each BSCP subcategory on this interpretation. Nineteen percent (22 of 115) of the existing large tunnel kilns located at synthetic minor sources or major sources are controlled by a DLA (12), DIFF (4), DLS/FF (4), or WS (2). Because more than 6 percent of the large tunnel kilns reduce emissions by some technique, emissions reductions from these kilns are required under the CAA. We then considered which of these controls are proven to be applicable to existing tunnel kilns, and we ranked these kilns to determine the appropriate MACT emission limits. We consider the 12 DLA to be equivalent and believe that this type of control can be applied to any existing large tunnel kiln without causing potentially significant production problems. We consider the performance of all of the DLA to be equivalent because there currently are two types of DLA in the industry (supplied by two manufacturers), and we have test data for both designs that show HF removal efficiencies that are within 1 percent of one another. We excluded DIFF and DLS/FF from our ranking of controls for existing sources because of the reported problems caused by applying DIFF and DLS/FF to existing kilns. We excluded WS from our ranking of controls for existing sources because many facilities do not have proven wastewater disposal options. Therefore, we only considered DLA in our ranking, and accordingly, the 94th percentile source (the 7th best-controlled source) is a DLA-controlled kiln. Therefore, the MACT floors for existing large tunnel kilns are based on the level of control achieved by a DLA. We have DLA outlet test data for 7 of the 12 existing large DLA-controlled tunnel kilns, and therefore, we are confident that our test data are within the best-controlled 6 percent of sources. Furthermore, the single best-performing source, based on our available DLA outlet data, is one of the three sources for which a control efficiency is available.

Section 112(d)(2) of the CAA dictates how we must establish MACT. The MACT can either be established at the MACT floor, or can be some control level more stringent than the MACT floor or beyond-the-floor. Section 112(d)(2) of the CAA states that:

> Emissions standards promulgated under this subsection and applicable to new or existing sources of hazardous air pollutants shall require the maximum degree of reduction in emissions of the hazardous air pollutants subject to this section (including a prohibition on such emissions, where achievable) that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which such emission standard applies * * *.

Although section 112(d)(3) of the CAA does not allow us to consider cost when determining MACT floors, we do consider costs when we examine beyond-the-floor control options according to section 112(d)(2) of the CAA. We acknowledge the commenters' concerns regarding the cost of the proposed standards. We determined that beyond-the-floor control measures would not be appropriate for existing large BSCP kilns because of retrofit costs arising from technical difficulties in retrofitting DIFF, DLS/FF, or WS. Thus, the emission limits for existing large tunnel kilns in today's final rule are based on the level of control achievable with a DLA.

It is our goal to set emission standards that reflect the performance of the best-controlled sources. Once we identified the subset of the best-controlled BSCP sources (*i.e.*, DLA-controlled kilns), we used the highest emission level associated with these best performers to set the emission standard because it was our intent to set emission limits that reflect the performance that the best-controlled sources continually achieve considering variability. All sources, including the best-controlled sources, have variability in emissions. For example, data (individual test runs) from two tests conducted on one DLA-controlled kiln showed HF control efficiencies that ranged from 91.6 percent to 96.4 percent. This variability may result from APCD performance, and also could result from uncertainty associated with the test methods. Commenters have agreed with our approach to setting the production-based emission limits at or slightly higher than the highest data point, because this approach accounts for variability in the performance of individual sources, variability that could exist across the industry, and uncertainty in the test methods used to measure emissions. Furthermore, use of the highest emission level associated with the best performers prevents sources within the best-controlled subset from having to remove their existing APCD and replace it with a new one that may or may not achieve slightly better performance.

We believe and intend that a well-operated DLA will achieve the emission limits set forth in this rulemaking. However, concerns have recently been raised that if high concentrations of sulfur exist in the kiln exhaust gas stream, the ability of a well-operated DLA to reduce the target acid gas HAP emissions (*i.e.*, HF and HCl) may be compromised. The data we have does not suggest that these concerns are justified. If the EPA receives information showing that they are, EPA will take prompt action to resolve the issue through rulemaking and ensure that a facility with a well-operated DLA will be in compliance with the rule. The EPA will also work with any affected facilities to ensure that they are not subject to inappropriate sanctions before we are able to complete such a rulemaking.

D. New Source MACT

Several commenters disagreed that a large (design capacity equal to or greater than 9.07 Mg/hr (10 tph) of fired product) tunnel kiln equipped with DIFF, DLS/FF or WS was the best-controlled similar source for all new tunnel kilns. The commenters expressed concern that the DIFF, DLS/FF or WS controls proposed for all new tunnel kilns have not been demonstrated on smaller kilns. The commenters argued that emissions from small (*e.g.*, less than 9.07 Mg/hr (10 tph)) and large tunnel kilns are different because the required airflow and pollutant loading is different. The commenters stated that controls such as DIFF, DLS/FF, or WS do not decrease in size or cost for kilns below 9.07 Mg/hr (10 tph) design capacity. The commenters thought that the proposed standards for new tunnel kilns would prevent future construction of and upgrades to smaller kilns. The commenters recommended that a throughput cutoff be provided for new and reconstructed kilns. One commenter suggested that EPA create a size-cutoff for new kilns, where the best-controlled similar source for smaller new kilns is a DLA-controlled kiln, and DLS/FF, DIFF, or WS for the larger

kilns. One commenter noted the potential of existing kilns triggering new source requirements during reconstruction. The commenter requested that the ability of small businesses to overhaul existing kilns be addressed in the final rule.

These commenters have addressed several related issues including the selection of the best-controlled similar source, differences between small and large tunnel kilns, the feasibility of the proposed MACT-level controls in controlling emissions from smaller tunnel kilns or reconstructed tunnel kilns, and the costs of new controls. In responding to these comments, we have re-evaluated our analysis of MACT for new and reconstructed tunnel kilns. In the original MACT analysis developed for the proposed rule, we recognized the inherent differences between small and large tunnel kilns and established a subcategorization level of 9.07 Mg/hr (10 tph). The proposed 9.07 Mg/hr (10 tph) subcategorization level applied to both existing and new tunnel kilns. For new and reconstructed sources, we selected the best-controlled similar source (DIFF, DLS/FF, WS) that would be applied to all new sources regardless of size. In re-evaluating this analysis and in light of several comments that described the inherent differences and issues with the application of DIFF, DLS/FF, and WS control technologies to small tunnel kilns or reconstructed tunnel kilns, we have revised MACT for new sources. We also have added language in 40 CFR 63.8390(i) to provide that it is not technologically and economically feasible for two types of existing kilns that would otherwise meet the criteria for reconstruction under 40 CFR 63.2 to meet the relevant standards—*i.e.*, new source MACT—and that such kilns do not fall within the definition of reconstruction and are not subject to new source MACT requirements. The two types of kilns are existing small kilns that are rebuilt such that they become large kilns and existing large DLA-controlled tunnel kilns that are rebuilt. Today's final emission limits for those kilns and for new and reconstructed small tunnel kilns are based on the performance of DLA control technology. The final emission limits for new large tunnel kilns are based on the performance of DIFF, DLS/FF, and WS control technology. In addition, existing large tunnel kilns equipped with DIFF, DLS/FF or WS are reconstructed sources subject to new source MACT requirements if they meet the criteria for reconstruction in 40 CFR 63.2. Such kilns must continue to meet new source MACT limits, which are based on the performance of DIFF, DLS/FF, and WS.

We agree with the commenters that DIFF, DLS/FF, and WS control technologies have not been demonstrated on small kilns. However, we believe that the 9.07 Mg/hr (10 tph) size represents the threshold where emission control using DIFF, DLS/FF, or WS is technically feasible and demonstrated. Smaller kilns have smaller airflow rates than larger kilns and any fluctuations in airflow rates can have a significant impact on the ability of DIFF, DLS/FF, or WS to operate correctly. For new and reconstructed small kilns, the DLA control technology has been demonstrated to perform adequately despite the lower airflow rates; DLA control systems are not as sensitive to airflow changes as DIFF, DLS/FF, or WS control systems. In addition, existing small kilns that are rebuilt such that they become large kilns and existing large DLA-controlled kilns that are rebuilt would experience the same types of retrofit problems that we described for existing tunnel kilns, and we believe that such tunnel kilns should be subject to requirements that can be met with a DLA. The DIFF, DLS/FF, and WS control systems have been demonstrated on new large kilns. Therefore, MACT for new and reconstructed large tunnel kilns is based on DIFF, DLS/FF, and WS control and is unchanged from proposal. Finally, the determination of MACT for new sources at the floor does not take the cost of control into consideration.

Our revised standards for new and reconstructed small tunnel kilns, existing small kilns that are rebuilt such that they become large kilns, and existing large DLA-controlled kilns that are rebuilt are based on the use of a DLA, which is considerably less expensive than the other MACT controls. The revised standards should minimize the commenters' concerns over the costs of reconstructing older kilns.

E. Cost and Economic Impacts

Numerous comments were received regarding costs of the proposed rule. Commenters contended that EPA did not consider the full costs of the rule (*e.g.*, costs associated with problems retrofitting existing kilns). In general, commenters indicated that the economic impacts to brick industry would be severe. Several commenters pointed out that the brick industry is losing market share to cheaper building materials (*e.g.*, vinyl) that are more detrimental to the environment. The commenters stated that the proposed rule would have a negative effect on the future of many small businesses and the communities where they are located. The commenters expressed concern that the proposed rule would limit the opportunity for continued operation or expansion of brick plants throughout the U.S. The commenters noted that increased production costs would increase brick prices, causing brick to become less competitive with other materials and brick imports to rise, putting small U.S. companies out of business. Several commenters stated that the costs of the rule as proposed would prevent their company from ever replacing, performing a major repair on, or upgrading their existing kiln. Some commenters stated that the rule as proposed would eventually cause their company to go out of business. Some commenters added that they live in an economically depressed area and other jobs are not readily available.

One commenter disagreed with the Administrator's certification that the proposed rule would not create a significant impact on a substantial number of small entities. The commenter submitted an Economic Impacts Analysis (EIA). The commenter calculated and presented the Sales Test, Cash Flow Test, and Profit Test criteria which the commenter believes shows a greater number of small businesses at risk than does EPA's EIA. In addition, the commenter provided several specific comments on EPA's EIA. The commenter argued that the rule as proposed is a significant rulemaking per Executive Order (E.O.) 12866. A few commenters provided specific comments on the monitoring, reporting, and recordkeeping costs in the Office of Management and Budget (OMB) 83–I form and supporting statement.

Commenters also questioned the environmental benefits of the BSCP rule as proposed. One commenter questioned why the BSCP rule is necessary if brick manufacturing emissions are not causing public health problems or adverse environmental effects. Another commenter argued that there is no epidemiological evidence that anyone in North America has been harmed by brick plant HF emissions and that cancer incidence in brick plant workers is not higher than for the general population.

As previously mentioned in this preamble, section 112(b) of the CAA contains a list of HAP identified by Congress and authorizes EPA to add to that list pollutants that present or may present a threat of adverse effects to human health or the environment. Section 112(c) of the CAA requires us to list all categories and subcategories of major and area sources of HAP and to

establish NESHAP for the listed source categories and subcategories under section 112(d) of the CAA. Because BSCP manufacturing is a listed source category containing major sources of HAP, we are required by the CAA to establish NESHAP for BSCP manufacturing.

As stated previously, MACT can either be established at the MACT floor, or can be some control level more stringent than the MACT floor or beyond the floor. Section 112(d)(3) of the CAA does not allow us to consider cost when determining MACT floors. We are only allowed to consider costs when we examine beyond-the-floor control options according to section 112(d)(2) of the CAA. We acknowledge the commenters' concerns regarding the cost of the proposed rule. At proposal, we determined that beyond-the-floor control measures would not be appropriate for the BSCP industry, in part because of costs.

Following proposal, we reevaluated the MACT floors for existing tunnel kilns and have revised the standards to incorporate use of DLA on existing large tunnel kilns. We also revised the MACT standards for new and reconstructed small tunnel kilns, existing small kilns that are rebuilt such that they become large kilns, and existing large DLA-controlled tunnel kilns that are rebuilt such that the standards are based on the level of performance that can be achieved by a DLA. (MACT requirements for existing small tunnel kilns and new and reconstructed large tunnel kilns remain unchanged.) We continue to agree that beyond-the-floor control measures are not warranted for the BSCP industry. The revised MACT standards for new and reconstructed small tunnel kilns, existing small kilns that are rebuilt such that they become large kilns, and existing large DLA-controlled kilns that are rebuilt are the same as the revised standards for existing large tunnel kilns. These revised standards are less costly and should reduce concerns regarding cost of retrofitting or rebuilding existing kilns and starting up new small kilns. Environmental benefits of today's final BSCP rule are discussed later in this preamble.

EPA reviewed the economic impact analysis report submitted by the commenter. We have revised our EIA to identify additional small businesses affected by the rule. We have also incorporated the lower revised cost estimates into the EIA. Impacts on small businesses are considerably lower in the revised analysis and prices are predicted to rise by less than one percent on average. The results of our revised EIA, as well as a discussion of the impact of today's final rule on small businesses, are presented later in this preamble.

Comments on the costs of monitoring, reporting, and recordkeeping were incorporated into the revised OMB 83–I form and supporting statement as appropriate. A discussion of the OMB 83–I form and supporting statement prepared in compliance with the Paperwork Reduction Act is presented later in this preamble.

F. Test Data and Emission Limits

1. HF and HCl Emission Limits

Commenters stated that the test data EPA used to set the HF and HCl limits are questionable. An independent consultant, hired by the BSCP industry, reviewed the data and determined that six of the seven test runs used the wrong filter media. A glass filter media was used instead of a Teflon filter. The commenter suggested that, as a result, the data could be biased. One commenter also charged that EPA removed high test runs without any technical basis even though all of these runs met the same quality control (QC) criteria as other runs. Finally, one commenter stated that EPA's use of both HF and total fluorides (TF) data to develop the average uncontrolled HF emission factor (which was used in developing the HF emission limit) was unsupported, and the commenter believes that EPA should use only the HF test data because HF is the regulated pollutant.

We have reviewed the emission tests mentioned by the commenter and agree that there are some problems with most of the available test data, and we have accounted for any potential bias by revising the emission limits. In consultation with EPA's Emission Measurement Center (EMC), we used a conservative approach to determine the possible impact of the bias on the percent reduction emission limits. The analysis showed that our available percent reduction data could be as much as about 5 percent high, and we, therefore, decreased the corresponding HF and HCl percent reduction requirements by 5 percent and adjusted the corresponding production-based emission limits accordingly. In response to the commenter's assertion that we dropped two test runs without a technical reason, we examined the test runs in question and incorporated one of the two runs back into the data set used for developing the standards. Finally, in response to the appropriateness of using TF data in calculating the average HF emission factor, while the average of the TF and HF data sets suggest that TF and HF measurements are similar, we recognize the inconsistencies between the few available side-by-side HF and TF tests and we, therefore, decided to remove the TF data from the HF emission factor calculation. Based on the three issues discussed above, we revised the emission limits for kilns where MACT is based on use of DIFF, DLS/FF, or WS (*i.e.*, for new large kilns). Today's final rule requires new large kilns to limit HF emissions to 0.029 kilograms per megagram (kg/Mg) (0.057 pounds per ton (lb/ton)) of fired product or reduce HF emissions by 90 percent; and limit HCl emissions to 0.028 kg/Mg (0.056 lb/ton) or reduce HCl emissions by 85 percent.

The revised HF and HCl emission limits for existing large tunnel kilns, new and reconstructed small tunnel kilns, existing small kilns that are rebuilt such that they become large kilns, and existing large DLA-controlled tunnel kilns that are rebuilt are based on the use of a DLA for HAP reduction. Two HF emission tests (both conducted on the same source) and two total fluorides emission test are available for DLA-controlled kilns, and the tests showed HF or TF control efficiencies of 92.3 percent (HF), 96.4 percent (HF), 93.3 percent (TF), and 93.5 percent (TF). Similar to the DIFF and DLS/FF tests, we identified problems with the two HF emission tests that could have biased the control efficiencies high. To account for this uncertain bias, and considering typical vendor guarantees for DLA systems (vendors will guarantee 90 percent HF reduction unless a lesser percentage meets the customer's need, in which case the vendors typically provide lower guarantees), we selected a percent reduction emission limit of 90 percent for HF. We applied this 90 percent reduction to the revised average HF emission factor of 0.29 kg/Mg (0.57 lb/ton) to calculate a production-based HF emission limit of 0.029 kg/Mg (0.057 lb/ton). Control efficiency data for HCl are available from two tests on a single DLA-controlled kiln. The tests averaged 30.7 percent control, and we selected a percent reduction HCl emission limit of 30 percent. We applied this 30 percent reduction to the average HCl emission factor of 0.19 kg/Mg (0.37 lb/ton) to calculate a production-based HCl emission limit of 0.13 kg/Mg (0.26 lb/ton).

Percent of HAP metals in PM. Several commenters noted that HAP metals and PM data from four facilities (0.16 percent, 0.99 percent, 2.8 percent, and 4.5 percent) were used to arrive at 1.9 percent of the PM is PM HAP. The

commenters stated that EPA included an invalid, high data point for manganese in developing the percentage of PM that is PM HAP. We have examined the test run mentioned by the commenters and agree that the run should be voided. Our revised analyses now indicate that the overall percentage of PM that is HAP metals is 0.72 percent.

PM limit. Other commenters argued that a PM limit for brick kilns is unnecessary. One commenter noted that metals occur naturally in clays or shales used to make bricks and that PM emissions from BSCP plants are clay dust. The commenter argued that metals are locked into the structure of the clay dust and are not bio-available to affect humans through respiratory adsorption, ingestion, or dermal contact. Some commenters noted that there is limited information on the amount of HAP metals in the PM emitted. Commenters pointed out that EPA is not setting a PM limit for clay refractory kilns. Some commenters disagreed that PM is an adequate surrogate for HAP metals emissions. Commenters also requested that a percent reduction alternative be allowed for the PM standard, similar to the percent reduction limits for HF and HCl.

We agree that PM emitted from BSCP facilities is largely clay dust, and that metals are naturally occurring in clays and shales used to make bricks. Many BSCP facilities apply surface coatings or body additives containing HAP metals to their products, and these coatings are another potential source of HAP metals emissions. These types of additives and coatings are not used in the manufacture of clay refractories.

We have four emission tests for HAP metals from tunnel kilns and all of these tests measured some level of HAP metals emissions including emissions of antimony, arsenic, beryllium, cadmium, chromium, cobalt, mercury, manganese, nickel, lead, and selenium. Based on these data, we believe that all kilns emit some level of HAP metals and, therefore, we are regulating HAP metals emissions. Test data for HAP metals are not available for clay refractories kilns.

We are unaware of any information to support the idea that the HAP metals are locked into the structure of the clay and are not bio-available to affect humans. In the absence of such information and in the interest of protecting public health, we assume conservatively that the HAP metals are bio-available and could affect human health. This assumption is consistent with the conservative approach embodied in the CAA section 112(b)(2) directive that EPA add pollutants to the statutory list of HAP that "may" present adverse risks to human health and the environment through various exposure routes.

We used PM as a surrogate for HAP metals so that individual emission limits would not be based on the limited and variable data. We examined the available HAP metals test data and calculated that about 95 percent of the HAP metals emissions are in particulate form. Furthermore, the types of control technologies used on BSCP kilns remove PM and would indiscriminately remove particulate HAP metals. The United States Court of Appeals for the District of Columbia Circuit stated in a December 15, 2000 decision (in response to the National Lime Association (NLA) challenge of the use of PM as a surrogate for HAP metals), "if HAP metals are invariably present in cement kiln PM, then even if the ratio of metals to PM is small and variable, or simply unknown, PM is a reasonable surrogate for the metals—assuming * * * that PM control technology indiscriminately captures HAP metals along with other particulates." Our use of PM as a surrogate for HAP metals in the final BSCP rule is consistent with this decision.

We typically do not include percent reduction as an alternative for PM because a percent reduction standard rewards those facilities that have high inlet PM loadings. We believe that this is different from the percent reduction standards for HF and HCl because facilities do not typically have options for reducing the uncontrolled levels of HF or HCl. Therefore, we are not providing an alternative percent reduction standard for PM.

The revised PM emission limit for existing large tunnel kilns, new and reconstructed small tunnel kilns, existing small kilns that are rebuilt such that they become large kilns, and existing large DLA-controlled tunnel kilns that are rebuilt is based on the use of a DLA. Data from four tests conducted at the outlets of DLA were available for establishing a production-based emission limit, and we selected the highest PM data point as the emission limit in order to account for variability. Today's final rule contains a PM emission limit of 0.21 kg/Mg (0.42 lb/ton) of fired product for existing large tunnel kilns, new and reconstructed small tunnel kilns, existing small kilns that are rebuilt such that they become large kilns, and existing large DLA-controlled tunnel kilns that are rebuilt. The PM emission limit for new and reconstructed large tunnel kilns is unchanged from proposal (0.060 kg/Mg (0.12 lb/ton) of fired product).

G. Monitoring Requirements

Numerous comments were received on the proposed monitoring requirements. Some commenters felt that the monitoring, reporting, and recordkeeping requirements were unreasonable. Commenters noted that the monitoring requirements would require additional and higher skilled personnel.

Under section 114(a)(3) of the CAA, owners or operators of major sources are required to conduct enhanced monitoring of affected sources to ensure compliance with applicable emission standards. In response to this mandate, we have incorporated continuous compliance requirements into all part 63 standards, generally in the form of continuous emissions monitoring or continuous parameter monitoring. We believe that continuous monitoring is needed to ensure that emission controls are operated properly. However, 40 CFR 63.8(f) allows owners and operators of affected sources to request approval for alternative monitoring procedures to demonstrate compliance with emission limitations.

Although we have eliminated some of the proposed monitoring requirements (such as fabric filter inlet temperature monitoring) from today's final rule, we have retained most of the proposed monitoring requirements. We believe that those monitoring requirements are the minimum needed to ensure continuous compliance with the emission limits.

1. Operation, Maintenance, and Monitoring (OM&M) Plan

Some commenters felt that development of an OM&M plan was overly burdensome. One commenter thought the requirement to include OM&M procedures for kiln operation was unjustified. Another commenter noted possible contradictions of OM&M plan requirements and Table 7 of the proposed BSCP rule (the table showing applicability of the General Provisions to part 63).

After reviewing these comments, we decided that OM&M plans do not have to include procedures for monitoring the operation and maintenance of tunnel kilns, and we have written the final rule accordingly. However, we continue to believe that site-specific OM&M plans are necessary to ensure continued proper operation of any control device that is used to comply with the final rule.

Regarding the apparent contradictions between 40 CFR 63.8425(b)(8) through (10) and Table 7 of the proposed rule, we did not cite the General Provisions

to part A in the proposed 40 CFR 63.8425 (b)(8) through (10), but specified that OM&M plans must include operation and maintenance, quality assurance, and reporting and recordkeeping procedures that are consistent with the General Provisions. Therefore, we believe there is no contradiction between 40 CFR 63.8425 (b)(8) through (10) and Table 7 of the proposed rule. However, we did clarify in Table 7 of the final rule that 40 CFR 63.8(c)(4) does not apply to subpart JJJJJ because 40 CFR 63.8425 and 63.8465 specify the requirements for continuous monitoring systems (CMS).

Some commenters requested clarification on whether OM&M plans (and startup, shutdown, and malfunction plans (SSMP)) are required for kilns that would not be subject to control requirements (*e.g.*, existing small tunnel kilns). Another commenter questioned if an OM&M plan would be required if compliance is achieved without a control device. The BSCP NESHAP applies only to affected sources. Under today's final rule, an existing small tunnel kiln is not an affected source. Therefore, the requirements for OM&M plans, SSMP, and other monitoring, notification, reporting, and recordkeeping requirements do not apply to those kilns. Owners or operators will be required to prepare an OM&M plan and SSMP for any kiln that is an affected source even if the kiln can meet the emission limits without the use of a control device.

2. Bag Leak Detectors

Commenters indicated that bag leak detectors are unnecessary, overly protective, and maintenance intensive. The commenters noted that bag failure is noticeable because PM emissions would be visible at the stack. Several commenters requested that opacity or visible emissions (VE) determinations be allowed as opposed to bag leak detectors.

We agree with the commenters that periodic VE checks should provide a reasonable alternative to bag leak detectors, and we have written the final rule accordingly. In today's final rule, owners and operators of affected kilns that are controlled with a DLS/FF or DIFF can choose between installing a bag leak detection system or performing daily VE checks. Today's final rule also includes a provision for decreasing the frequency of VE checks provided no VE are observed.

3. Water Injection Rate Monitoring on DLS/FF

Three commenters stated that DLS/FF water injection rate monitoring has nothing to do with HF or HCl removal (but is important for sulfur dioxide (SO_2) removal) and recommended that the provision for monitoring DLS/FF water injection rate be eliminated.

After reviewing the available information, we decided to eliminate the requirement for water injection rate monitoring on affected DLS/FF-controlled kilns. Water injection is used to enhance the removal of SO_2 by a DLS/FF, but has little effect on removal of HF and HCl.

4. Fabric Filter Inlet Temperature

Several commenters recommended that the requirement to monitor fabric filter inlet temperature be eliminated from the rule as proposed. The commenters explained that it would be impractical to hold the fabric filter inlet temperature to within 25 degrees below the average established during the performance test. The fabric filter inlet temperature varies frequently, much more than 25 degrees, because of many process factors. Other commenters noted that fabric filter inlet temperature has little relevancy to acid gas control. One commenter stated that control systems using hydrated lime are generally known to have increased HCl and HF removal when temperatures increase.

As a result of these comments, we have eliminated the requirement for monitoring fabric filter inlet temperatures on affected kilns that are controlled with a DLS/FF or DIFF. We believe that the other monitoring requirements (*e.g.*, lime feed rate monitoring and periodic VE checks) that we have incorporated into the final rule are adequate for ensuring continuous compliance with the emission limits.

5. DLA Parameter Monitoring

Many commenters suggested potential parametric monitoring requirements for DLA that could be used to demonstrate continuous compliance. Various commenters suggested documenting use, on a continuous basis, of the same limestone that was used during the performance test demonstrating compliance. Other suggestions included monitoring pressure drop (demonstrating airflow); limestone flow; and inlet and/or exhaust gas temperature.

We have incorporated parameter monitoring requirements for DLA into the final rule based on information provided by commenters and a recent site visit to a facility operating a DLA. Today's final rule will require owners and operators of affected kilns with DLA to continuously monitor the pressure drop across the DLA; perform a daily visual check of the limestone hopper and storage bin (located at the top of the DLA), and record the limestone feeder setting daily; and perform periodic VE observations. In addition, owners and operators will be required to document the source of the limestone used during the most recent performance test and maintain records that demonstrate that the source of limestone has not changed.

6. Continuous Emission Monitoring Systems

In the preamble to the proposed rule, we requested comment on requiring the application of PM continuous emission monitoring systems (CEMS) as a method to assure continuous compliance with the proposed PM emission limits for BSCP tunnel kilns. While we believe there is evidence that PM CEMS should work on BSCP tunnel kilns, we received no comments in support of requiring PM CEMS. Commenters opposed use of CEMS when less expensive, but effective, parametric monitoring alternatives are available. Therefore, today's final rule does not require use of PM CEMS or any other type of CEMS. We believe that the parameter monitoring requirements specified in the final rule are adequate for ensuring continuous compliance.

7. Establishing/Re-Establishing Production Rate

Several commenters requested that the process weight threshold be based on average annual throughput instead of hourly or monthly throughput. One commenter pointed out that the nature of brick production does not allow for spikes in emissions. Several commenters stated that the averaging period used to determine the MACT floor applicability to existing tunnel kilns must have the same production averaging basis as the data used in setting the subcategorization level. The commenters stated that it is not reasonable to base the standard on a 12-month averaging period and then enforce the floor on an instantaneous or 30-day rolling averaging period.

One commenter requested clarification as to whether EPA would require a retest if the maximum production level of a kiln would be higher than the level observed during the performance test. The commenter added that several States recognize that capacity and maximum production are difficult figures to calculate for a brick kiln because they are highly dependent

on the specific characteristics of a product (size, percent void).

We agree with the commenters that a kiln's process weight threshold (*e.g.*, design capacity level) should be based on average annual tonnage rather than on the proposed 30-day rolling average. We have revised the final BSCP rule accordingly to require the ton per hour production capacity of a kiln to be calculated based on the maximum amount of BSCP (in tons) that can be produced in a 12-month period divided by 8,760 hours per year.

Regarding the question of whether we will require a retest if the maximum production level of a kiln is higher than the level observed during the performance test, a retest will be required because an increase in production is likely to increase emissions, and the operating limits that are based on the performance test would no longer demonstrate continuous compliance with the emission limits.

8. Test Methods

One commenter requested that we allow any of the applicable EPA Method 5 variations to demonstrate compliance with the PM standard. The commenter pointed out that a facility with high SO_2 could reduce the potential for SO_2 to be counted as PM by using EPA Method 5B. We are not including EPA Method 5B as a test method because our emission limit is based on EPA Method 5 and includes tests on sources with high SO_2 emissions. Individual facilities will have the option of requesting an alternative test method.

One commenter on the proposed clay ceramics rule requested that the final rule provide facilities with the option to use either EPA Method 26A or EPA Method 320 for all required stack testing for HF and HCl. This comment applies for both BSCP and clay ceramics. Therefore, we have modified today's final BSCP rule to include EPA Method 320 as an alternative to EPA Method 26A.

H. Startup, Shutdown, and Malfunction

1. APCD Bypass

Several commenters stated that the BSCP rule, as proposed, would not allow the kiln control device to be bypassed at any time. Various commenters stated that the proposed MACT controls (DIFF, DLS/FF, or WS) must maintain a given flow to perform efficiently. Thus, the APCD would dictate how the kiln is operated. During initial kiln startup or subsequent kiln startups or shutdowns, airflow temperatures and volumes would be below APCD design volumes. The heat from the furnace zone could damage the kiln walls and cars if not vented. Therefore, the ability to bypass during startups, routine maintenance, and emergency shutdowns of the APCD is needed.

Several commenters noted that brick kilns are constant flow devices that cannot just be turned off without detrimental impact to large volumes of product (*e.g.*, character, color, and quality of brick) and the kiln itself. The commenters stated that days to weeks may be needed to properly shut down a brick kiln. One commenter noted that kilns operate continuously 2 to 3 years before being shut down for routine maintenance.

Commenters stated that short periods of bypass are necessary to conduct routine preventive maintenance inspections of APCD. Commenters pointed out that the control devices currently employed have and use bypass capability for routine maintenance and emergency repairs.

We generally agree with the commenters that some provision is needed to allow the control device on tunnel kilns to be bypassed for routine maintenance of the control device, and we have revised the rule accordingly. Under 40 CFR 63.8420(e) of today's final rule, owners and operators of an affected tunnel kiln can bypass the kiln control device for a cumulative period of up to 4 percent of the annual operating hours for the kiln. Based on the data and other information submitted by commenters on the proposed rule, we believe that the amount of time equating to 4 percent of annual kiln operating hours is adequate for completing routine maintenance on the types of controls that are likely to be used to comply with the BSCP NESHAP.

To comply with this bypass provision, owners or operators must submit a request to us for a routine control device maintenance exemption. The request must justify the need for the routine maintenance on the control device and the time required to complete the maintenance activities. The request also must describe the maintenance activities and the frequency of the maintenance activities, explain why the maintenance cannot be accomplished during kiln shutdowns, and describe how emissions will be minimized during the period when the kiln is operating and the control device is offline. Upon approval, the request for exemption must be incorporated by reference in, and attached to, the affected source's title V permit. During any period when the kiln is operating and the kiln control device is offline, the owner or operator must minimize HAP emissions. The duration of such periods also must be minimized.

We also note that the bypass provision included in today's final rule does not apply to startups, shutdowns, or malfunctions. 40 CFR 63.6(f)(1) explicitly states that nonopacity emission standards, such as the proposed emission limits for HF, HCl, and PM, "* * * apply at all times except during periods of startup, shutdown, and malfunction * * *" Startups, shutdowns, and malfunctions must be addressed in a facility's SSMP.

2. Initial Startup

Commenters stated that it is impractical to meet emission standards during initial startup of a tunnel kiln. The commenters indicated that it can take from weeks to a year to bring new BSCP kilns online. In addition, APCD such as DIFF, DLS/FF, or WS cannot be brought online until adequate temperature and airflow ranges are met. The commenters indicated that roughly 75 percent of design gas flow rate or kiln production rate must be obtained before a DIFF or DLS/FF could begin to operate properly. Another commenter stated that the proposed initial testing deadline (180 days following the compliance date) would not provide enough time for a new kiln to come up-to-speed.

We recognize that an extended period of time may be needed for the initial startup of a new kiln and have added a definition of initial startup to the BSCP final rule to address the concerns expressed by the commenters. The definition differentiates between DLA-controlled kilns and DIFF-, DLS/FF-, or WS-controlled kilns, because DLA are not sensitive to airflow and only require that the kiln gases are hot enough to avoid condensation in the DLA. Avoiding condensation is necessary because water and calcium carbonate (limestone) combine to make cement, and any introduction of water in the DLA reaction chamber could cause the limestone to be cemented together. In the final rule, we provided the following definition: "Initial startup" means: (1) For a new or reconstructed tunnel kiln controlled with a DLA, and for a tunnel kiln that would be considered reconstructed but for 40 CFR 63.8390(i)(1) or 40 CFR 63.8390(i)(2), the time at which the temperature in the kiln first reaches 260 °C (500 °F) and the kiln contains product; or (2) for a new or reconstructed tunnel kiln controlled with a DIFF, DLS/FF, or WS, the time at which the kiln first reaches a level of production that is equal to 75 percent of the kiln design capacity or 12 months

after the affected source begins firing BSCP, whichever is earlier. Although some commenters suggested that initial startup for DIFF-, DLS/FF-, and WS-controlled kilns be defined in terms of airflow, we defined initial startup in terms of production rate for DIFF-, DLS/FF-, and WS-controlled kilns because the final rule requires owners and operators of affected sources to monitor production rate, whereas flowrate monitoring is not required under today's final rule. We included the stipulation for DIFF-, DLS/FF-, and WS-controlled kilns that initial startup occurs no later than 12 months after the new kiln begins firing BSCP to prevent facilities from operating an affected new or reconstructed kiln at just less than 75 percent of the kiln design capacity long term to circumvent the final rule. A similar stipulation is not necessary for DLA-controlled kilns because the kiln temperature requirement is such that the kiln cannot produce BSCP until well after the temperature is reached.

By defining initial startup in today's final rule, we also have clarified the compliance date for new and reconstructed sources, which is specified in terms of the initial startup. Thus, new and reconstructed DIFF-, DLS/FF-, and WS-controlled tunnel kilns beginning operation after the promulgation date will be allowed to reach 75 percent of the kiln design capacity before initial startup is triggered and the APCD must come online. New and reconstructed DLA-controlled tunnel kilns, and tunnel kilns that would be considered reconstructed but for 40 CFR 63.8390(i)(1) or 40 CFR 63.8390(i)(2), beginning operation after the promulgation date will trigger initial startup when the temperature in the kiln first reaches 260°C (500°F) and the kiln contains product. Performance testing is required 180 days following the compliance date (*i.e.*, 180 days following initial startup). Facilities wishing to conduct performance testing to determine the level of air pollution control necessary may conduct such testing prior to achieving initial startup.

3. Startup

Two commenters expressed concern with how startup is defined with respect to the proposed rule. The commenters stated that, under the proposed rule, a kiln could be considered to be operating if only one burner was operating. However, a kiln could have as many as 100 burners or more. To clarify what constitutes kiln startup we added to today's final rule a definition of "startup" that incorporates "starting the production process."

4. Deviations

One commenter felt that the requirement of reporting emissions as deviations during startup, shutdown, or malfunction (SSM) is inappropriate because facilities are not required to be in compliance with the emission limitations during SSM. Another commenter requested that EPA make it clear the deviations are not necessarily an indication of noncompliance or excess emissions.

The term deviation applies to events during which an affected source fails to meet an emission limitation or comply with another requirement of the final rule. Deviations are not synonymous with violations; depending on the circumstances, a deviation may or may not be a violation of an applicable requirement. We agree with the commenter that an affected source need not be in compliance with emission limits during periods of SSM. Although we consider non-compliance with emission limits during startup, shutdown, and malfunction to be deviations from the emission limits, we do not consider these deviations to be violations of the emission limits. 40 CFR 63.7(e)(1) specifies that, "Operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions for the purpose of a performance test, nor shall emissions in excess of the level of the relevant standard during periods of startup, shutdown, and malfunction be considered a violation of the relevant standard unless otherwise specified in the relevant standard or a determination of noncompliance is made under 40 CFR 63.6(e)." As indicated in Table 7 of the final rule, this language of the general provisions to part 63 does apply to subpart JJJJJ. The definition of deviation included in today's final rule is consistent with how deviation is defined in other NESHAP, and has not been changed since proposal.

I. Risk-Based Approaches

The preamble to the proposed BSCP rule requested comment on whether there might be further ways to structure the BSCP rule to focus on the facilities which pose significant risks and avoid the imposition of high costs on facilities that pose little risk to public health and the environment. Specifically, we requested comment on the technical and legal viability of two risk-based approaches: (1) An applicability cutoff for threshold pollutants under the authority of CAA section 112(d)(4); and (2) subcategorization and delisting under the authority of CAA sections 112(c)(1) and 112(c)(9).[3] We indicated that we would evaluate all comments before determining whether either approach would be included in the final BSCP rule. Numerous commenters submitted detailed comments on these risk-based approaches. These comments are summarized in the BSCP Response-to-Comments document (see **SUPPLEMENTARY INFORMATION** section).

Based on our consideration of the comments received and other factors, we have decided not to include the risk-based approaches in today's final BSCP rule. The risk-based approaches described in the proposed BSCP rule and addressed in the comments we received raise a number of complex issues. In addition, we are under time pressure to complete the BSCP rule, because the statutory deadline for promulgation has passed and a deadline suit has been filed against EPA. (See Sierra Club v. Whitman, Civil Action No. 1:01CV01537 (D.D.C.).) Given the range of issues raised by the risk-based approaches and the need to promulgate a final rule expeditiously, we believe that it is appropriate not to include any risk-based approaches in today's final BSCP rule. Nonetheless, we expect to continue to consider risk-based approaches in connection with other proposed NESHAP where we have described and solicited comment on such approaches. Finally, while we are not including risk-based approaches in today's final BSCP rule, we have included a number of other measures that we expect will reduce the costs and burdens on the affected sources.

III. Summary of the Final Brick and Structural Clay Products Manufacturing NESHAP

A. What Source Category Is Regulated by the Final Rule?

Today's final rule for BSCP manufacturing applies to BSCP manufacturing facilities that are, are located at, or are part of, a major source of HAP emissions. The BSCP manufacturing source category includes those facilities that manufacture brick (including, but not limited to, face brick, structural brick, and brick pavers); clay pipe; roof tile; extruded floor and wall tile; and/or other extruded, dimensional clay products. Brick and structural clay products primarily are produced from common clay and shale. Production of BSCP typically consists of processing and handling the raw materials, forming

[3] See 68 FR 1276 (January 9, 2003) (Plywood and Composite Wood Products Proposed NESHAP) and docket number A–98–44, Item No. II–D–525 (White papers submitted to EPA outlining the risk-based approaches).

and cutting bricks and shapes, and drying and firing the bricks and shapes. One by-product of brick manufacturing is crushed brick, which is produced at some facilities by crushing reject bricks.

There are a total of 189 domestic BSCP manufacturing facilities; 170 of these facilities primarily produce brick, and 19 of these facilities primarily produce structural clay products. The 189 BSCP manufacturing facilities are located in 39 States and are owned by 89 companies. Seventy-six of the companies are small businesses, and these 76 companies own 92 of the BSCP manufacturing facilities. Thirteen of the companies are large businesses, and these 13 companies own 97 BSCP manufacturing facilities.

All BSCP are fired either in continuous (tunnel or roller) or batch (periodic) kilns. Because the vast majority of continuous kilns are tunnel kilns, continuous kilns, including roller kilns, will be referred to as tunnel kilns for the remainder of this preamble. A total of 314 permitted and operable tunnel kilns were reported by industry; 302 of these kilns are located at facilities that are estimated, based on uncontrolled emissions, to be major sources. Of the 302 tunnel kilns located at major sources, 275 are located at brick manufacturing facilities and 27 are located at structural clay products manufacturing facilities. A total of 227 permitted and operable periodic kilns were reported by industry; 164 of these kilns are located at facilities that are estimated to be major sources. Of the 164 periodic kilns located at major sources, 81 are located at brick manufacturing facilities and 83 are located at structural clay products manufacturing facilities.

The primary HAP emissions sources at BSCP manufacturing plants are tunnel kilns and periodic kilns, which emit HF, HCl, and HAP metals. Kilns also emit PM and SO_2. Other sources of HAP emissions at BSCP manufacturing plants are the raw material processing and handling equipment. The APCD that are used by the industry to control emissions from kilns include DIFF, DLS/FF, DLA, WS, and fabric filters.

B. What Are the Affected Sources?

The existing affected source, which is the portion of each source in the category for which we are setting emission standards, is any existing large tunnel kiln. Large tunnel kilns have a design capacity equal to or greater than 9.07 Mg/hr (10 tph) of fired product. Such tunnel kilns may be fired by natural gas or other fuels, including sawdust. Sawdust firing typically involves the use of a sawdust dryer because sawdust typically is purchased wet and needs to be dried before it can be used as fuel. Consequently, some sawdust-fired tunnel kilns have two process streams, including: A process stream that exhausts directly to the atmosphere or to an APCD, and a process stream in which the kiln exhaust is ducted to a sawdust dryer where it is used to dry sawdust before being emitted to the atmosphere.

Today's final rule focuses on those process streams from existing large tunnel kilns that exhaust directly to the atmosphere or to an APCD. For existing large tunnel kilns that do not have sawdust dryers, the kiln exhaust process stream (*i.e.*, the only process stream) is subject to the requirements of today's final rule. In accordance with CAA section 112(d)(1), we have divided tunnel kilns that duct exhaust to sawdust dryers into two classes for purposes of regulation. For existing large tunnel kilns that ducted exhaust to sawdust dryers prior to July 22, 2002, only the process stream that is emitted directly to the atmosphere or to an APCD is subject to the requirements of today's final rule; any process stream from such kilns that is ducted to a sawdust dryer is not subject to those requirements.

By contrast, for existing large tunnel kilns that first duct exhaust to sawdust dryers on or after July 22, 2002, all of the exhaust (*i.e.*, both the process stream that is emitted directly to the atmosphere or to an APCD and the process stream that is ducted to a sawdust dryer) is subject to the same level of control requirement as a new tunnel kiln.

In addition, each new or reconstructed tunnel kiln is an affected source and all process streams from new or reconstructed tunnel kilns are subject to the requirements of today's final rule. The requirements of today's final rule for new and reconstructed tunnel kilns are different for small and large kilns. Small tunnel kilns have design capacities less than 9.07 Mg/hr (10 tph) of fired product, and large tunnel kilns have design capacities equal to or greater than 9.07 Mg/hr (10 tph) of fired product. A source is a new affected source if construction began on or after July 22, 2002. An affected source is reconstructed if the criteria defined in 40 CFR 63.2 are met, as qualified by 40 CFR 63.8390(i). An affected source is existing if it is not new or reconstructed.

An existing tunnel kiln with a federally enforceable permit condition that restricts kiln operation to less than 9.07 Mg/hr (10 tph) of fired product on an annual average basis is not subject to the requirements of today's final rule. Kilns that are used exclusively for R&D and not used to manufacture products for commercial sale, except in a *de minimis* manner, are not subject to the requirements of today's final rule. Finally, kilns that are used exclusively for setting glazes on previously fired products are not subject to the requirements of today's final rule.

C. When Must I Comply With the Final Rule?

Existing affected sources must comply within 3 years of May 16, 2003. New and reconstructed affected sources with an initial startup before May 16, 2003 must comply no later than May 16, 2003. New and reconstructed affected sources with an initial startup after May 16, 2003 must comply upon initial startup. Existing area sources that subsequently become major sources have 3 years from the date they become major sources to come into compliance. Any portion of existing facilities that become new or reconstructed major sources and any new or reconstructed area sources that become major sources must be in compliance upon initial startup.

D. What Are the Emission Limits?

Today's final rule includes emission limits in the form of production-based mass emission limits and percent reduction requirements. In establishing the HAP emission limits, we selected PM as a surrogate for HAP metals (including mercury in particulate form). Today's final rule contains HF, HCl, and PM emission limits for existing, new, and reconstructed affected sources at BSCP manufacturing facilities, as well as for the following affected sources that would be considered reconstructed but for 40 CFR 63.8390(i): Existing small tunnel kilns whose design capacity is increased such that it is equal to or greater than 9.07 Mg/hr (10 tph) of fired product or existing large DLA-controlled kilns.

If you own or operate an existing large tunnel kiln, a new or reconstructed small tunnel kiln, an existing small kiln that is rebuilt such that it becomes a large kiln, or an existing large DLA-controlled kiln that is rebuilt, you must meet an HF emission limit of 0.029 kg/Mg (0.057 lb/ton) of fired product or reduce uncontrolled HF emissions by at least 90 percent for affected process streams. You must meet an HCl emission limit of 0.13 kg/Mg (0.26 lb/ton) of fired product or reduce uncontrolled HCl emissions by at least 30 percent. You are required to meet a PM emission limit of 0.21 kg/Mg (0.42 lb/ton) of fired product.

If you own or operate a new or reconstructed large tunnel kiln, you must meet an HF emission limit of 0.029 kg/Mg (0.057 lb/ton) of fired product or reduce uncontrolled HF emissions by at least 90 percent for all process streams. You must meet an HCl emission limit of 0.028 kg/Mg (0.056 lb/ton) of fired product or reduce uncontrolled HCl emissions by at least 85 percent. You are required to meet a PM emission limit of 0.060 kg/Mg (0.12 lb/ton) of fired product.

E. What Are the Operating Limits?

In addition to the emission limits, today's final rule includes operating limits that apply to APCD used to comply with the final rule. The operating limits require you to maintain certain process or APCD parameters within levels established during performance tests. Each facility affected by today's final rule is required to prepare, implement, and revise, as necessary, an OM&M plan. The OM&M plan generally specifies the operating parameters to be monitored; the frequency that parameter values will be determined; the limits for each parameter; procedures for proper operation and maintenance of APCD and monitoring equipment; procedures for responding to parameter deviations; and procedures for documenting compliance.

We have established operating limits for DLA, DIFF, DLS/FF, and WS. If you operate a DLA, you must maintain the average pressure drop across the DLA for each 3-hour block period at or above the average pressure drop established during the performance test. You also must maintain an adequate amount of limestone in the limestone hopper, storage bin (located at the top of the DLA), and DLA at all times. In addition, you must maintain the limestone feeder setting at or above the level established during the performance test and you must use the same grade of limestone from the same source as was used during the performance test. Finally, you must maintain no VE from the DLA stack.

If you operate a DIFF or DLS/FF, you must maintain free-flowing lime in the feed hopper or silo and to the APCD at all times and maintain the feeder setting at or above the level established during your performance test. In addition, you have the option of using a bag leak detection system or monitoring VE. If you use a bag leak detection system, you must initiate corrective action within 1 hour of a bag leak detection system alarm and complete corrective actions according to your OM&M plan, and operate and maintain the fabric filter such that the alarm is not engaged for more than 5 percent of the total operating time in a 6-month reporting period. If you monitor VE, you must maintain no VE from the DIFF or DLS/FF stack.

If you operate a WS, you are required to maintain the average scrubber pressure drop, the average scrubber liquid pH, the average scrubber liquid flow rate, and the average chemical addition rate, if applicable, for each 3-hour block period at or above the average values established during your performance test.

If you own or operate an affected source equipped with an alternative APCD or technique not listed in the rule, you must establish operating limits for the appropriate operating parameters subject to prior written approval by the Administrator as described in 40 CFR 63.8(f). You are required to submit a request for approval of alternative monitoring procedures that includes a description of the alternative APCD or technique, the type of monitoring device or procedure that you would use, the appropriate operating parameters that you would monitor, and the frequency that the operating parameter values would be determined and recorded. You must establish site-specific operating limits during your performance test based on the information included in the approved alternative monitoring procedures request. You are required to install, operate, and maintain the parameter monitoring system for the alternative APCD or technique according to your OM&M plan.

F. What Are the Performance Test and Initial Compliance Requirements?

We are requiring owners and operators of all affected sources to conduct an initial performance test using specified EPA test methods to demonstrate initial compliance with the emission limits. A performance test must be conducted before renewing your 40 CFR part 70 operating permit or at least every 5 years following the initial performance test, as well as when an operating limit parameter value is being revised. You must test at the outlet of the APCD and prior to any releases to the atmosphere for all affected sources. If meeting the percent reduction emission limits for HF or HCl, you must also test at the APCD inlet. You must conduct each test while operating at the maximum production level.

Under today's final rule, you are required to measure emissions of HF, HCl, and PM. You must measure HF and HCl emissions using EPA Method 26A, "Determination of Hydrogen Halide and Halogen Emissions from Stationary Sources-Isokinetic Method," 40 CFR part 60, appendix A, or any other alternative method that has been approved by the Administrator under 40 CFR 63.7(f) of the general provisions. The EPA Method 26, "Determination of Hydrogen Chloride Emissions from Stationary Sources," 40 CFR part 60, appendix A, may be used when no acid particulate matter (*e.g.*, HF or HCl dissolved in water droplets emitted by sources controlled by a WS) is present. As an alternative to using EPA Methods 26A or 26, you may measure HF and HCl emissions using EPA Method 320 "Measurement of Vapor Phase Organic and Inorganic Emission by Extractive FTIR" 40 CFR part 63, appendix A. When using EPA Method 320, you must follow the analyte spiking procedures of section 13 of Method 320 unless you can demonstrate that the complete spiking procedure has been conducted at a similar source. Particulate matter emissions must be measured using EPA Method 5, "Determination of Particulate Emissions from Stationary Sources," 40 CFR part 60, appendix A, or any other approved alternative method.

To determine initial compliance with the production-based mass emission limits for HF, HCl, and PM, you must calculate the mass emissions per unit of production for each test run using the mass emission rates of HF, HCl, and PM and the production rate (on a fired-product basis) measured during your performance test. To determine initial compliance with any of the percent reduction emission limits, you must calculate the percent reduction for each test run using the mass emission rates, measured during your performance test, of the specific HAP (HF or HCl) entering and exiting the APCD.

Prior to your initial performance test, you are required to install the CMS (*e.g.*, continuous parameter monitoring system) equipment to be used to demonstrate continuous compliance with the operating limits. During your initial test, you must use the CMS to establish site-specific operating parameter values that represent your operating limits.

If you operate a DLA, you must continuously measure the pressure drop across the DLA during the performance test and determine the 3-hour block average pressure drop. You also must maintain an adequate amount of limestone in the limestone hopper, storage bin (located at the top of the DLA), and DLA at all times. In addition, you must establish your limestone feeder setting one week prior to the performance test and maintain the feeder setting for the one-week period

that precedes the performance test and during the performance test. Finally, you are required to document the source and grade of the limestone used during the performance test.

If you operate a DIFF or DLS/FF, you are required to ensure that lime in the feed hopper or silo and to the APCD is free-flowing at all times during the performance test, and you are required to record the feeder setting for the three test runs. If the lime feed rate varies, you are required to determine the average feed rate from the three test runs. If you use a bag leak detection system, you must submit analyses and supporting documentation demonstrating conformance with EPA guidance and specifications for bag leak detection systems.

If you operate a WS, you are required to continuously measure the scrubber pressure drop, the scrubber liquid pH, the scrubber liquid flow rate, and the chemical addition rate (if applicable). For each WS parameter, you are required to determine and record the average values for the three test runs and the 3-hour block average value.

G. What Are the Continuous Compliance Requirements?

Today's final rule requires that you demonstrate continuous compliance with each emission limitation that applies to you. You must follow the requirements in your OM&M plan and document conformance with your OM&M plan. You are required to operate a CMS to monitor the operating parameters established during your initial performance test as described in the following paragraphs. The CMS must collect data at least every 15 minutes, and you need to have at least three of four equally spaced data values (or at least 75 percent if you collect more than four data values per hour) per hour (not including startup, shutdown, malfunction, out-of-control periods, or periods of routine control device maintenance covered by a routine control device maintenance exemption) to have a valid hour of data. You must operate the CMS at all times when the process is operating. You also have to conduct proper maintenance of the CMS, including inspections, calibrations, and validation checks, and maintain an inventory of necessary parts for routine repairs of the CMS. Using the recorded readings, you must calculate and record the 3-hour block average values of each operating parameter. To calculate the average for each 3-hour averaging period, you must have at least 75 percent of the recorded readings for that period (not including startup, shutdown, malfunction, out-of-control periods, or periods of routine control device maintenance covered by a routine control device maintenance exemption).

If you operate a DLA, you must collect and record data documenting the DLA pressure drop and reduce the data to 3-hour block averages. You must maintain the average pressure drop across the DLA for each 3-hour block period at or above the average pressure drop established during the performance test. You also must verify that the limestone hopper, storage bin (located at the top of the DLA), and DLA contain an adequate amount of limestone by performing a daily visual check of the limestone hopper and the storage bin, and if the hopper or storage bin do not contain adequate limestone you must promptly initiate and complete corrective actions according to your OM&M plan. You also must record the limestone feeder setting daily to verify that the feeder setting is being maintained at or above the level established during the performance test. You also must use the same grade of limestone from the same source as was used during the performance test and maintain records of the source and type of limestone. Finally, you must perform daily, 15-minute VE observations in accordance with the procedures of EPA Method 22, "Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares," 40 CFR part 60, appendix A. During the VE observations, the kiln must be operating under normal conditions. If VE are observed, you must promptly initiate and complete corrective actions according to your OM&M plan. If no VE are observed in 30 consecutive daily EPA Method 22 tests, you may decrease the frequency of EPA Method 22 testing from daily to weekly for that kiln stack. If VE are observed during any weekly test, you must promptly initiate and complete corrective actions according to your OM&M plan and you must resume EPA Method 22 testing of that kiln stack on a daily basis until no VE are observed in 30 consecutive daily tests, at which time you may again decrease the frequency of EPA Method 22 testing to a weekly basis.

For DIFF and DLS/FF systems, you must maintain free-flowing lime in the feed hopper or silo and to the APCD at all times. If lime is found not to be free flowing via the output of a load cell, carrier gas/lime flow indicator, carrier gas pressure drop measurement system, or other system, you must promptly initiate and complete corrective actions according to your OM&M plan. You also have to maintain the feeder setting at or above the level established during your performance test and record the feeder setting once each shift. If you use a bag leak detection system, you must initiate corrective action within 1 hour of a bag leak detection system alarm and complete corrective actions according to your OM&M plan. You also must operate and maintain the fabric filter such that the alarm is not engaged for more than 5 percent of the total operating time in a 6-month block reporting period. In calculating this operating time fraction, if inspection of the fabric filter demonstrates that no corrective action is required, no alarm time is counted. If corrective action is required, each alarm must be counted as a minimum of 1 hour, and if you take longer than 1 hour to initiate corrective action, the alarm time must be counted as the actual amount of time taken to initiate corrective action. As an alternative to using a bag leak detection system, you may monitor VE. If you choose to monitor VE, you must perform daily, 15-minute VE observations in accordance with the procedures of EPA Method 22. During the VE observations, the kiln must be operating under normal conditions. If VE are observed, you must promptly initiate and complete corrective actions according to your OM&M plan. If no VE are observed in 30 consecutive daily EPA Method 22 tests, you may decrease the frequency of EPA Method 22 testing from daily to weekly for that kiln stack. If VE are observed during any weekly test, you must promptly initiate and complete corrective actions according to your OM&M plan and you must resume EPA Method 22 testing of that kiln stack on a daily basis until no VE are observed in 30 consecutive daily tests, at which time you may again decrease the frequency of EPA Method 22 testing to a weekly basis.

For WS, you are required to continuously maintain the 3-hour block averages for scrubber pressure drop, scrubber liquid pH, scrubber liquid flow rate, and chemical addition rate (if applicable) at or above the minimum values established during your performance test.

H. What Are the Notification, Recordkeeping, and Reporting Requirements?

We are requiring owners and operators of all affected sources to submit initial notifications, notifications of performance tests, and notifications of compliance status by the specified dates in the final rule, which may vary depending on whether the affected source is new or existing. In addition to the information specified in 40 CFR

63.9(h)(2)(i), you are required to include the following in your notification of compliance status: (1) The operating limit parameter values established for each affected source (with supporting documentation) and a description of the procedure used to establish the values, and (2) if applicable, analysis and supporting documentation demonstrating conformance with EPA guidance and specifications for bag leak detection systems.

We are requiring owners and operators of all affected sources to submit semiannual compliance reports containing statements and information concerning emission limitation deviations, out-of-control CMS, periods of startup, shutdown, or malfunction, when actions consistent with your approved SSMP were taken, and periods of routine control device maintenance for facilities obtaining a routine control device maintenance exemption. In addition, if you undertake an action that is inconsistent with your approved SSMP, then you are required to submit a startup, shutdown, and malfunction report within 2 working days of starting such action and within 7 working days of ending such action unless you have made alternative arrangements with the permitting authority.

We are requiring owners and operators of all affected sources to maintain records for at least 5 years from the date of each record. You must retain the records onsite for at least the first 2 years but may retain the records offsite for the remaining 3 years. You are required to keep a copy of each notification and report, along with supporting documentation. You are required to keep records related to the following: (1) Records of startup, shutdown, or malfunction; (2) records of performance tests; (3) records to show continuous compliance with each emission limitation; (4) if a bag leak detection system is used, records of each bag leak detection system alarm, including the time of the alarm, the time corrective action was initiated and completed, and a description of the cause of the alarm and the corrective action taken; (5) if VE measurements are taken, records of VE observations; (6) records of each operating limit parameter value deviation, including the date, time, and duration of the deviation, a description of the cause of the deviation and the corrective action taken, and whether the deviation occurred during a period of startup, shutdown, or malfunction; (7) records of routine control device maintenance for facilities obtaining a routine control device maintenance exemption, including a copy of the approved request for a routine control device maintenance exemption; (8) records of production rate; (9) records for any approved alternative monitoring or test procedures; and (10) current copies of your SSMP and OM&M plan, including any revisions, with records documenting conformance.

IV. Summary of Environmental, Energy, and Economic Impacts for the Final Brick and Structural Clay Products Manufacturing NESHAP

A. What Are the Air Quality Impacts?

At the current level of control and 1996 production levels, nationwide emissions of HAP from the 169 BSCP facilities estimated to be major sources are about 6,000 Mg/yr (6,600 tpy). Under today's final rule, it is assumed that DLA will be installed on 89 tunnel kilns with production capacities equal to or greater than 9.07 Mg (10 tph)(that currently are not controlled with a DLA, DIFF, DLS/FF, or WS). This will result in an estimated reduction in nationwide HAP emissions of 2,100 Mg/yr (2,300 tpy).

Hydrogen fluoride emissions account for approximately 60 percent of the baseline HAP emissions. Hydrogen chloride emissions account for approximately 40 percent, with HAP metals comprising less than 1 percent of the baseline HAP emissions. Estimated nationwide emissions of HF, HCl, and HAP metals from existing major source BSCP facilities at the current level of control are 3,500 Mg/yr (3,900 tpy), 2,400 Mg/yr (2,600 tpy), and 24 Mg/yr (26 tpy), respectively. Implementation of today's final rule is estimated to reduce nationwide HF emissions from existing tunnel kilns by about 1,700 Mg/yr (1,900 tpy), and HCl will be reduced by 350 Mg/yr (390 tpy). Emissions of HAP metals are estimated to be reduced by 5.4 Mg/yr (5.9 tpy). Implementation of today's final rule also is estimated to reduce PM and SO_2 emissions by 740 Mg/yr (820 tpy) and 2,500 Mg/yr (2,800 tpy), respectively.

To project air quality impacts for new sources, we assumed that two large model tunnel kilns (each with a 13.6 Mg/hr (15 tph) capacity and equipped with DIFF) and one medium model tunnel kiln (with an 8.2 Mg/hr (9 tph) capacity and equipped with a DLA), will begin operation at the beginning of the first year following promulgation. We estimate that by implementing today's final rule, HF emissions from new sources will be reduced by 87 Mg/yr (96 tpy), HCl emissions will be reduced by 47 Mg/yr (52 tpy), and HAP metals emissions will be reduced by 0.48 Mg/yr (0.53 tpy). We also estimate that PM and SO_2 emissions from the new kilns will be reduced by 67 Mg/yr (74 tpy) and 170 Mg/yr (190 tpy), respectively.

Secondary air impacts associated with today's final BSCP rule are direct impacts that result from the operation of any new or additional APCD. The generation of electricity required to operate the APCD on new and existing kilns will result in 11 Mg/yr (12 tpy) of nitrogen oxides (NO_X) emissions in the first year following compliance with today's final rule. The electricity is assumed to be generated by natural gas-fired turbines.

B. What Are the Water and Solid Waste Impacts?

Because compliance with today's final rule is based on the use of DLA or DIFF, no water pollution impacts are estimated. However, facilities with available wastewater disposal options may choose to use wet scrubbers. Based on available information, each scrubber-controlled kiln could generate as much as about 5 million gallons per year of waste water (based on a 10 gallon per minute scrubber blowdown, which is the maximum permitted amount in the industry).

The solid waste disposal impacts that result from the use of DLA include the disposal of the spent limestone that is discharged from the DLA. We calculated the solid waste by taking the difference between the amount of limestone charged into the DLA and the amount of reacted limestone and then adding the amount of reaction products and PM captured. Implementation of today's final rule is estimated to increase solid waste from existing sources by 65,200 Mg/yr (71,900 tpy).

To project solid waste impacts for new sources, we assumed that two large model tunnel kilns (equipped with DIFF) and one medium model tunnel kiln (equipped with a DLA) will begin operation at the beginning of the first year following promulgation of the final rule. The analysis of solid waste from DLA is discussed in the previous paragraph. The solid waste disposal impacts that result from the use of DIFF include the disposal of the spent lime (or other sorbent) that is injected into the kiln exhaust stream and subsequently captured by a fabric filter. We calculated the solid waste by taking the difference between the amount of lime injected into the system and the amount of reacted lime, and then adding the amount of reaction products and PM captured. Stoichiometric ratios of 1.0 to 2.0 have been reported for the DIFF and DLS/FF in use in the brick manufacturing industry. The average

stoichiometric ratio of 1.35 was used in this analysis. We estimate that implementing today's final rule will result in the generation of 1,410 Mg/yr (1,550 tpy) of solid waste from new sources.

C. What Are the Energy Impacts?

Energy impacts consist of the electricity needed to operate the APCD. Electricity requirements are driven primarily by the size of the fan needed in the APCD. We estimate the increase in electricity consumption that will result from implementation of the final rule to be 89 terajoules per year (84 billion British thermal units (Btu) per year) for existing sources.

To project energy impacts for new sources, we assumed that two large model tunnel kilns (equipped with DIFF) and one medium model tunnel kiln (equipped with a DLA) will begin operation at the beginning of the first year following promulgation of the final rule. We estimate the increase in energy consumption that will result from implementation of today's final rule to be 7.8 terajoules per year (7.4 billion Btu per year) for new sources.

D. Are There Any Additional Environmental and Health Impacts?

Reducing HAP emissions under today's final rule will lower occupational HAP exposure levels. The operation of APCD may increase occupational noise levels.

E. What Are the Cost Impacts?

For existing sources, nationwide total capital costs to implement today's final rule are estimated at $63 million, with total annualized costs of $24 million. The capital costs include the purchase and installation of DLA and monitoring equipment on 89 existing large tunnel kilns. The annualized costs include annualized capital costs of the control and monitoring equipment, operation and maintenance expenses, emission testing costs, and recordkeeping and reporting costs associated with installing and operating these 89 DLA, as well as the monitoring, recordkeeping and reporting, and emission testing costs on 20 additional APCD that currently are installed on existing large tunnel kilns.

To project costs for new sources, we assumed that two large model tunnel kilns (equipped with DIFF) and one medium model tunnel kiln (equipped with a DLA) will begin operation at the beginning of the first year following promulgation of the final rule. We estimate the capital costs associated with implementation of today's final rule to be $2.8 million for these three new sources. We estimate the annualized costs associated with implementation of today's final rule to be $1.14 million per year for new sources in the first year following promulgation of the rule.

We calculated the cost estimates using cost algorithms that are based on procedures from EPA's Office of Air Quality Planning and Standards (OAQPS) Control Cost Manual (EPA 450/3–90–006, January 1990) and cost information provided by the BSCP industry. We estimated costs by developing model process units that correspond to the various sizes of kilns found at BSCP manufacturing facilities and assigning the model process units to each facility based on the kiln sizes at each facility. The facility costs were summed to determine total industry costs.

F. What Are the Economic Impacts?

We conducted a detailed economic impact analysis to determine the market- and industry-level impacts associated with today's final rule. The compliance costs of today's final rule are expected to increase the price of brick and reduce their domestic production and consumption. We project the price of brick to increase by just less than 1 percent and project no change in price for structural clay products. Domestic production of brick is expected to decline by close to 1 percent. In addition, foreign brick imports are estimated to increase while exports decrease, both by just under 1 percent. Since there is no expected change in the price of structural clay products, we predict no change in domestic production or foreign imports of structural clay products.

In terms of industry impacts, the brick producers are projected to experience a decrease in operating profits of about 10 percent, which reflects the compliance costs associated with brick production and the resulting reductions in revenues due to the increase in the price of brick and the reduced quantity purchased. Through the market impacts described above, today's final rule would create both positive and negative financial impacts on facilities within the BSCP manufacturing industry. The majority of facilities, almost 71 percent, are expected to experience profit increases with today's final rule; however, there are some facilities projected to lose profits (about 29 percent). Furthermore, the economic impact analysis indicates that of the 189 BSCP manufacturing facilities, two brick facilities are at risk of closure because of today's final rule, while none of the structural clay products facilities are at risk to close.

Based on the market analysis, the annual social costs of today's final rule are projected to be $23.3 million. This differs from the annual engineering costs of today's final rule because the social costs account for producer and consumer behavior. These social costs are distributed across the many consumers and producers of brick. Since there are no price changes occurring in the structural clay products market, the social costs of today's final rule are confined to the brick industry. The consumers of brick are expected to incur $14.7 million in costs associated with today's final rule, with domestic consumers bearing $14.6 million and foreign consumers bearing $0.07 million. Brick producers, in aggregate, are expected to bear the remaining $8.6 million annually in costs. Domestic producers incur $8.67 million while foreign producers gain $0.04 million annually.

We estimate that 15 new kilns will be built during the 5 years after promulgation of today's final rule. The total compliance costs associated with these kilns are projected to be less than 0.6 percent of the industry's value of shipments. The economic impact analysis estimated the impact of today's final rule on these new sources through a sensitivity analysis. According to that analysis, it is projected that anywhere from three to six of these new kilns will be delayed in coming on-line in the BSCP manufacturing industry due to today's final rule.

V. Summary of Responses to Major Comments and Changes to the Clay Ceramics Manufacturing Proposed NESHAP

In response to the public comments received on the proposed clay ceramics rule, we made several changes in developing today's final clay ceramics rule. The major comments and our responses and rule changes are summarized in the following sections. A more detailed summary can be found in the Response-to-Comments document, which is available from several sources (see **SUPPLEMENTARY INFORMATION** section).

A. Affected Source

1. Subcategories of Clay Ceramics Kilns

We proposed two subcategories of clay ceramics kilns: Continuous (tunnel or roller) kilns and batch (periodic) kilns. Based on the public comments received regarding APCD applicability, as described in section V.C of this preamble, we revised the subcategorization structure for today's final rule. Today's final rule is based on

four subcategories of clay ceramics kilns: Ceramic tile or sanitaryware tunnel kilns with design capacities less than 9.07 Mg/hr (10 tph) of fired product, ceramic tile or sanitaryware tunnel kilns with design capacities equal to or greater than 9.07 Mg/hr (10 tph) of fired product, ceramic tile roller kilns, and periodic kilns.

2. R&D Kiln Definition

One commenter requested that we change the definition of research and development kiln so that it is consistent with the definition of R&D in section 112(c)(7) of the CAA and most other NESHAP. Therefore, today's final rule includes a revised definition of research and development kiln that is consistent with section 112(c)(7) of the CAA and other NESHAP.

3. Facilities Co-Located With Major Sources

Commenters indicated that considering a clay ceramics facility a major source because it is co-located with a major source (under a separate NESHAP) puts those facilities at a competitive disadvantage with competitors operating facilities that are not co-located. We understand these commenters' concerns. However, section 112 of the CAA requires us to regulate HAP emissions from all major source facilities, regardless of the processes or operations that make those facilities major sources. Thus, today's final rule applies for both co-located and stand-alone clay ceramics manufacturing facilities that are major sources.

B. Existing Source MACT

Four commenters concurred with the existing MACT floor of "no emissions reductions" for existing clay ceramics sources. To the contrary, one commenter charged that EPA has simply set MACT floors based on control technology type and that EPA did not identify the relevant best performers and set floors reflecting their average emission level. The commenter noted that factors other than control device type affect emissions and that EPA must consider all non-negligible factors in setting MACT floors and considering beyond-the-floor measures. The commenter stated that if EPA believes it is unworkable to consider all factors, then perhaps EPA should base standards on actual emissions data which reflects all the factors influencing a source's performance.

We reevaluated our existing source MACT determinations following proposal based on consideration of factors other than APCD type. We agree that factors other than APCD type (*e.g.*, kiln design, fuel type, raw materials, additives and surface coatings) can affect emissions from clay ceramics kilns. We acknowledged the effect of kiln design on emissions by creating separate subcategories for periodic, roller, and tunnel kilns. We maintain that low-HAP raw material use is not a viable MACT option because, similar to the BSCP industry, all facilities use product-specific raw materials that are integral to the various products. Changes in raw materials would change the end products, and because of this, it would not be feasible for facilities to meet requirements based on the use of low-HAP raw materials. With respect to requiring kilns to fire low-HAP fuels, all clay ceramics kilns for which we have information are fired with natural gas or propane. Therefore, we are not concerned that a requirement to use natural gas (or equivalent fuel) to fire all existing kilns would have any impact on the end products of existing kilns, as would be the case in the BSCP industry. Therefore, the MACT floor for all existing clay ceramics periodic kilns, tunnel kilns, and roller kilns is based on firing the kilns with natural gas or an equivalent fuel (such as propane or other clean-burning fuel), and we added a work practice standard to the final rule that covers this requirement. We considered developing emission limitations based on firing natural gas, but the available data are insufficient for us to determine the contribution of kiln fuel to HAP emissions, and we believe that a work practice standard is the only feasible means of addressing the commenter's concern that we did not consider options besides APCD use.

C. New Source MACT

At proposal, we concluded that MACT for new and reconstructed periodic kilns was "no emissions reductions." We concluded that MACT for new and reconstructed tunnel and roller kilns was the level of control achievable with a DIFF, DLS/FF, or WS because the best-controlled similar source (a BSCP tunnel kiln) had this level of control.

Following proposal, several commenters argued that clay ceramics kilns are different from BSCP kilns, and that EPA should not consider BSCP tunnel kilns to be the best-controlled similar source. The commenters noted that clay ceramics kilns typically have much lower throughput than BSCP kilns and that the exhaust from clay ceramics kilns contains lower pollutant concentrations than BSCP kiln exhaust. Commenters stated that the lower pollutant concentrations in clay ceramics kiln exhaust would result in the inability to achieve high removal efficiencies. The commenters suggested that the proposed control technologies are not transferable to clay ceramics kilns and noted that none of the technologies are currently in use on domestic clay ceramics kilns. The commenters suggested that the best-controlled similar source should come from the sources in the clay ceramics source category, which would result in a new source MACT floor of "no emissions reductions" for clay ceramics kilns.

One commenter stated that, whereas brick products are fired unglazed, most sanitaryware products have a ceramic glaze applied before firing, which melts in the kiln, evenly covering the surface of the piece, helping to seal the surface and hinder the emission of by-products typically associated with the clay raw material.

One commenter suggested that MACT for new clay ceramics kilns be applied only to large kilns (*i.e.*, kilns with a design capacity equal to or greater than 9.07 Mg/hr (10 tph) of fired product). The commenter suggested (based on their conversation with an APCD vendor) that DIFF systems may not be readily available for small (less than 9.07 Mg/hr (10 tph)) clay ceramics kilns.

One commenter requested that EPA distinguish between ceramic tile tunnel and roller kilns. The commenter stated that the two major design differences between BSCP periodic and new BSCP tunnel kilns are the same dissimilarities exhibited between clay ceramics tunnel and roller kilns. The commenter also provided reasons why clay ceramics roller kilns are different from BSCP tunnel kilns. The commenter stated that BSCP tunnel kilns are made of brick lined with refractory materials, have a high profile (tall) design, and require setting and stacking product on rail cars which move on floor rails. Bricks are fired on a 15 to 24 hour cycle. Ceramic tile roller kilns are designed in modular units with a low (short) profile (which affects the excess airflow), have different firing curves and flow characteristics, process a single row of tile moved by roller, and utilize high velocity burners for turbulent airflow. The tiles are not stacked and are fired on a 40 to 60 minute cycle. The commenter stated that firing time has a significant effect on the evolution of HF emissions (roller kilns exhibit significantly lower HF emissions) and provided detail of firing curves/emission estimates for the two types of kilns. In addition, the commenter stated that APCD available for BSCP tunnel

kilns are not readily available for roller kilns.

We acknowledge that the control technologies (DIFF, DLS/FF, and WS) that formed the basis for the proposed emission limits for new and reconstructed clay ceramics kilns are not currently in use on any domestic clay ceramics kiln. However, section 112(d) of the CAA requires us to establish emission limits for new sources based on the performance of the best-controlled similar source. The CAA does not specify that the similar source must be within the same source category. To the contrary, our interpretation of section 112(d) of the CAA is that we are obligated to consider similar sources from other source categories in determining the best-controlled similar source for establishing MACT for new sources.

We have reevaluated our subcategory and best-controlled similar source determinations for new and reconstructed clay ceramics kilns. We maintain that MACT for new and reconstructed periodic kilns does not require use of add-on APCD because the best-controlled similar source is uncontrolled. In addition, based on the comments received and other information, we have concluded that there are significant differences between clay ceramics tunnel kilns and roller kilns. We believe that differences in the operation of BSCP tunnel kilns and tile roller kilns, particularly with respect to the duration of firing, result in emission characteristics that are likely to be very dissimilar. As a result, we cannot assume that APCD that have been demonstrated to be effective for reducing HF and HCl emissions from BSCP tunnel kilns are feasible for tile roller kilns. Therefore, we have concluded that BSCP tunnel kilns cannot be considered similar sources to tile roller kilns, and we have determined that MACT for new and reconstructed clay ceramics tile roller kilns does not include control with an add-on APCD.

We disagree that there are technological differences between clay ceramics tunnel kilns and BSCP tunnel kilns. Some tunnel kilns actually produce both ceramic tile and structural clay tile (a structural clay product). Regarding the effect of glazing on emissions, we cannot refute that the glazes applied to sanitaryware form a seal that could prevent further release of certain pollutants from the body of the ware. However, we have no information that indicates that the sealing becomes effective before HF and HCl are released. To the contrary, we have data from several tests on sanitaryware kilns that quantify HF emissions, and the tests indicate that uncontrolled emissions are within the range emitted from BSCP kilns.

We maintain that the best-controlled similar source for a clay ceramics tunnel kiln is a BSCP tunnel kiln. As discussed in section II.D of this preamble, MACT for new and reconstructed BSCP tunnel kilns with design capacities less than 9.07 Mg/hr (10 tph) of fired product is based on use of a DLA, while MACT for new and reconstructed BSCP tunnel kilns with design capacities equal to or greater than 9.07 Mg/hr (10 tph) of fired product is based on use of DIFF, DLS/FF, or WS. Thus, we have adopted the same requirements for new and reconstructed clay ceramics tunnel kilns. New and reconstructed clay ceramics tile and sanitaryware tunnel kilns with design capacities less than 9.07 Mg/hr (10 tph) of fired product will be required to meet emission limits based on the levels of control that can be achieved by a kiln controlled with a DLA. The emission limits for HF are 0.029 kg/Mg (0.057 lb/ton) or at least 90 percent reduction. For HCl, the emission limits are 0.13 kg/Mg (0.26 lb/ton) or at least 30 percent reduction. For PM, which is used as a surrogate for HAP metals, the emission limit is 0.21 kg/Mg (0.42 lb/ton). For new and reconstructed clay ceramics tile and sanitaryware tunnel kilns with design capacities equal to or greater than 9.07 Mg/hr (10 tph) of fired product, we have revised the emission limits (based on the levels of control that can be achieved by a kiln controlled with a DIFF, DLS/FF, or WS) to reflect new data that were considered in the development of the final BSCP rule, as discussed in section II.F of this preamble. The revised HF emission limits are 0.029 kg/Mg (0.057 lb/ton) or at least 90 percent reduction. The revised HCl emission limits are 0.028 kg/Mg (0.056 lb/ton) or at least 85 percent reduction. The PM emission limit remains unchanged (from proposal) at 0.060 kg/Mg (0.12 lb/ton).

Similar to the requirements for existing sources, we added a work practice standard that requires facilities to use natural gas, or an equivalent fuel, to fire all new or reconstructed clay ceramics periodic kilns, tunnel kilns, and roller kilns, except during periods of natural gas curtailment or other periods when natural gas is not available.

Similar to the requirements for BSCP tunnel kilns, two types of clay ceramics tunnel kilns that would otherwise be considered reconstructed do not meet the definition of reconstruction in 40 CFR 63.2. We have added language in 40 CFR 63.8450(f) to provide that it is not technologically and economically feasible for these two types of existing kilns that would otherwise meet the criteria for reconstruction under 40 CFR 63.2 to meet the relevant standards—*i.e.*, new source MACT. The two types of kilns are existing tunnel kilns with design capacities less than 9.07 Mg/hr (10 tph) of fired product whose design capacities are increased such that they are equal to or greater than 9.07 Mg/hr (10 tph) of fired product, and existing DLA-controlled tunnel kilns with design capacities equal to or greater than 9.07 Mg/hr (10 tph) of fired product. These sources will be required to meet emission limits based on the levels of control that can be achieved by a kiln controlled with a DLA. They also will be subject to the work practice standard that requires facilities to use natural gas, or an equivalent fuel, to fire all kilns, except during periods of natural gas curtailment or other periods when natural gas is not available.

We acknowledge that the higher airflow rates that are characteristic of clay ceramics kilns result in lower pollutant concentrations in the exhaust stream, and that control efficiency limits (or percentage reduction limits) are more difficult to achieve when exhaust gas concentrations are lower. For that reason, we proposed and are promulgating today production-based mass emission limits as alternatives to the HF and HCl percentage reduction limits. Exhaust gas concentrations have no effect on mass emission rates, provided the concentrations are above the test method detection limit. The mass emission rate (*e.g.*, pounds of pollutant emitted per hour) for a source is unchanged regardless of how much dilution air is introduced. Therefore, even though a clay ceramics kiln with a diluted exhaust stream may not be able to meet the percentage HF and HCl reduction limits, the available data indicate that a kiln that is controlled to the new source MACT level will be able to meet the production-based emission limits for HF and HCl, as well as the production-based limit for PM.

D. Cost and Economic Impacts

Several commenters stated that EPA underestimated the cost per ton of pollutant removed at proposal. In general, the commenters felt the costs were unreasonable. Commenters questioned the public health benefits of the proposed clay ceramics rule.

One commenter stated that EPA entirely misunderstood the economic state of the ceramic tile industry in the U.S., and therefore, grossly underestimated the economic impact of

the proposed rule on the industry. The commenter challenged the assumptions presented in the algorithms on which the cost analysis is based, charging that they bear no reasonable relationship to reality in the industry and that the APCD strategies are not actually feasible for implementation. The commenter also argued that the economic analysis of the MACT floor for reconstructed and new ceramic clay roller kilns does not support DIFF-, DLS/FF- or WS-based controls.

We acknowledge the commenters' statements about the high cost effectiveness of the proposed rule. As discussed previously, we have revised the rule, as proposed, such that it is now less costly. Under today's final rule, new clay ceramic roller kilns will not be subject to emission limits. In addition, we have subcategorized clay ceramics tunnel kilns by design capacity. New and reconstructed tunnel kilns with design capacities less than 9.07 Mg/hr (10 tph) of fired product and tunnel kilns that would be considered reconstructed but for 40 CFR 63.8540(f)(1) or 40 CFR 63.8540(f)(2) will be required to meet emission limits based on the levels of control that can be achieved by a DLA. In addition to the changes mentioned above, we have added a work practice standard that requires facilities to use natural gas, or an equivalent fuel, to fire all clay ceramics kilns, except during periods of natural gas curtailment or other periods when natural gas is not available. The costs associated with this change are minimal. Based on these changes, there will be no control cost for new roller kilns and the control cost for new and reconstructed tunnel kilns with design capacities less than 9.07 Mg/hr (10 tph) of fired product and tunnel kilns that would be considered reconstructed but for 40 CFR 63.8540(f)(1) or 40 CFR 63.8540(f)(2) will be lower than at proposal. Most of the new tunnel kilns constructed will likely be in this smaller size category. New clay ceramics tunnel kilns with design capacities equal to or greater than 9.07 Mg/hr (10 tph) are still required to meet emission limits based on the use of DIFF, DLS/FF or WS technologies. However, the HF and HCl emission limits are slightly less stringent than at proposal (due to the inclusion of new test data). The PM emission limit for new clay ceramics tunnel kilns with design capacities equal to or greater than 9.07 Mg/hr (10 tph) is unchanged from the proposed requirements for all new kilns.

Public health benefits are likely to be realized due to the reduced emissions and reduced exposures to emissions as a result of today's final rule. However, we have not quantified these public health benefits because we are not required to do so under the CAA.

We disagree with the commenter's statement that the economic impacts of the rule on the ceramic tile industry have been grossly underestimated. Based on revisions to the final rule as described above, we expect minimal impacts on existing sources, based on recordkeeping and reporting costs associated with the work practice standard for existing kilns, and we estimate that only one new source will be impacted by the final rule in the first five years following promulgation. Therefore, the EIA at proposal overestimated the impacts on the industry. Thus, it is very unlikely that the one new source affected by the rule or the addition of a work practice standard that requires all kilns to be fired with natural gas (or equivalent fuel) will be able to influence industry prices or foreign competition.

E. Test Data and Emission Limits

One commenter implied that there are no data to suggest that HCl is emitted from ceramic tile kilns. Another commenter stated that limits for HCl and PM are irrelevant and that we should only set an emission limit for HF (the largest single HAP emitted from the kilns). The commenter believes that there is no need to establish an emission limitation for HCl or PM because any control system designed to achieve the required HF reduction will also reduce HCl and PM. One commenter disagreed that PM is an adequate surrogate for HAP metals emissions.

We are required by section 112(d) of the CAA to establish emission limits for listed HAP emitted from major sources. Section 112(b) of the CAA lists HCl and various HAP metals. We believe that PM is an adequate surrogate for HAP metals for the reasons discussed in section II.F of this preamble.

We acknowledge that we have no test data that demonstrate that HCl is emitted from clay ceramics kilns. However, we do have data that show that chlorides are present in many clay materials, and that HCl is emitted from various types of clays when heated above a minimum temperature. The data include raw material analyses and emission test reports of HCl emissions for the BSCP manufacturing, lightweight aggregate manufacturing, and kaolin processing industries. Because of the similarities in raw materials used in those industries and the raw materials used to manufacture clay ceramics, we assume that clay ceramics kilns also emit HCl.

We agree that HF emission rates from clay ceramics kilns generally are greater than the corresponding emission rates for HCl or metal HAP. We also agree that emission controls that are used to meet the emission limits for HF are likely to reduce emissions of HCl and SO_x as well. However, as stated previously, the CAA requires us to set emission limits for all listed HAP based on MACT. The data indicated that there are existing controls on similar sources that achieve significant reductions in emissions of HCl and PM (as a surrogate for metal HAP). Therefore, we are required to establish emission limits for HCl and metal HAP. We also note that, if HCl and PM emissions from any affected source are negligible or are automatically controlled by HF control devices, complying with the HCl and PM emission limits should not present a problem.

F. Monitoring Requirements

1. Fabric Filter Inlet Temperature

Two commenters disagreed with the proposed fabric filter inlet temperature monitoring requirement. One commenter stated that control systems using hydrated lime are generally known to have increased HCl and HF removal when temperatures increase. The other commenter suggested that the only limit on fabric filter inlet temperature should be based on manufacturer's specifications for protection of the equipment.

We have eliminated the requirement for monitoring fabric filter inlet temperatures on affected kilns that are controlled with a DLS/FF or DIFF. We believe that the other monitoring requirements (*e.g.*, lime feed rate monitoring and periodic VE checks) that we have incorporated into today's final rule are adequate for ensuring continuous compliance with the emission limits.

2. Bag Leak Detection Systems and Visible Emissions

One commenter suggested changes to the amount of bag leak detector alarm time that must be recorded. We have not changed the requirements for recording bag leak detection system downtime. However, we have incorporated into today's final rule an option for owners and operators of affected kilns that are controlled with a DLS/FF, or DIFF to perform daily VE checks rather than using bag leak detection systems. Visible emissions checks are required for DLA-controlled kilns. Today's final rule also includes a provision for decreasing the frequency of VE checks provided no VE are observed.

3. Continuous Emissions Monitoring Systems

In the preamble to the proposed rule, we requested comment on requiring the application of PM CEMS as a method to assure continuous compliance with the proposed PM emission limits. Commenters opposed use of CEMS when less expensive, but effective, parametric monitoring alternatives are available. Therefore, today's final rule does not require use of PM CEMS or any other type of CEMS. We believe that the parameter monitoring requirements specified in the final rule are adequate for ensuring continuous compliance.

4. Test Methods

One commenter requested that the final clay ceramics rule provide facilities with the option to use either EPA Method 26A or EPA Method 320 for all required stack testing for HF emissions, HCl emissions, or both. Because EPA Method 320 will provide accurate HF and HCl measurements, we have modified today's final clay ceramics rule to include EPA Method 320 as an alternative to EPA Method 26A.

G. Startup, Shutdown, and Malfunction

1. Bypass

One commenter requested that EPA allow for use of the bypass stack during periods of APCD maintenance. Similar comments were received on the proposed BSCP rule. Therefore, today's final clay ceramics rule allows for bypass of the APCD during periods of routine control device maintenance for up to 4 percent of the annual kiln operating hours. Section II.H of this preamble presents details on use of this routine control device maintenance exemption.

2. Initial Startup

Commenters on both the proposed BSCP rule and clay ceramics rule pointed out that it is impractical to meet emission standards during initial startup of a tunnel kiln. Thus, as discussed in section II.H of this preamble, we have added a definition of initial startup to today's final clay ceramics rule to address the concerns expressed by the commenters.

VI. Summary of the Final Clay Ceramics Manufacturing NESHAP

A. What Source Category Is Regulated by the Final Rule?

Today's final rule for clay ceramics manufacturing applies to clay ceramics manufacturing facilities that are, are located at, or are part of, a major source of HAP emissions. The clay ceramics manufacturing source category includes those facilities that manufacture pressed floor tile, pressed wall tile, and other pressed tile; or sanitaryware (toilets and sinks). Clay ceramics are primarily composed of clay and shale, and may include many different additives, including silica, talc, and various high purity powders produced by chemical synthesis. Clay ceramics manufacturing generally includes raw material processing and handling and forming of the tile or sanitaryware shapes, followed by drying, glazing, and firing. Most clay ceramics are coated with a glaze prior to firing. The clay ceramics industry also includes dinnerware and pottery manufacturing, but these industry segments are not covered by today's final rule because we determined that there are no dinnerware or pottery manufacturing facilities that are major sources of HAP.

Available information shows a total of 58 facilities that produce clay ceramics. Thirty-two of these facilities, located in 16 States, primarily produce pressed tile, while 26 of these facilities, located in 15 States, primarily produce sanitaryware. Eight of the 58 clay ceramics manufacturing facilities are estimated to be major sources. Thirteen clay ceramics facilities are owned by small businesses, and none of the small business-owned facilities are estimated to be major sources.

All clay ceramics are fired in kilns. Firing may be performed in one or more stages. Tile can be fired in either continuous (tunnel or roller) or batch (periodic) kilns, but most facilities use either tunnel or roller kilns for tile production. Periodic kilns are usually used at smaller facilities or are used primarily for second-firing a product after a glaze has been applied.

The sanitaryware industry uses either tunnel kilns or periodic kilns for firing. Tunnel kilns account for most sanitaryware firing; periodic kilns are used primarily for refiring rejected pieces that have been repaired and re-glazed. Some smaller facilities use periodic kilns for all firing operations.

The primary HAP emission sources at clay ceramics manufacturing plants are roller, tunnel, and periodic kilns which emit HF, HCl, and HAP metals. Kilns also emit PM and SO_2. Currently, no APCD are used by the clay ceramics industry to control emission from kilns, although the industry's emissions are minimized because the kilns fire clean-burning fuels. Other sources of HAP emissions at clay ceramics manufacturing plants are the raw material processing and handling equipment.

B. What Are the Affected Sources?

The affected sources, which are the portions of each source in the category for which we are setting emission standards, include each existing, new, or reconstructed periodic kiln, tunnel kiln, and roller kiln. Each tunnel kiln that meets the description in 40 CFR 63.8540(f)(1) or 40 CFR 63.8540(f)(2) also is an affected source. All affected sources are subject to the work practice standard in today's final rule. In addition, today's final rule contains different emission limits, based on design capacity, for new and reconstructed tunnel kilns, and also includes emission limits for tunnel kilns that would otherwise meet the criteria for reconstruction but for 40 CFR 63.8540(f)(1) or 40 CFR 63.8540(f)(2). The tunnel kiln subcategories are tunnel kilns with design capacities less than 9.07 Mg/hr (10 tph) of fired product and tunnel kilns with design capacities equal to or greater than 9.07 Mg/hr (10 tph) of fired product. Kilns that are used exclusively for R&D and not used to manufacture products for commercial sale, except in a *de minimis* manner, are not subject to the requirements of today's final rule. Kilns that are used exclusively for refiring or for setting glazes on previously fired products are not subject to the requirements of today's final rule.

A source is a new affected source if construction began on or after July 22, 2002. An affected source is reconstructed if the criteria defined in 40 CFR 63.2 are met, as qualified by 40 CFR 63.8540(f). An affected source is existing if it is not new or reconstructed and does not meet the descriptions in 40 CFR 63.8540(f). As indicated, affected sources described in 40 CFR 63.8540(f) also are subject to today's final rule.

C. When Must I Comply With the Final Rule?

New and reconstructed affected sources and affected sources that would be considered reconstructed but for 40 CFR 63.8540(f)(1) or 40 CFR 63.8540(f)(2) with an initial startup before May 16, 2003 must comply no later than May 16, 2003. New and reconstructed affected sources and affected sources that would be considered reconstructed but for 40 CFR 63.8540(f)(1) or 40 CFR 63.8540(f)(2) with an initial startup after May 16, 2003 must comply upon initial startup. Any portion of existing facilities that become new or reconstructed major sources and any new or reconstructed area sources that become major sources must be in compliance upon initial startup.

If you have an existing affected source, you must comply with the work practice standards within 3 years of May 16, 2003.

D. What Are the Emission Limits?

Today's final rule includes emission limits in the form of production-based mass emission limits and percent reduction requirements. In establishing the HAP emission limits, we selected PM as a surrogate for HAP metals, including mercury in particulate form. Today's final rule includes HF, HCl, and PM emission limits for new and reconstructed affected sources at clay ceramics manufacturing facilities, as well as for the following affected sources that would be considered reconstructed but for 40 CFR 63.8540(f): Existing tunnel kilns with design capacities less than 9.07 Mg/hr (10 tph) of fired product whose design capacities are increased such that they are equal to or greater than 9.07 Mg/hr (10 tph) of fired product, and existing DLA-controlled tunnel kilns with design capacities equal to or greater than 9.07 Mg/hr (10 tph) of fired product.

If you own or operate a new or reconstructed tunnel kiln with a design capacity less than 9.07 Mg/hr (10 tph) of fired product or a tunnel kiln that would be considered reconstructed but for 40 CFR 63.8540(f)(1) or 40 CFR 63.8540(f)(2), you are required to meet an HF emission limit of 0.029 kg/Mg (0.057 lb/ton) of fired product or reduce uncontrolled HF emissions by at least 90 percent. You also are required to meet an HCl emission limit of 0.13 kg/Mg (0.26 lb/ton) of fired product or reduce uncontrolled HCl emissions by at least 30 percent. Finally, you are required to meet a PM emission limit of 0.21 kg/Mg (0.42 lb/ton) of fired product.

If you own or operate a new or reconstructed tunnel kiln with a design capacity equal to or greater than 9.07 Mg/hr (10 tph) of fired product, you are required to meet an HF emission limit of 0.029 kg/Mg (0.057 lb/ton) of fired product or reduce uncontrolled HF emissions by at least 90 percent. You also are required to meet an HCl emission limit of 0.028 kg/Mg (0.056 lb/ton) of fired product or reduce uncontrolled HCl emissions by at least 85 percent. Finally, you are required to meet a PM emission limit of 0.06 kg/Mg (0.12 lb/ton) of fired product.

E. What Are the Operating Limits?

The operating limits for new and reconstructed clay ceramics tunnel kilns and tunnel kilns that would be considered reconstructed but for 40 CFR 63.8540(f)(1) or 40 CFR 63.8540(f)(2) are the same as those for new and reconstructed BSCP tunnel kilns. These operating limits are presented in section III.E of this preamble.

F. What Are the Work Practice Standards?

If you have an existing, new, or reconstructed clay ceramics periodic kiln, tunnel kiln, or roller kiln, or a tunnel kiln that would be considered reconstructed but for 40 CFR 63.8540(f)(1) or 40 CFR 63.8540(f)(2), you must use natural gas, or an equivalent fuel, as the kiln fuel at all times except during periods of natural gas curtailment or other periods when natural gas is not available.

G. What Are the Performance Test and Initial Compliance Requirements for Sources Subject to Emission Limits?

The performance test and initial compliance requirements for new and reconstructed clay ceramics tunnel kilns and tunnel kilns that would be considered reconstructed but for 40 CFR 63.8540(f)(1) or 40 CFR 63.8540(f)(2) are the same as those for new and reconstructed BSCP tunnel kilns. These requirements are presented in section III.F of this preamble.

H. What Are the Initial Compliance Requirements for Sources Subject to a Work Practice Standard?

For each existing, new, or reconstructed clay ceramics periodic kiln, tunnel kiln, or roller kiln, and each tunnel kiln that would be considered reconstructed but for 40 CFR 63.8540(f)(1) or 40 CFR 63.8540(f)(2), you must indicate, in your initial notification, that you use natural gas, or an equivalent fuel, as the kiln fuel, and certify that such information is true, accurate, and complete.

I. What Are the Continuous Compliance Requirements for Sources Subject to Emission Limits?

The continuous compliance requirements for new and reconstructed clay ceramics tunnel kilns and tunnel kilns that would be considered reconstructed but for 40 CFR 63.8540(f)(1) or 40 CFR 63.8540(f)(2) are the same as those for new and reconstructed BSCP tunnel kilns. These requirements are presented in section III.G of this preamble.

J. What Are the Continuous Compliance Requirements for Sources Subject to a Work Practice Standard?

For each existing, new, or reconstructed clay ceramics periodic kiln, tunnel kiln, or roller kiln, and each tunnel kiln that would be considered reconstructed but for 40 CFR 63.8540(f)(1) or 40 CFR 63.8540(f)(2), you must use natural gas, or an equivalent fuel, as the kiln fuel, and document the type of fuel used. The type of fuel used, along with other compliance information, must be certified as part of your compliance reports. During periods of natural gas curtailment or other periods when natural gas is unavailable, you are allowed to use an alternative fuel. However, if you use an alternative fuel, you must meet the notification requirements specified in 40 CFR 63.8630(g) and the reporting requirements specified in 40 CFR 63.8635(g).

K. What Are the Notification, Recordkeeping, and Reporting Requirements for Sources Subject to Emission Limits?

The notification, recordkeeping, and reporting requirements for new and reconstructed clay ceramics tunnel kilns and tunnel kilns that would be considered reconstructed but for 40 CFR 63.8540(f)(1) or 40 CFR 63.8540(f)(2) are the same as those for new and reconstructed BSCP tunnel kilns. These requirements are presented in section III.H of this preamble.

L. What Are the Notification, Recordkeeping, and Reporting Requirements for Sources Subject to a Work Practice Standard?

If you operate an existing, new, or reconstructed clay ceramics periodic kiln, tunnel kiln, or roller kiln, or a tunnel kiln that would be considered reconstructed but for 40 CFR 63.8540(f)(1) or 40 CFR 63.8540(f)(2), you must submit an initial notification that indicates that you use natural gas, or an equivalent fuel, as the kiln fuel. You must keep records that document your kiln fuel, and if you must use an alternative fuel due to a natural gas curtailment or other interruption of natural gas supply, you must submit a notification of alternative fuel use that includes the information specified in 40 CFR 63.8630(g). You must submit a report of alternative fuel use within 10 working days after terminating the use of the alternative fuel. The report must include the information specified in 40 CFR 63.8635(g).

VII. Summary of Environmental, Energy, and Economic Impacts for the Final Clay Ceramics Manufacturing NESHAP

A. What Are the Air Quality Impacts?

Because the only requirements for existing sources under today's final rule

are work practice standards that we believe that all facilities are already meeting, no air quality impacts are projected for existing sources. To project air quality impacts for new sources, we assumed that one sanitaryware tunnel kiln (3.6 Mg/hr (4 tph) capacity) equipped with a DLA will begin operation at the beginning of the first year following promulgation of the rule. We estimate that by implementing the rule, HF emissions from this new source will be reduced by 4.9 Mg/yr (5.4 tpy), HCl emissions will be reduced by 1.0 Mg/yr (1.1 tpy), and HAP metals emissions will be reduced by 0.028 Mg/yr (0.031 tpy). We also estimate that PM and SO_2 emissions from the new kiln will be reduced by 3.9 Mg/yr (4.3 tpy) and 13 Mg/yr (14 tpy), respectively.

Secondary air impacts associated with today's final clay ceramics rule are direct impacts that result from the operation of any new APCD. The generation of electricity required to operate the control device on the projected new kiln will result in 0.09 tpy of NO_x emissions in the first year following promulgation of the rule. The electricity was assumed to be generated by natural gas-fired turbines.

B. What Are the Water and Solid Waste Impacts?

Because the only requirements for existing sources under today's final rule are work practice standards that we believe that all facilities are already meeting, no water and solid waste impacts are projected for existing sources. Our analyses are based on the use of DLA for controlling new kilns and, therefore, no water impacts are projected for new sources. To project solid waste impacts for new sources, we assumed that one sanitaryware tunnel kiln equipped with a DLA will begin operation at the beginning of the first year following promulgation of the rule. The solid waste disposal impacts that result from the use of DLA will include the disposal of spent limestone. We calculated the solid waste by taking the difference between the amount of limestone charged into the DLA and the amount of reacted limestone and then adding the amount of reaction products and PM captured. We estimate that implementing the rule will result in the generation of 290 Mg/yr (320 tpy) of solid waste from the new source.

C. What Are the Energy Impacts?

Because the only requirements for existing sources under today's final rule are work practice standards that we believe that all facilities are already meeting, no energy impacts are projected for existing sources. To project energy impacts for new sources, we assumed that one sanitaryware tunnel kiln equipped with a DLA will begin operation at the beginning of the first year following promulgation of the rule. Energy impacts consist of the electricity needed to operate the DLA. Electricity requirements are driven primarily by the size of the fan needed in the control device. We estimate the increase in energy consumption that would result from implementation of the rule to be 710 gigajoules per year (670 million Btu per year).

D. Are There Any Additional Environmental and Health Impacts?

Reducing HAP emissions under today's final rule will lower occupational HAP exposure levels. The operation of APCD may increase occupational noise levels.

E. What Are the Cost Impacts?

Because the only requirements for existing sources under today's final rule are work practice standards that we believe that all facilities are already meeting, cost impacts projected for existing sources are based only on recordkeeping and reporting requirements associated with the work practice standard. These costs are $1,193 per year for each of the eight major source facilities, and the total annual cost to the industry for existing sources is $9,533. To project costs for new sources, we assumed that one sanitaryware tunnel kiln, equipped with a DLA, will be built during the first year following promulgation. We estimate the capital costs associated with implementation of the rule to be $510,000 for new sources. The capital costs include the purchase and installation of DLA and monitoring equipment. We estimate the annualized costs associated with implementation of the rule to be $170,000 per year for new sources. The annualized costs include annualized capital costs of the control and monitoring equipment, operation and maintenance expenses, emission testing costs, and recordkeeping and reporting costs associated with installing and operating the DLA.

We calculated the cost estimates using cost algorithms that are based on procedures from EPA's OAQPS Control Cost Manual (EPA 450/3–90–006, January 1990) and cost information provided by the BSCP industry and control device vendors. We estimated costs by developing model process units that correspond to the various sizes of kilns found at clay ceramics manufacturing facilities.

F. What Are the Economic Impacts?

We did not prepare a revised economic impact analysis for the clay ceramics industry because the requirements of the final rule will result in a decrease in cost impacts on the industry. Specifically, new and reconstructed roller kilns, which would have been subject to emission limits in the rule as proposed, are not subject to emission limits in the final rule. In addition, the requirements for clay ceramics tunnel kilns with design capacities less than 9.07 Mg/hr (10 tph) are based on control with a DLA rather than the more costly DIFF, DLS/FF, or WS systems on which the proposed rule was based.

The goal of the economic impact analysis is to estimate the market response of clay ceramics manufacturing producers to today's final rule and to determine the economic effects that may result due to the final rule. Because the MACT floor for existing clay ceramics kilns is based on firing natural gas, or an equivalent fuel, and all clay ceramics kilns for which we have data are fired by natural gas or propane, the compliance costs for existing sources associated with today's final rule consist only of recordkeeping and reporting costs and are minimal. The aggregate price of ceramic products is, therefore, expected to remain the same. Because the prices of ceramic products are not expected to change due to today's final rule, there are no projected changes in domestic production, domestic consumption, or foreign trade. Therefore, no economic impacts on existing major sources are expected from today's final rule.

Unlike existing sources, new and reconstructed tunnel kilns used to produce clay ceramics will face positive compliance costs associated with the installation and operation of APCD. We estimate that one new 3.6 Mg/hr (4 tph) capacity tunnel kiln will be constructed in the sanitaryware industry during the first 5 years after the rule is promulgated. Industry compliance costs associated with this kiln are expected to be less than 0.1 percent of industry value of shipments for the sanitaryware industry. No level of cost-to-sales for sanitaryware kilns could be developed due to the diversity of product types that they produce.

VIII. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action

is "significant" and, therefore, subject to review by the OMB and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that today's BSCP final rule is a "significant regulatory action" because it raises novel legal or policy issues within the meaning of paragraph (4) above. Consequently, today's final BSCP rule was submitted to OMB for review under Executive Order 12866. Any written comments from OMB and written EPA responses are available in the docket (see **ADDRESSES** section of this preamble).

Pursuant to the terms of Executive Order 12866, it has been determined that the clay ceramics final rule does not constitute a "significant regulatory action" because it does not meet any of the above criteria. Consequently, today's final clay ceramics rule was not submitted to OMB for review under Executive Order 12866.

B. Paperwork Reduction Act

The information collection requirements in today's final rules will be submitted for approval to OMB under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The EPA has prepared an Information Collection Request (ICR) document for each of the rules (ICR No. 2022.01 for BSCP manufacturing and ICR No. 2023.01 for clay ceramics manufacturing), and a copy of either document may be obtained from Susan Auby by mail at Office of Environmental Information, Collection Strategies Division (2822T), U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; by e-mail at *auby.susan@epa.gov*; or by calling (202) 566–1672. You may also download a copy off the Internet at *http://www.epa.gov/icr*. The information requirements are not enforceable until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. 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's policies set forth in 40 CFR part 2, subpart B.

Today's final BSCP rule will not require any notifications or reports beyond those required by the NESHAP General Provisions. The recordkeeping requirements require only the specific information needed to assure compliance.

With one exception, today's final clay ceramics rule will not require any notifications or reports beyond those required by the NESHAP General Provisions. The exception applies to affected sources that are subject to limits on the type of fuel used. In such cases, the owner or operator may use an alternative fuel under certain conditions but must submit a notification before using the alternative fuel and must report on alternative fuel use after terminating use of the alternative fuel. The recordkeeping requirements require only the specific information needed to assure compliance.

The annual monitoring, reporting, and recordkeeping burden for the collection of information required by today's final BSCP manufacturing rule (averaged over the first 3 years after the effective date of the final rule) is estimated to be 17,471 labor hours per year at a total annual labor cost of $900,328. This burden estimate includes a one-time submission of an OM&M plan; one-time submission of a SSMP, with immediate reports for any event when the procedures in the plan were not followed; semiannual compliance reports; maintenance inspections; notifications; and recordkeeping. Total annualized capital/startup costs associated with the monitoring requirements over the 3-year period of the ICR are estimated at $115,111, with operation and maintenance costs of $4,853/yr.

The annual monitoring, reporting, and recordkeeping burden for the collection of information required by today's final clay ceramics manufacturing rule (averaged over the first 3 years after the effective date of the final rule) is estimated to be 185 labor hours per year at a total annual labor cost of $9,533. This burden estimate includes a one-time submission of an OM&M plan; one-time submission of a SSMP, with immediate reports for any event when the procedures in the plan were not followed; semiannual compliance reports; maintenance inspections; notifications; and recordkeeping. Total annualized capital/startup costs associated with the monitoring requirements over the 3-year period of the ICR are estimated at $1,824, with operation and maintenance costs of $358/yr.

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 are listed in 40 CFR part 9 and 48 CFR chapter 15. The OMB control numbers for the information collection requirements in the final rules will be listed in an amendment to 40 CFR part 9 in a subsequent **Federal Register** document after OMB approves the ICRs.

C. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this action. After considering the economic impacts of today's final rule on small entities in the two source categories, the EPA has determined that this action will not have a significant economic impact on a substantial number of small entities. Although today's final rule will not have a significant economic impact on a substantial number of small entities, we have nonetheless tried to minimize the impact of the final rule on small entities. For both the BSCP manufacturing and clay ceramics

manufacturing source categories, we exercised flexibility in minimizing impacts on small entities through subcategorization of tunnel kilns by size, which still benefits the environment by requiring greater emissions reductions from the larger kilns. In addition, for the BSCP manufacturing source category, we contacted the small entities estimated to incur impacts in excess of 1 percent of sales to explain the rule's regulatory approach, as well as a potential alternative to installing an APCD. Facilities with existing tunnel kilns operating at or near 10 tph could accept a permit condition that restricts kiln production to less than 10 tph and, therefore, places the kiln in the subcategory unaffected by the standards for existing kilns.

For purposes of assessing the impact of today's action on small entities, small entities are defined as: (1) A small business according to Small Business Administration (SBA) size standards; (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. The following two sections provide descriptions of the small business assessments for the two categories of sources addressed by today's action.

1. Brick and Structural Clay Products (BSCP) Manufacturing

Small Business Administration size standards for BSCP manufacturing, by NAICS code, are shown in Table 2 of this preamble.

TABLE 2.—SMALL BUSINESS SIZE STANDARDS FOR BSCP MANUFACTURING

NAICS code	Size standard, number of employees
327121	500
327122	500
327123	500
327125	750
327993	750

We have determined that 76 of the 89 companies owning BSCP manufacturing facilities are small businesses. Although small businesses represent 86 percent of the companies within the source category, they are expected to incur about 21 percent of the total industry engineering compliance costs of $24 million. Additionally, 61 of the 76 small businesses will incur no costs. Under the final rule, we estimate that three small firms in this source category may experience an impact less 1 percent of sales, nine small firms in this source category may experience an impact between 1 percent and 3 percent of sales, and 3 small businesses (or 20 percent) may experience an impact greater than 3 percent of sales.

We also conducted an economic impact analysis that accounted for firm behavior to provide an estimate of the facility and market impacts of the proposed rule. The analysis projected that of the 189 facilities in this source category, two facilities are at risk of closure. Neither of these facilities is owned by a small business. The median compliance cost is below 1 percent of sales for both small and large firms affected by the proposed rule (0.0 and 0.1 percent for small and large firms, respectively).

Fifteen new BSCP manufacturing sources are projected to be constructed during the five years after promulgation of the rule. Industry compliance costs associated with these sources are anticipated to be less than 0.6 percent of the BSCP manufacturing industry's value of shipments. According to the new source economic impact analysis, three to six of these new sources may be delayed in coming on-line due to the compliance costs they would face. We cannot determine with certainty whether these new sources will be built by large or small companies. Regardless, impacts at the company level are not expected to be significant for a substantial number of small entities.

2. Clay Ceramics Manufacturing

Small Business Administration size standards for clay ceramics manufacturing, by NAICS code, are shown in Table 3 of this preamble.

TABLE 3.—SMALL BUSINESS SIZE STANDARDS FOR CLAY CERAMICS MANUFACTURING

NAICS code	Size standard, number of employees
326191	500
327111	750
327112	500
327122	500
327123	500
327125	750
335121	500
421220	100
421320	100

The EPA identified 13 of the 29 companies owning clay ceramics manufacturing facilities as small businesses. Because the clay ceramics manufacturing final rule does not include emissions limits for existing kilns and includes only a work practice standard that requires that existing kilns are fired with natural gas, a firm's existing kilns will be minimally impacted by the final rule. One new sanitaryware manufacturing source is projected to be constructed in the first five years following promulgation of the rule. Industry compliance costs associated with this source are expected to be less than 0.1 percent of industry value of shipments for the sanitaryware industry segments. No level of cost-to-sales for the new sanitaryware manufacturing source could be developed due to the diversity of product types produced. Thus, new clay ceramics manufacturing sources are expected to face positive compliance costs; however, we cannot determine with certainty whether these sources will be built by large or small companies. Regardless, impacts at the company level are not expected to be significant for a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 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, the 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 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's regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that today's final rules 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 1 year. The total annual cost for today's final BSCP rule for any 1 year is estimated at $24 million. The total annual cost for today's final clay ceramics rule for any 1 year is estimated at $9,500. Thus, today's final rules are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the EPA has determined that today's final rules contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no regulatory requirements that apply to such governments or impose obligations upon them. Therefore, today's final rules are not subject to the requirements of section 203 of the UMRA.

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" 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." Under Executive Order 13132, the EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless EPA consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and EPA's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, it must include a certification from EPA's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

Today's final rules 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. None of the affected facilities are owned or operated by State governments, and the final rule requirements will not supercede State regulations that are more stringent. Thus, the requirements of Executive Order 13132 do not apply to the final rules.

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." "Policies that have tribal implications" are defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

Today's final rules do not have tribal implications. 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, as specified in Executive Order 13175. No tribal governments are known to own or operate BSCP or clay ceramics manufacturing facilities. Thus, Executive Order 13175 does not apply to the final rules.

G. Executive Order 13045, Protection of Children From Environmental Health & 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 Executive Order 12866, and (2) concerns the 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 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 EPA.

The 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 rule. Today's final rules 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 Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 (66 FR 28355, May 22, 2001) provides that agencies shall prepare and submit to the Administrator of the Office of Information and Regulatory Affairs, OMB, a Statement of Energy Effects for certain actions identified as "significant energy actions." Section 4(b) of Executive Order 13211 defines "significant energy actions" as "any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action." Today's final clay ceramics manufacturing rule is not subject to Executive Order 13211

because it is not a significant regulatory action under Executive Order 12866. Although today's final BSCP rule is considered to be a significant regulatory action under Executive Order 12866, it is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The basis for the determination is as follows.

Today's final BSCP rule affects manufacturers in the BSCP (NAICS 327121), extruded tile (NAICS 327122), and other structural clay products (NAICS 327123) industries. There is no crude oil, fuel, or coal production from these industries. Hence, there is no direct effect on such energy production related to implementation of the BSCP rule. In fact, as previously mentioned in this preamble, there will be an increase in energy consumption, and hence an increase in energy production, resulting from installation of APCD likely needed for sources to meet the requirements of the final BSCP rule. This increase in energy consumption is equal to approximately 27 million kilowatt-hours/year (kWh/yr) for electricity. The electricity increase is considered negligible, equivalent to 0.0007 percent of 1999 U.S. electricity production.[4] There is no expected increase in natural gas consumption. It should be noted, however, that the estimated decrease in BSCP production resulting from producer's and consumer's reactions to the final BSCP rule will offset this effect on such energy production. It is likely that the output reduction in the industries will lead to less energy use by these industries and thus some reduction in overall energy production.

Given the negligible change in energy consumption resulting from the final BSCP rule, we do not expect any price increase for any energy type. The cost of energy distribution should not be affected by the final BSCP rule at all since the final rule does not affect energy distribution facilities. Finally, with changes in net exports being a minimal percentage of domestic output from the affected industries, there will be only a negligible change in international trade, and hence in dependence on foreign energy supplies. No other adverse outcomes are expected to occur with regards to energy supplies.

Therefore, we conclude that today's final BSCP rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

[4] U.S. Department of Energy, Energy Information Administration. Annual Energy Review, End-Use Energy Consumption for 1998. Located on the Internet at *http://www.eia.doe.gov.*

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. No. 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement 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, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

The final rules involve technical standards. The EPA cites the following standards in the final rules: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 4, 5, 22, 26, 26A, and 320 of 40 CFR part 60, appendix A. Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods. No applicable voluntary consensus standards were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, and 22. The search and review results have been documented and are in the dockets for the final rules.

The search for emissions measurement procedures identified 11 voluntary consensus standards. The EPA determined that eight of these 11 standards identified for measuring emissions of the HAPs or surrogates subject to emission standards in the final rules were impractical alternatives to EPA test methods for the purposes of the final rules. Therefore, EPA does not intend to adopt these standards at this time. The reasons for this determination for the 11 methods are discussed in the dockets for the final rules.

Two of the 11 voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of the final rules because they are under development by a voluntary consensus body: ASME/BSR MFC 13M, "Flow Measurement by Velocity Traverse," for EPA Method 2 (and possibly 1); and ASME/BSR MFC 12M, "Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters," for EPA Method 2.

In response to public comments received, we considered and decided to include EPA Method 320 as an option for measuring HF and HCl. The voluntary consensus standard ASTM D6348–98, "Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform (FTIR) Spectroscopy," has been reviewed by the EPA as a potential alternative to EPA Method 320. Suggested revisions to ASTM D6348–98 that would allow the EPA to accept ASTM D6348–98 as an acceptable alternative were sent to ASTM by the EPA. The ASTM Subcommittee D22–03 is currently undertaking a revision of ASTM D6348–98. Because of this, we are not citing this standard as an acceptable alternative for EPA Method 320 in the final rules today. However, upon successful ASTM balloting and demonstration of technical equivalency with the EPA FTIR methods, the revised ASTM standard could be incorporated by reference for EPA regulatory applicability. In the interim, facilities have the option to request ASTM D6348–98 as an alternative test method under 40 CFR 63.7(f) and 40 CFR 63.8(f) on a case-by-case basis.

Table 3 of the final BSCP rule and Table 4 of the final clay ceramics rule list the EPA testing methods included in the rules. Under 40 CFR 63.7(f) and 40 CFR 63.8(f), a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any of the EPA testing methods, performance specifications, or procedures.

J. 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. The EPA will submit a report containing today's final rules 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 rules in the **Federal Register**. Neither of today's rules are "major rules" as defined by 5 U.S.C. 804(2). The final rules will be effective on May 16, 2003.

List of Subjects in 40 CFR Part 63

Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: February 28, 2003.

Christine Todd Whitman,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of the 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.*

■ 2. Part 63 is amended by adding subpart JJJJJ to read as follows:

Subpart JJJJJ—National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing

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What This Subpart Covers

§ 63.8380 What is the purpose of this subpart?

This subpart establishes national emission limitations for hazardous air pollutants (HAP) emitted from brick and structural clay products (BSCP) manufacturing facilities. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations.

§ 63.8385 Am I subject to this subpart?

You are subject to this subpart if you own or operate a BSCP manufacturing facility that is, is located at, or is part of, a major source of HAP emissions according to the criteria in paragraphs (a) and (b) of this section.

(a) A BSCP manufacturing facility is a plant site that manufactures brick (including, but not limited to, face brick, structural brick, and brick pavers); clay pipe; roof tile; extruded floor and wall tile; and/or other extruded, dimensional clay products. Brick and structural clay products manufacturing facilities typically process raw clay and shale, form the processed materials into bricks or shapes, and dry and fire the bricks or shapes.

(b) A major source of HAP emissions is any stationary source or group of stationary sources within a contiguous area under common control that emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (10 tons) or more per year or any combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year.

§ 63.8390 What parts of my plant does this subpart cover?

(a) This subpart applies to each existing, new, or reconstructed affected source at a BSCP manufacturing facility.

(b) The existing affected source is an existing tunnel kiln with a design capacity equal to or greater than 9.07 megagrams per hour (Mg/hr) (10 tons per hour (tph)) of fired product according to paragraphs (b)(1) through (3) of this section. For the remainder of this subpart, a tunnel kiln with a design capacity equal to or greater than 9.07 Mg/hr (10 tph) of fired product will be called a large tunnel kiln, and a tunnel kiln with a design capacity less than 9.07 Mg/hr (10 tph) of fired product will be called a small tunnel kiln.

(1) For existing tunnel kilns that do not have sawdust dryers, the kiln exhaust process stream (*i.e.*, the only process stream) is subject to the requirements of this subpart.

(2) For existing tunnel kilns that ducted exhaust to sawdust dryers prior to July 22, 2002, only the kiln exhaust process stream (*i.e.*, the process stream that exhausts directly to the atmosphere or to an air pollution control device (APCD)) is subject to the requirements of this subpart. As such, any process stream that is ducted to a sawdust dryer is not subject to these requirements.

(3) For existing tunnel kilns that first ducted exhaust to sawdust dryers on or after July 22, 2002, all of the exhaust (*i.e.*, all process streams) is subject to the requirements of this subpart.

(c) An existing small tunnel kiln whose design capacity is increased such that it is equal to or greater than 9.07 Mg/hr (10 tph) of fired product is subject to the requirements of this subpart.

(d) An existing tunnel kiln with a federally enforceable permit condition that restricts kiln operation to less than 9.07 Mg/hr (10 tph) of fired product on a 12-month rolling average basis is not subject to the requirements of this subpart.

(e) Each new or reconstructed tunnel kiln is an affected source regardless of design capacity. All process streams from each new or reconstructed tunnel kiln are subject to the requirements of this subpart.

(f) Kilns that are used exclusively for research and development (R&D) and are not used to manufacture products for commercial sale, except in a de minimis manner, are not subject to the requirements of this subpart.

(g) Kilns that are used exclusively for setting glazes on previously fired products are not subject to the requirements of this subpart.

(h) A source is a new affected source if construction of the affected source began after July 22, 2002, and you met the applicability criteria at the time you began construction.

(i) An affected source is reconstructed if you meet the criteria as defined in § 63.2, except as provided in paragraphs (i)(1) and (i)(2) of this section.

(1) It is not technologically and economically feasible for an existing small tunnel kiln whose design capacity is increased such that it is equal to or greater than 9.07 Mg/hr (10 tph) of fired product to meet the relevant standards (*i.e.*, new source maximum achievable control technology (MACT)) by retrofitting with a dry lime injection fabric filter (DIFF), dry lime scrubber/fabric filter (DLS/FF), or wet scrubber (WS).

(2) It is not technologically and economically feasible for an existing large dry limestone adsorber (DLA)-controlled kiln to meet the relevant standards by retrofitting with a DIFF, DLS/FF, or WS.

(j) An affected source is existing if it is not new or reconstructed.

§ 63.8395 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, you must comply with this subpart according to paragraphs (a)(1) and (2) of this section.

(1) If the initial startup of your affected source is before May 16, 2003, then you must comply with the applicable emission limitations in Tables 1 and 2 to this subpart no later than May 16, 2003.

(2) If the initial startup of your affected source is after May 16, 2003, then you must comply with the applicable emission limitations in Tables 1 and 2 to this subpart upon initial startup of your affected source.

(b) If you have an existing affected source, you must comply with the applicable emission limitations in Tables 1 and 2 to this subpart no later than May 16, 2003.

(c) If you have an existing 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 according to paragraphs (c)(1) and (2) of this section.

(1) Any portion of the existing facility that is a new affected source or a new reconstructed source must be in compliance with this subpart upon startup.

(2) All other parts of the existing facility must be in compliance with this subpart by 3 years after the date the area source becomes a major source.

(d) If you have a new area source (*i.e.*, an area source for which construction or reconstruction commenced after July 22, 2002) 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 upon initial startup of your affected source as a major source.

(e) You must meet the notification requirements in § 63.8480 according to the schedule in § 63.8480 and in 40 CFR part 63, subpart A. Some of the notifications must be submitted before you are required to comply with the emission limitations in this subpart.

Emission Limitations

§ 63.8405 What emission limitations must I meet?

(a) You must meet each emission limit in Table 1 to this subpart that applies to you.

(b) You must meet each operating limit in Table 2 to this subpart that applies to you.

§ 63.8410 What are my options for meeting the emission limitations?

To meet the emission limitations in Tables 1 and 2 to this subpart, you must use one or more of the options listed in paragraphs (a) and (b) of this section.

(a) *Emissions control system.* Use an emissions capture and collection system and an APCD and demonstrate that the resulting emissions or emissions reductions meet the emission limits in Table 1 to this subpart, and that the capture and collection system and APCD meet the applicable operating limits in Table 2 to this subpart.

(b) *Process changes.* Use low-HAP raw materials or implement manufacturing process changes and demonstrate that the resulting emissions or emissions reductions meet the emission limits in Table 1 to this subpart.

General Compliance Requirements

§ 63.8420 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations (including operating limits) in this subpart at all times, except during periods of startup, shutdown, and malfunction and during periods of routine control device maintenance as specified in paragraph (e) of this section.

(b) Except as specified in paragraph (e) of this section, you must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i). During the period between the compliance date specified for your affected source in § 63.8395 and the date upon which continuous monitoring systems (CMS) (*e.g.*, continuous parameter monitoring systems) have been installed and verified and any applicable operating limits have been set, you must maintain a log detailing the operation and maintenance of the process and emissions control equipment.

(c) You must develop and implement a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

(d) You must prepare and implement a written operation, maintenance, and monitoring (OM&M) plan according to the requirements in § 63.8425.

(e) If you own or operate an affected kiln and must perform routine maintenance on the control device for that kiln, you may bypass the kiln control device and continue operating the kiln upon approval by the Administrator provided you satisfy the conditions listed in paragraphs (e)(1) through (5) of this section.

(1) You must request a routine control device maintenance exemption from the Administrator. Your request must justify the need for the routine maintenance on the control device and the time required to accomplish the maintenance activities, describe the maintenance activities and the frequency of the maintenance activities, explain why the maintenance cannot be accomplished during kiln shutdowns, describe how you plan to minimize emissions to the greatest extent possible during the maintenance, and provide any other documentation required by the Administrator.

(2) The routine control device maintenance exemption must not exceed 4 percent of the annual operating uptime for each kiln.

(3) The request for the routine control device maintenance exemption, if approved by the Administrator, must be incorporated by reference in and attached to the affected source's title V permit.

(4) You must minimize HAP emissions during the period when the kiln is operating and the control device is offline.

(5) You must minimize the time period during which the kiln is operating and the control device is offline.

(f) You must be in compliance with the provisions of subpart A of this part, except as noted in Table 7 to this subpart.

§ 63.8425 What do I need to know about operation, maintenance, and monitoring plans?

(a) You must prepare, implement, and revise as necessary an OM&M plan that includes the information in paragraph (b) of this section. Your OM&M plan must be available for inspection by the permitting authority upon request.

(b) Your OM&M plan must include, as a minimum, the information in paragraphs (b)(1) through (13) of this section.

(1) Each process and APCD to be monitored, the type of monitoring device that will be used, and the operating parameters that will be monitored.

(2) A monitoring schedule that specifies the frequency that the parameter values will be determined and recorded.

(3) The limits for each parameter that represent continuous compliance with the emission limitations in § 63.8405. The limits must be based on values of the monitored parameters recorded during performance tests.

(4) Procedures for the proper operation and routine and long-term maintenance of each APCD, including a maintenance and inspection schedule that is consistent with the manufacturer's recommendations.

(5) Procedures for installing the CMS sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (*e.g.*, on or downstream of the last APCD).

(6) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system.

(7) Continuous monitoring system performance evaluation procedures and acceptance criteria (*e.g.*, calibrations).

(8) Procedures for the proper operation and maintenance of monitoring equipment consistent with the requirements in §§ 63.8450 and 63.8(c)(1), (3), (4)(ii), (7), and (8).

(9) Continuous monitoring system data quality assurance procedures consistent with the requirements in § 63.8(d).

(10) Continuous monitoring system recordkeeping and reporting procedures consistent with the requirements in § 63.10(c), (e)(1), and (e)(2)(i).

(11) Procedures for responding to operating parameter deviations, including the procedures in paragraphs (b)(11)(i) through (iii) of this section.

(i) Procedures for determining the cause of the operating parameter deviation.

(ii) Actions for correcting the deviation and returning the operating parameters to the allowable limits.

(iii) Procedures for recording the times that the deviation began and ended and corrective actions were initiated and completed.

(12) Procedures for keeping records to document compliance.

(13) If you operate an affected kiln and you plan to take the kiln control device out of service for routine maintenance, as specified in § 63.8420(e), the procedures specified in paragraphs (b)(13)(i) and (ii) of this section.

(i) Procedures for minimizing HAP emissions from the kiln during periods of routine maintenance of the kiln control device when the kiln is operating and the control device is offline.

(ii) Procedures for minimizing the duration of any period of routine maintenance on the kiln control device when the kiln is operating and the control device is offline.

(c) Changes to the operating limits in your OM&M plan require a new performance test. If you are revising an operating limit parameter value, you must meet the requirements in paragraphs (c)(1) and (2) of this section.

(1) Submit a notification of performance test to the Administrator as specified in § 63.7(b).

(2) After completing the performance tests to demonstrate that compliance with the emission limits can be achieved at the revised operating limit parameter value, you must submit the performance test results and the revised operating limits as part of the Notification of Compliance Status required under § 63.9(h).

(d) If you are revising the inspection and maintenance procedures in your OM&M plan, you do not need to conduct a new performance test.

Testing and Initial Compliance Requirements

§ 63.8435 By what date must I conduct performance tests?

You must conduct performance tests within 180 calendar days after the compliance date that is specified for your source in § 63.8395 and according to the provisions in § 63.7(a)(2).

§ 63.8440 When must I conduct subsequent performance tests?

(a) You must conduct a performance test before renewing your 40 CFR part 70 operating permit or at least every 5 years following the initial performance test.

(b) You must conduct a performance test when you want to change the parameter value for any operating limit specified in your OM&M plan.

§ 63.8445 How do I conduct performance tests and establish operating limits?

(a) You must conduct each performance test in Table 3 to this subpart that applies to you.

(b) Before conducting the performance test, you must install and calibrate all monitoring equipment.

(c) Each performance test must be conducted according to the requirements in § 63.7 and under the specific conditions in Table 3 to this subpart.

(d) You must test while operating at the maximum production level.

(e) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(f) You must conduct at least three separate test runs for each performance test required in this section, as specified in § 63.7(e)(3). Each test run must last at least 1 hour.

(g) You must use the data gathered during the performance test and the equations in paragraphs (g)(1) and (2) of this section to determine compliance with the emission limitations.

(1) To determine compliance with the production-based hydrogen fluoride (HF), hydrogen chloride (HCl), and particulate matter (PM) emission limits in Table 1 to this subpart, you must calculate your mass emissions per unit of production for each test run using Equation 1 of this section:

$$MP = \frac{ER}{P} \qquad \text{(Eq. 1)}$$

Where:

MP=mass per unit of production, kilograms (pounds) of pollutant per megagram (ton) of fired product

ER=mass emission rate of pollutant (HF, HCl, or PM) during each performance test run, kilograms (pounds) per hour

P=production rate during each performance test run, megagrams (tons) of fired product per hour.

(2) To determine compliance with the percent reduction HF and HCl emission limits in Table 1 to this subpart, you must calculate the percent reduction for each test run using Equation 2 of this section:

$$PR = \frac{ER_i - ER_o}{ER_i}\ (100) \qquad \text{(Eq. 2)}$$

Where:

PR=percent reduction, percent

ER_i=mass emission rate of specific HAP (HF or HCl) entering the

APCD, kilograms (pounds) per hour
ER_o=mass emission rate of specific HAP (HF or HCl) exiting the APCD, kilograms (pounds) per hour.

(h) You must establish each site-specific operating limit in Table 2 to this subpart that applies to you as specified in Table 3 to this subpart.

(i) For each affected kiln that is equipped with an APCD that is not addressed in Table 2 to this subpart or that is using process changes as a means of meeting the emission limits in Table 1 to this subpart, you must meet the requirements in § 63.8(f) and paragraphs (i)(1) and (2) of this section.

(1) Submit a request for approval of alternative monitoring procedures to the Administrator no later than the notification of intent to conduct a performance test. The request must contain the information specified in paragraphs (i)(1)(i) through (iv) of this section.

(i) A description of the alternative APCD or process changes.

(ii) The type of monitoring device or procedure that will be used.

(iii) The operating parameters that will be monitored.

(iv) The frequency that the operating parameter values will be determined and recorded to establish continuous compliance with the operating limits.

(2) Establish site-specific operating limits during the performance test based on the information included in the approved alternative monitoring procedures request and, as applicable, as specified in Table 3 to this subpart.

§ 63.8450 What are my monitoring installation, operation, and maintenance requirements?

(a) You must install, operate, and maintain each CMS according to your OM&M plan and the requirements in paragraphs (a)(1) through (5) of this section.

(1) Conduct a performance evaluation of each CMS according to your OM&M plan.

(2) The CMS must complete a minimum of one cycle of operation for each successive 15-minute period. To have a valid hour of data, you must have at least three of four equally spaced data values (or at least 75 percent if you collect more than four data values per hour) for that hour (not including startup, shutdown, malfunction, out-of-control periods, or periods of routine control device maintenance covered by a routine control device maintenance exemption as specified in § 63.8420(e)).

(3) Determine and record the 3-hour block averages of all recorded readings, calculated after every 3 hours of operation as the average of the previous 3 operating hours. To calculate the average for each 3-hour average period, you must have at least 75 percent of the recorded readings for that period (not including startup, shutdown, malfunction, out-of-control periods, or periods of routine control device maintenance covered by a routine control device maintenance exemption as specified in § 63.8420(e)).

(4) Record the results of each inspection, calibration, and validation check.

(5) At all times, maintain the monitoring equipment including, but not limited to, maintaining necessary parts for routine repairs of the monitoring equipment.

(b) For each liquid flow measurement device, you must meet the requirements in paragraphs (a)(1) through (5) and paragraphs (b)(1) through (3) of this section.

(1) Locate the flow sensor in a position that provides a representative flowrate.

(2) Use a flow sensor with a minimum measurement sensitivity of 2 percent of the liquid flowrate.

(3) At least semiannually, conduct a flow sensor calibration check.

(c) For each pressure measurement device, you must meet the requirements in paragraphs (a)(1) through (5) and paragraphs (c)(1) through (7) of this section.

(1) Locate the pressure sensor(s) in or as close to a position that provides a representative measurement of the pressure.

(2) Minimize or eliminate pulsating pressure, vibration, and internal and external corrosion.

(3) Use a gauge with a minimum measurement sensitivity of 0.5 inch of water or a transducer with a minimum measurement sensitivity of 1 percent of the pressure range.

(4) Check the pressure tap daily to ensure that it is not plugged.

(5) Using a manometer, check gauge calibration quarterly and transducer calibration monthly.

(6) Any time the sensor exceeds the manufacturer's specified maximum operating pressure range, conduct calibration checks or install a new pressure sensor.

(7) At least monthly, inspect all components for integrity, all electrical connections for continuity, and all mechanical connections for leakage.

(d) For each pH measurement device, you must meet the requirements in paragraphs (a)(1) through (5) and paragraphs (d)(1) through (4) of this section.

(1) Locate the pH sensor in a position that provides a representative measurement of pH.

(2) Ensure the sample is properly mixed and representative of the fluid to be measured.

(3) Check the pH meter's calibration on at least two points every 8 hours of process operation.

(4) At least monthly, inspect all components for integrity and all electrical connections for continuity.

(e) For each bag leak detection system, you must meet the requirements in paragraphs (e)(1) through (11) of this section.

(1) Each triboelectric bag leak detection system must be installed, calibrated, operated, and maintained according to the "Fabric Filter Bag Leak Detection Guidance," (EPA–454/R–98–015, September 1997). This document is available from the U.S. Environmental Protection Agency (U.S. EPA); Office of Air Quality Planning and Standards; Emissions, Monitoring and Analysis Division; Emission Measurement Center (MD–19), Research Triangle Park, NC 27711. This document is also available on the Technology Transfer Network (TTN) under Emission Measurement Center Continuous Emission Monitoring. Other types of bag leak detection systems must be installed, operated, calibrated, and maintained in a manner consistent with the manufacturer's written specifications and recommendations.

(2) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 10 milligrams per actual cubic meter (0.0044 grains per actual cubic foot) or less.

(3) The bag leak detection system sensor must provide an output of relative PM loadings.

(4) The bag leak detection system must be equipped with a device to continuously record the output signal from the sensor.

(5) The bag leak detection system must be equipped with an audible alarm system that will sound automatically when an increase in relative PM emissions over a preset level is detected. The alarm must be located where it is easily heard by plant operating personnel.

(6) For positive pressure fabric filter systems, a bag leak detector must be installed in each baghouse compartment or cell.

(7) For negative pressure or induced air fabric filters, the bag leak detector must be installed downstream of the fabric filter.

(8) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(9) The baseline output must be established by adjusting the range and the averaging period of the device and establishing the alarm set points and the alarm delay time according to section 5.0 of the "Fabric Filter Bag Leak Detection Guidance."

(10) Following initial adjustment of the system, the sensitivity or range, averaging period, alarm set points, or alarm delay time may not be adjusted except as detailed in your OM&M plan. In no case may the sensitivity be increased by more than 100 percent or decreased more than 50 percent over a 365-day period unless such adjustment follows a complete fabric filter inspection that demonstrates that the fabric filter is in good operating condition. Record each adjustment.

(11) Record the results of each inspection, calibration, and validation check.

(f) For each lime or chemical feed rate measurement device, you must meet the requirements in paragraphs (a)(1) through (5) and paragraphs (f)(1) and (2) of this section.

(1) Locate the measurement device in a position that provides a representative feed rate measurement.

(2) At least semiannually, conduct a calibration check.

(g) For each limestone feed system on a DLA, you must meet the requirements in paragraphs (a)(1),(4), and (5) of this section and must ensure on a monthly basis that the feed system replaces limestone at least as frequently as the schedule set during the performance test.

(h) Requests for approval of alternate monitoring procedures must meet the requirements in §§ 63.8445(i) and 63.8(f).

§ 63.8455 How do I demonstrate initial compliance with the emission limitations?

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

(b) You must establish each site-specific operating limit in Table 2 to this subpart that applies to you according to the requirements in § 63.8445 and Table 3 to this subpart.

(c) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.8480(e).

Continuous Compliance Requirements

§ 63.8465 How do I monitor and collect data to demonstrate continuous compliance?

(a) You must monitor and collect data according to this section.

(b) Except for periods of monitor malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating. This includes periods of startup, shutdown, malfunction, and routine control device maintenance as specified in § 63.8420(e) when the affected source is operating.

(c) You may not use data recorded during monitoring malfunctions, associated repairs, out-of-control periods, or required quality assurance or control activities for purposes of calculating data averages. A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions. You must use all the valid data collected during all other periods in assessing compliance. Any averaging period for which you do not have valid monitoring data and such data are required constitutes a deviation from the monitoring requirements.

§ 63.8470 How do I demonstrate continuous compliance with the emission limitations?

(a) You must demonstrate continuous compliance with each emission limit and operating limit in Tables 1 and 2 to this subpart that applies to you according to the methods specified in Table 5 to this subpart.

(b) For each affected kiln that is equipped with an APCD that is not addressed in Table 2 to this subpart, or that is using process changes as a means of meeting the emission limits in Table 1 to this subpart, you must demonstrate continuous compliance with each emission limit in Table 1 to this subpart, and each operating limit established as required in § 63.8445(i)(2) according to the methods specified in your approved alternative monitoring procedures request, as described in §§ 63.8445(i)(1) and 63.8(f).

(c) You must report each instance in which you did not meet each emission limit and each operating limit in this subpart that applies to you. This includes periods of startup, shutdown, malfunction, and routine control device maintenance. These instances are deviations from the emission limitations in this subpart. These deviations must be reported according to the requirements in § 63.8485.

(d) During periods of startup, shutdown, and malfunction, you must operate according to your SSMP.

(e) Consistent with §§ 63.6(e)and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating according to an SSMP that satisfies the requirements of § 63.6(e) and your OM&M plan. The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

(f) Deviations that occur during periods of control device maintenance covered by an approved routine control device maintenance exemption according to § 63.8420(e) are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the approved routine control device maintenance exemption.

(g) You must demonstrate continuous compliance with the operating limits in Table 2 to this subpart for visible emissions (VE) from tunnel kilns equipped with DLA, DIFF, or DLS/FF by monitoring VE at each kiln stack according to the requirements in paragraphs (g)(1) through (3) of this section.

(1) Perform daily VE observations of each kiln stack according to the procedures of Method 22 of 40 CFR part 60, appendix A. You must conduct the Method 22 test while the affected source is operating under normal conditions. The duration of each Method 22 test must be at least 15 minutes.

(2) If VE are observed during any daily test conducted using Method 22 of 40 CFR part 60, appendix A, you must promptly initiate and complete corrective actions according to your OM&M plan. If no VE are observed in 30 consecutive daily Method 22 tests for any kiln stack, you may decrease the frequency of Method 22 testing from daily to weekly for that kiln stack. If VE are observed during any weekly test, you must promptly initiate and complete corrective actions according to your OM&M plan, resume Method 22 testing of that kiln stack on a daily basis, and maintain that schedule until no VE are observed in 30 consecutive daily tests, at which time you may again decrease the frequency of Method 22 testing to a weekly basis.

(3) If VE are observed during any test conducted using Method 22 of 40 CFR part 60, appendix A, you must report these deviations by following the requirements in § 63.8485.

Notifications, Reports, and Records

§ 63.8480 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.7(b) and (c), 63.8(f)(4), and 63.9 (b) through (e), (g)(1), and (h) that apply to you, by the dates specified.

(b) As specified in § 63.9(b)(2) and (3), if you start up your affected source before May 16, 2003, you must submit an Initial Notification not later than 120 calendar days after May 16, 2003.

(c) As specified in § 63.9(b)(3), if you start up your new or reconstructed affected source on or after May 16, 2003, you must submit an Initial Notification not later than 120 calendar days after you become subject to this subpart.

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

(e) If you are required to conduct a performance test as specified in Table 3 to this subpart, you must submit a Notification of Compliance Status as specified in § 63.9(h) and paragraphs (e)(1) and (2) of this section.

(1) For each compliance demonstration 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 calendar day following the completion of the performance test, according to § 63.10(d)(2).

(2) In addition to the requirements in § 63.9(h)(2)(i), you must include the information in paragraphs (e)(2)(i) and (ii) of this section in your Notification of Compliance Status.

(i) The operating limit parameter values established for each affected source with supporting documentation and a description of the procedure used to establish the values.

(ii) For each APCD that includes a fabric filter, if a bag leak detection system is used, analysis and supporting documentation demonstrating conformance with EPA guidance and specifications for bag leak detection systems in § 63.8450(e).

(f) If you request a routine control device maintenance exemption according to § 63.8420(e), you must submit your request for the exemption no later than 30 days before the compliance date.

§ 63.8485 What reports must I submit and when?

(a) You must submit each report in Table 6 to this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report by the date in Table 6 to this subpart and as specified in paragraphs (b)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.8395 and ending on June 30 or December 31, and lasting at least 6 months, but less than 12 months. For example, if your compliance date is March 1, then the first semiannual reporting period would begin on March 1 and end on December 31.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31 for compliance periods ending on June 30 and December 31, respectively.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31 for compliance periods ending on June 30 and December 31, respectively.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section.

(c) The compliance report must contain the information in paragraphs (c)(1) through (7) of this section.

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying that, based on information and belief formed after reasonable inquiry, the statements and information in the report are true, accurate, and complete.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If you had a startup, shutdown or malfunction during the reporting period and you took actions consistent with your SSMP and OM&M plan, the compliance report must include the information specified in § 63.10(d)(5)(i).

(5) A description of control device maintenance performed while the control device was offline and the kiln controlled by the control device was operating, including the information specified in paragraphs (c)(5)(i) through (iii) of this section.

(i) The date and time when the control device was shutdown and restarted.

(ii) Identification of the kiln that was operating and the number of hours that the kiln operated while the control device was offline.

(iii) A statement of whether or not the control device maintenance was included in your approved routine control device maintenance exemption developed as specified in § 63.8420(e). If the control device maintenance was included in your approved routine control device maintenance exemption, then you must report the information in paragraphs (c)(5)(iii)(A) through (C) of this section.

(A) The total amount of time that the kiln controlled by the control device operated during the current semiannual compliance period and during the previous semiannual compliance period.

(B) The amount of time that each kiln controlled by the control device operated while the control device was offline for maintenance covered under the routine control device maintenance exemption during the current semiannual compliance period and during the previous semiannual compliance period.

(C) Based on the information recorded under paragraphs (c)(5)(iii)(A) and (B) of this section, compute the annual percent of kiln operating uptime during which the control device was offline for routine maintenance using Equation 1 of this section.

$$RM = \frac{DT_p + DT_c}{KU_p + KU_c} (100) \qquad \text{(Eq. 1)}$$

Where:

RM=Annual percentage of kiln uptime during which control device was offline for routine control device maintenance

DT_p=Control device downtime claimed under the routine control device maintenance exemption for the previous semiannual compliance period

DT_c=Control device downtime claimed under the routine control device maintenance exemption for the current semiannual compliance period

KU_p=Kiln uptime for the previous semiannual compliance period
KU_c=Kiln uptime for the current semiannual compliance period

(6) If there are no deviations from any emission limitations (emission limits or operating limits) that apply to you, the compliance report must contain a statement that there were no deviations from the emission limitations during the reporting period.

(7) If there were no periods during which the CMS was out-of-control as specified in your OM&M plan, the compliance report must contain a statement that there were no periods during which the CMS was out-of-control during the reporting period.

(d) For each deviation from an emission limitation (emission limit or operating limit) that occurs at an affected source where you are not using a CMS to comply with the emission limitations in this subpart, the compliance report must contain the information in paragraphs (c)(1) through (5) and paragraphs (d)(1) and (2) of this section. This includes periods of startup, shutdown, malfunction, and routine control device maintenance.

(1) The total operating time of each affected source during the reporting period.

(2) Information on the number, duration, and cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

(e) For each deviation from an emission limitation (emission limit or operating limit) occurring at an affected source where you are using a CMS to comply with the emission limitations in this subpart, you must include the information in paragraphs (c)(1) through (5) and paragraphs (e)(1) through (13) of this section. This includes periods of startup, shutdown, malfunction, and routine control device maintenance.

(1) The total operating time of each affected source during the reporting period.

(2) The date and time that each malfunction started and stopped.

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

(4) The date, time, and duration that each CMS was out-of-control, including the pertinent information in your OM&M plan.

(5) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction; during routine control device maintenance covered in your approved routine control device maintenance exemption; or during another period.

(6) A description of corrective action taken in response to a deviation.

(7) A summary of the total duration of the deviation during the reporting period and the total duration as a percent of the total source operating time during that reporting period.

(8) A breakdown of the total duration of the deviations during the reporting period into those that were due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(9) A summary of the total duration of CMS downtime during the reporting period and the total duration of CMS downtime as a percent of the total source operating time during that reporting period.

(10) A brief description of the process units.

(11) A brief description of the CMS.

(12) The date of the latest CMS certification or audit.

(13) A description of any changes in CMS, processes, or control equipment since the last reporting period.

(f) If you have obtained a title V operating permit according to 40 CFR part 70 or 40 CFR part 71, you must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If you submit a compliance report according to Table 6 to this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the compliance report includes all required information concerning deviations from any emission limitation (including any operating limit), then submitting the compliance report will satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submitting a compliance report will not otherwise affect any obligation you may have to report deviations from permit requirements to the permitting authority.

§ 63.8490 What records must I keep?

(a) You must keep the records listed in paragraphs (a)(1) through (4) of this section.

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(3) Records of performance tests as required in § 63.10(b)(2)(viii).

(4) Records relating to control device maintenance and documentation of your approved routine control device maintenance exemption, if you request such an exemption under § 63.8420(e).

(b) You must keep the records required in Table 5 to this subpart to show continuous compliance with each emission limitation that applies to you.

(c) You must also maintain the records listed in paragraphs (c)(1) through (6) of this section.

(1) For each bag leak detection system, records of each alarm, the time of the alarm, the time corrective action was initiated and completed, and a brief description of the cause of the alarm and the corrective action taken.

(2) For each deviation of an operating limit parameter value, the date, time, and duration of the deviation, a brief explanation of the cause of the deviation and the corrective action taken, and whether the deviation occurred during a period of startup, shutdown, or malfunction.

(3) For each affected source, records of production rates on a fired-product basis.

(4) Records for any approved alternative monitoring or test procedures.

(5) Records of maintenance and inspections performed on the APCD.

(6) Current copies of your SSMP and OM&M plan, including any revisions, with records documenting conformance.

§ 63.8495 In what form and for how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record onsite for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You may keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.8505 What parts of the General Provisions apply to me?

Table 7 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

§ 63.8510 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. EPA, or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under section 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the applicability requirements in §§ 63.8385 and 63.8390, the compliance date requirements in § 63.8395, and the non-opacity emission limitations in § 63.8405.

(2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.8515 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in § 63.2, and in this section as follows:

Air pollution control device (APCD) means any equipment that reduces the quantity of a pollutant that is emitted to the air.

Bag leak detection system means an instrument that is capable of monitoring PM loadings in the exhaust of a fabric filter in order to detect bag failures. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light-scattering, light-transmittance, or other effects to monitor relative PM loadings.

Brick and structural clay products (BSCP) manufacturing facility means a plant site that manufactures brick (including, but not limited to, face brick, structural brick, and brick pavers); clay pipe; roof tile; extruded floor and wall tile; and/or other extruded, dimensional clay products. Brick and structural clay products manufacturing facilities typically process raw clay and shale, form the processed materials into bricks or shapes, and dry and fire the bricks or shapes.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart including, but not limited to, any emission limitation (including any operating limit) or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation (including any operating limit) or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Dry lime injection fabric filter (DIFF) means an APCD that includes continuous injection of hydrated lime or other sorbent into a duct or reaction chamber followed by a fabric filter.

Dry lime scrubber/fabric filter (DLS/FF) means an APCD that includes continuous injection of humidified hydrated lime or other sorbent into a reaction chamber followed by a fabric filter. These systems typically include recirculation of some of the sorbent.

Dry limestone adsorber (DLA) means an APCD that includes a limestone storage bin, a reaction chamber that is essentially a packed tower filled with limestone, and may or may not include a peeling drum that mechanically scrapes reacted limestone to regenerate the stone for reuse.

Emission limitation means any emission limit or operating limit.

Fabric filter means an APCD used to capture PM by filtering a gas stream through filter media; also known as a baghouse.

Initial startup means:

(1) For a new or reconstructed tunnel kiln controlled with a DLA, and for a tunnel kiln that would be considered reconstructed but for § 63.8390(i)(1) or § 63.8390(i)(2), the time at which the temperature in the kiln first reaches 260 °C (500 °F) and the kiln contains product; or

(2) For a new or reconstructed tunnel kiln controlled with a DIFF, DLS/FF, or WS, the time at which the kiln first reaches a level of production that is equal to 75 percent of the kiln design capacity or 12 months after the affected source begins firing BSCP, whichever is earlier.

Kiln exhaust process stream means the portion of the exhaust from a tunnel kiln that exhausts directly to the atmosphere (or to an APCD), rather than to a sawdust dryer.

Large tunnel kiln means a tunnel kiln (existing, new, or reconstructed) with a design capacity equal to or greater than 9.07 Mg/hr (10 tph) of fired product.

Particulate matter (PM) means, for purposes of this subpart, emissions of PM that serve as a measure of total particulate emissions, as measured by Method 5 (40 CFR part 60, appendix A), and as a surrogate for metal HAP contained in the particulates including, but not limited to, antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, mercury, nickel, and selenium.

Plant site means all contiguous or adjoining property that is under common control, including properties that are separated only by a road or other public right-of-way. Common control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, or any combination thereof.

Research and development kiln means any kiln whose purpose is to conduct research and development for new processes and products and is not engaged in the manufacture of products for commercial sale, except in a de minimis manner.

Responsible official means responsible official as defined in 40 CFR 70.2.

Small tunnel kiln means a tunnel kiln (existing, new, or reconstructed) with a design capacity less than 9.07 Mg/hr (10 tph) of fired product.

Startup means the setting in operation of an affected source and starting the production process.

Tunnel kiln means any continuous kiln that is used to fire BSCP. Some tunnel kilns have two process streams, including a process stream that exhausts directly to the atmosphere or to an APCD, and a process stream in which the kiln exhaust is ducted to a sawdust dryer where it is used to dry sawdust before being emitted to the atmosphere.

Tunnel kiln design capacity means the maximum amount of brick, in Mg (tons), that a kiln is designed to produce in one year divided by the number of hours in a year (8,760 hours). If a kiln is modified to increase the capacity, the design capacity is considered to be the capacity following modifications.

Wet scrubber (WS) means an APCD that uses water, which may include caustic additives or other chemicals, as the sorbent. Wet scrubbers may use any

of various design mechanisms to increase the contact between exhaust gases and the sorbent.

Tables to Subpart JJJJJ of Part 63

As stated in § 63.8405, you must meet each emission limit in the following table that applies to you:

TABLE 1 TO SUBPART JJJJJ OF PART 63.—EMISSION LIMITS

For each . . .	You must meet the following emission limits . . .	Or you must comply with the following . . .
1. Existing large tunnel kiln (design capacity ≥10 tph of fired product), excluding any process stream that is ducted to a sawdust dryer prior to July 22, 2002; or including any process stream that exhausts directly to the atmosphere or to an APCD and any process stream that is first ducted to a sawdust on or after July 22, 2002; each new or reconstructed small tunnel kiln (design capacity <10 tph of fired product), including all process streams; each tunnel kiln that would be considered reconstructed but for § 63.8390(i)(1), including all process streams; and each large tunnel kiln previously equipped with a DLA that would be considered reconstructed but for § 63.8390(i)(2), including all process streams.	a. HF emissions must not exceed 0.029 kilograms per megagram (kg/Mg) (0.057 pounds per ton (lb/ton)) of fired product.	Reduce uncontrolled HF emissions by at least 90 percent.
	b. HCl emissions must not exceed 0.13 kg/Mg (0.26 lb/ton) of fired product.	Reduce uncontrolled HCl emissions by at least 30 percent.
	c. PM emissions must not exceed 0.21 kg/Mg (0.42 lb/ton) of fired product.	Not applicable.
2. New or reconstructed large tunnel kiln, including all process streams.	a. HF emissions must not exceed 0.029 kg/Mg (0.057 lb/ton) of fired product.	Reduce uncontrolled HF emissions by at least 90 percent.
	b. HCl emissions must not exceed 0.028 kg/Mg (0.056 lb/ton) of fired product.	Reduce uncontrolled HCl emissions by at least 85 percent.
	c. PM emissions must not exceed 0.060 kg/Mg (0.12 lb/ton) of fired product.	Not applicable.

As stated in § 63.8405, you must meet each operating limit in the following table that applies to you:

TABLE 2 TO SUBPART JJJJJ OF PART 63.—OPERATING LIMITS

For each . . .	You must . . .
1. Kiln equipped with a DLA	a. Maintain the average pressure drop across the DLA for each 3-hour block period at or above the average pressure drop established during the performance test; and
	b. Maintain an adequate amount of limestone in the limestone hopper, storage bin (located at the top of the DLA), and DLA at all times; maintain the limestone feeder setting at or above the level established during the performance test; and
	c. Use the same grade of limestone from the same source as was used during the performance test; maintain records of the source and grade of limestone; and
	d. Maintain no VE from the DLA stack.
2. Kiln equipped with a DIFF or DLS/FF	a. If you use a bag leak detection system, initiate corrective action within 1 hour of a bag leak detection system alarm and complete corrective actions in accordance with your OM&M plan; operate and maintain the fabric filter such that the alarm is not engaged for more than 5 percent of the total operating time in a 6-month block reporting period; or maintain no VE from the DIFF or DLS/FF stack; and
	b. Maintain free-flowing lime in the feed hopper or silo and to the APCD at all times for continuous injection systems; maintain the feeder setting at or above the level established during the performance test for continuous injection systems.
3. Kiln equipped with a WS	a. Maintain the average scrubber pressure drop for each 3-hour block period at or above the average pressure drop established during the performance test; and
	b. Maintain the average scrubber liquid pH for each 3-hour block period at or above the average scrubber liquid pH established during the performance test; and
	c. Maintain the average scrubber liquid flow rate for each 3-hour block period at or above the average scrubber liquid flow rate established during the performance test; and
	d. If chemicals are added to the scrubber water, maintain the average scrubber chemical feed rate for each 3-hour block period at or above the average scrubber chemical feed rate established during the performance test.

As stated in § 63.8445, you must conduct each performance test in the following table that applies to you:

TABLE 3 TO SUBPART JJJJJ OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS

For each . . .	You must . . .	Using . . .	According to the following requirements . . .
1. Kiln	a. Select locations of sampling ports and the number of traverse points.	Method 1 or 1A of 40 CFR part 60, appendix A.	Sampling sites must be located at the outlet of the APCD and prior to any releases to the atmosphere for all affected sources. If you choose to meet the percent emission reduction requirements for HF or HCl, a sampling site must also be located at the APCD inlet.
	b. Determine velocities and volumetric flow rate.	Method 2 of 40 CFR part 60, appendix A.	You may use Method 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A, as appropriate, as an alternative to using Method 2 of 40 CFR part 60, appendix A.
	c. Conduct gas molecular weight analysis.	Method 3 of 40 CFR part 60, appendix A.	You may use Method 3A or 3B of 40 CFR part 60, appendix A, as appropriate, as an alternative to using Method 3 of 40 CFR part 60, appendix A.
	d. Measure moisture content of the stack gas.	Method 4 of 40 CFR part 60, appendix A.	
	e. Measure HF and HCl emissions.	Method 26A of 40 CFR part 60, appendix A; or	Conduct the test while operating at the maximum production level. You may use Method 26 of 40 CFR part 60, appendix A, as an alternative to using Method 26A of 40 CFR part 60, appendix A, when no acid PM (*e.g.*, HF or HCl dissolved in water droplets emitted by sources controlled by a WS) is present.
		Method 320 of 40 CFR part 63, appendix A.	Conduct the test while operating at the maximum production level. When using Method 320 of 40 CFR part 63, appendix A, you must follow the analyte spiking procedures of section 13 of Method 320 of 40 CFR part 63, appendix A, unless you can demonstrate that the complete spiking procedure has been conducted at a similar source.
	f. Measure PM emissions.	Method 5 of 40 CFR part 60, appendix A.	Conduct the test while operating at the maximum production level.
2. Kiln that is complying with production-based emission limits.	Determine the production rate during each test run in order to determine compliance with production-based emission limits.	Production data collected during the performance tests (*e.g.*, no. of pushes per hour, no. of bricks per kiln car, weight of a typical fired brick).	You must measure and record the production rate, on a fired-product basis, of the affected source for each of the three test runs.
3. Kiln equipped with a DLA	a. Establish the operating limit for the average pressure drop across the DLA.	Data from the pressure drop measurement device during the performance test.	You must continuously measure the pressure drop across the DLA, determine and record the block average pressure drop values for the three test runs, and determine and record the 3-hour block average of the recorded pressure drop measurements for the three test runs.

TABLE 3 TO SUBPART JJJJJ OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

For each . . .	You must . . .	Using . . .	According to the following requirements . . .
	b. Establish the operating limit for the limestone feeder setting.	Data from the limestone feeder during the performance test.	You must ensure that you maintain an adequate amount of limestone in the limestone hopper, storage bin (located at the top of the DLA), and DLA at all times during the performance test. You must establish your limestone feeder setting one week prior to the performance test and maintain the feeder setting for the one-week period that precedes the performance test and during the performance test.
	c. Document the source and grade of limestone used.	Records of limestone purchase.	
4. Kiln equipped with a DIFF or DLS/FF.	Establish the operating limit for the lime feeder setting.	Data from the lime feeder during the performance test.	For continuous lime injection systems, you must ensure that lime in the feed hopper or silo and to the APCD is free-flowing at all times during the performance test and record the feeder setting for the three test runs. If the feed rate setting varies during the three test runs, determine and record the average feed rate from the three test runs.
5. Kiln equipped with a WS	a. Establish the operating limit for the average scrubber pressure drop.	Data from the pressure drop measurement device during the performance test.	You must continuously measure the scrubber pressure drop, determine and record the block average pressure drop values for the three test runs, and determine and record the 3-hour block average of the recorded pressure drop measurements for the three test runs.
	b. Establish the operating limit for the average scrubber liquid pH.	Data from the pH measurement device during the performace test.	You must continuously measure the scrubber liquid pH, determine and record the block average pH values for the three test runs, and determine and record the 3-hour block average of the recorded pH measurements for the three test runs.
	c. Establish the operating limit for the average scrubber liquid flow rate.	Data from the flow rate measurement device during the performance test.	You must continuously measure the scrubber liquid flow rate, determine and record the block average flow rate values for the three test runs, and determine and record the 3-hour block average of the recorded flow rate measurements for the three test runs.
6. Kiln equipped with a WS that includes chemical addition to the water.	Establish the operating limit for the average scrubber chemical feed rate.	Data from the chemical feed rate measurement device during the performance test.	You must continuously measure the scrubber chemical feed rate, determine and record the block average chemical feed rate values for the three test runs, and determine and record the 3-hour block average of the recorded chemical feed rate measurements for the three test runs.

As stated in § 63.8455, you must demonstrate initial compliance with each emission limitation that applies to you according to the following table:

TABLE 4 TO SUBPART JJJJJ OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS

For each . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
1. Existing large tunnel kiln (design capacity ≥10 tph of fired product), excluding any process stream that is ducted to a sawdust dryer prior to July 22, 2002; or including any process stream that exhausts directly to the atmosphere or to an APCD and any process stream that is first ducted to a sawdust dryer on or after July 22, 2002; each new or reconstructed small tunnel kiln (design capacity <10 tph of fired product), including all process streams; each tunnel kiln that would be considered reconstructed but for §63.8390(i)(1), including all process streams; and each large tunnel kiln previously equipped with a DLA that would be considered reconstructed but for §63.8390(i)(2), including all process streams.	a. HF emissions must not exceed 0.029 kg/Mg (0.057 lb/ton) of fired product; or uncontrolled HF emissions must be reduced by at least 90 percent; and	i. The HF emissions measured using Method 26A of 40 CFR part 60, appendix A or Method 320 of 40 CFR part 63, appendix A over the period of the initial performance test, according to the calculations in §63.8445(g)(1), do not exceed 0.029 kg/Mg (0.057 lb/ton); or uncontrolled HF emissions measured using Method 26A of 40 CFR part 60, appendix A or Method 320 of 40 CFR part 63, appendix A over the period of the initial performance test are reduced by at least 90 percent, according to the calculations in §63.8445(g)(2); and ii. You establish and have a record of the operating limits listed in Table 2 to this subpart over the 3-hour performance test during which HF emissions did not exceed 0.029 kg/Mg (0.057 lb/ton) or uncontrolled HF emissions were reduced by at least 90 percent.
	b. HCl emissions must not exceed 0.13 kg/Mg (0.26 lb/ton) of fired product; or uncontrolled HCl emissions must be reduced by at least 30 percent; and	i. The HCl emissions measured using Method 26A of 40 CFR part 60, appendix A or Method 320 of 40 CFR part 63, appendix A over the period of the initial performance test, according to the calculations in §63.8445(g)(1), do not exceed 0.13 kg/Mg (0.26 lb/ton); or uncontrolled HCl emissions measured using Method 26A of 40 CFR part 60, appendix A or Method 320 of 40 CFR part 63, appendix A over the period of the initial performance test are reduced by at least 30 percent, according to the calculations in §63.8445(g)(2); and ii. You establish and have a record of the operating limits listed in Table 2 to this subpart over the 3-hour performance test during which HCl emissions did not exceed 0.13 kg/Mg (0.26 lb/ton) or uncontrolled HCl emissions were reduced by at least 30 percent.
	c. PM emissions must not exceed 0.21 kg/Mg (0.42 lb/ton) of fired product.	i. The PM emissions measured using Method 5 of 40 CFR part 60, appendix A, over the period of the initial performance test, according to the calculations in §63.8445(g)(1), do not exceed 0.21 kg/Mg (0.42 lb/ton); and ii. You establish and have a record of the operating limits listed in Table 2 to this subpart over the 3-hour performance test during which PM emissions did not exceed 0.21 kg/Mg (0.42 lb/ton).
2. New or reconstructed large tunnel kiln, including all process streams.	a. HF emissions must not exceed 0.029 kg/Mg (0.057 lb/ton) of fired product; or uncontrolled HF emissions must be reduced by at least 90 percent; and	i. The HF emissions measured using Method 26A of 40 CFR part 60, appendix A or Method 320 of 40 CFR part 63, appendix A over the period of the initial performance test, according to the calculations in §63.8445(g)(1), do not exceed 0.029 kg/Mg (0.057 lb/ton); or uncontrolled HF emissions measured using Method 26A of 40 CFR part 60, appendix A or Method 320 of 40 CFR part 63, appendix A over the period of the initial performance test are reduced by at least 90 percent, according to the calculations in §63.8445(g)(2); and

TABLE 4 TO SUBPART JJJJJ OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS—Continued

For each . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
		ii. You establish and have a record of the operating limits listed in Table 2 to this subpart over the 3-hour performance test during which HF emissions did not exceed 0.029 kg/Mg (0.057 lb/ton) or uncontrolled HF emissions were reduced by at least 90 percent.
	b. HCl emissions must not exceed 0.028 kg/Mg (0.056 lb/ton) of fired product; or uncontrolled HCl emissions must be reduced by at least 85 percent; and	i. The HCl emissions measured using Method 26A of 40 CFR part 60, appendix A or Method 320 of 40 CFR part 63, appendix A over the period of the initial performance test, according to the calculations in §63.8445(g)(1), do not exceed 0.028 kg/Mg (0.056 lb/ton); or uncontrolled HCl emissions measured using Method 26A of 40 CFR part 60, appendix A or Method 320 of 40 CFR part 63, appendix A over the period of the initial performance test are reduced by at least 85 percent, according to the calculations in §63.8445(g)(2); and
		ii. You establish and have a record of the operating limits listed in Table 2 to this subpart over the 3-hour performance test during which HCl emissions did not exceed 0.028 kg/Mg (0.056 lb/ton) or uncontrolled HCl emissions were reduced by at least 85 percent.
	c. PM emissions must not exceed 0.060 kg/Mg (0.12 lb/ton) of fired product.	i. The PM emissions measured using Method 5 of 40 CFR part 60, appendix A, over the period of the initial performance test, according to the calculations in §63.8445(g)(1), do not exceed 0.060 kg/Mg (0.12 lb/ton); and
		ii. You establish and have a record of the operating limits listed in Table 2 to this subpart over the 3-hour performance test during which PM emissions did not exceed 0.060 kg/Mg (0.12 lb/ton).

As stated in §63.8470, you must demonstrate continuous compliance with each emission limit and operating limit that applies to you according to the following table:

TABLE 5 TO SUBPART JJJJJ OF PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITS AND OPERATING LIMITS

For each . . .	For the following emission limits and operating limits . . .	You must demonstrate continuous compliance by . . .
1. Kiln equipped with a DLA	Each emission limit in Table 1 to this subpart and each operating limit in Item 1 of Table 2 to this subpart for kilns equipped with a DLA.	i. Collecting the DLA pressure drop data according to §63.8450(a); reducing the DLA pressure drop data to 3-hour block averages according to §63.8450(a); maintaining the average pressure drop across the DLA for each 3-hour block period at or above the average pressure drop established during the performance test; and
		ii. Verifying that the limestone hopper and storage bin (located at the top of the DLA) contain adequate limestone by performing a daily visual check; and
		iii. Recording the limestone feeder setting daily to verify that the feeder setting is being maintained at or above the level established during the performance test; and
		iv. Using the same grade of limestone from the same source as was used during the performance test; maintaining records of the source and type of limestone; and
		v. Performing VE observations of the DLA stack at the frequency specified in §63.8470(g) using Method 22 of 40 CFR part 60, appendix A; maintaining no VE from the DLA stack.

TABLE 5 TO SUBPART JJJJJ OF PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITS AND OPERATING LIMITS—Continued

For each . . .	For the following emission limits and operating limits . . .	You must demonstrate continuous compliance by . . .
2. Kiln equipped with a DIFF or DLS/FF.	Each emission limit in Table 1 to this subpart and each operating limit in Item 2 of Table 2 to this subpart for kilns equipped with DIFF or DLS/FF.	i. If you use a bag leak detection system, initiating corrective action within 1 hour of a bag leak detection system alarm and completing corrective actions in accordance with your OM&M plan; operating and maintaining the fabric filter such that the alarm is not engaged for more than 5 percent of the total operating time in a 6-month block reporting period; in calculating this operating time fraction, if inspection of the fabric filter demonstrates that no corrective action is required, no alarm time is counted; if corrective action is required, each alarm is counted as a minimum of 1 hour; if you take longer than 1 hour to initiate corrective action, the alarm time is counted as the actual amount of time taken by you to initiate corrective action; or performing VE observations of the DIFF or DLS/FF stack at the frequency specified in §63.8470(g) using Method 22 of 40 CFR part 60, appendix A; maintaining no VE from the DIFF or DLS/FF stack; and ii. Verifying that lime is free-flowing via a load cell, carrier gas/lime flow indicator, carrier gas pressure drop measurement system, or other system; recording all monitor or sensor output, and if lime is found not to be free flowing, promptly initiating and completing corrective actions in accordance with your OM&M plan; recording the feeder setting once during each shift of operation to verify that the feeder setting is being maintained at or above the level established during the performance test.
3. Kiln equipped with a WS	Each emission limit in Table 1 to this subpart and each operating limit in Item 3 of Table 2 to this subpart for kilns equipped with WS.	i. Collecting the scrubber pressure drop data according to §63.8450(a); reducing the scrubber pressure drop data to 3-hour block averages according to §63.8450(a); maintaining the average scrubber pressure drop for each 3-hour block period at or above the average pressure drop established during the performance test; and ii. Collecting the scrubber liquid pH data according to §63.8450(a); reducing the scrubber liquid pH data to 3-hour block averages according to §63.8450(a); maintaining the average scrubber liquid pH for each 3-hour block period at or above the average scrubber liquid pH established during the performance test; and iii. Collecting the scrubber liquid flow rate data according to §63.8450(a); reducing the scrubber liquid flow rate data to 3-hour block averages according to §63.8450(a); maintaining the average scrubber liquid flow rate for each 3-hour block period at or above the average scrubber liquid flow rate established during the performance test; and iv. If chemicals are added to the scrubber water, collecting the scrubber chemical feed rate data according to §63.8450(a); reducing the scrubber chemical feed rate data to 3-hour block averages according to §63.8450(a); maintaining the average scrubber chemical feed rate for each 3-hour block period at or above the average scrubber chemical feed rate established during the performance test.

As stated in §63.8485, you must submit each report that applies to you according to the following table:

TABLE 6 TO SUBPART JJJJJ OF PART 63.—REQUIREMENTS FOR REPORTS

You must submit . . .	The report must contain . . .	You must submit the report . . .
1. A compliance report	a. If there are no deviations from any emission limitations (emission limits, operating limits) that apply to you, a statement that there were no deviations from the emission limitations during the reporting period. If there were no periods during which the CMS was out-of-control as specified in your OM&M plan, a statement that there were no periods during which the CMS was out- of-control during the reporting period.	Semiannually according to the requirements in §63.8485(b).

TABLE 6 TO SUBPART JJJJJ OF PART 63.—REQUIREMENTS FOR REPORTS—Continued

You must submit . . .	The report must contain . . .	You must submit the report . . .
	b. If you have a deviation from any emission limitation (emission limit, operating limit) during the reporting period, the report must contain the information in § 63.8485(d) or (e). If there were periods during which the CMS was out-of-control, as specified in your OM&M plan, the report must contain the information in § 63.8485(e).	Semiannually according to the requirements in § 63.8485(b).
	c. If you had a startup, shutdown or malfunction during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information in § 63.10(d)(5)(i).	Semiannually according to the requirements in § 63.8485(b).
2. An immediate startup, shutdown, and malfunction report if you took actions during a startup, shutdown, or malfunction during the reporting period that are not consistent with your SSMP.	a. Actions taken for the event according to the requirements in § 63.10(d)(5)(ii).	By fax or telephone within 2 working days after starting actions inconsistent with the plan.
	b. The information in § 63.10(d)(5)(ii)	By letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority.

As stated in § 63.8505, you must comply with the General Provisions in §§ 63.1 through 63.15 that apply to you according to the following table:

TABLE 7 TO SUBPART JJJJJ OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART JJJJJ

Citation	Subject	Brief description	Applies to subpart JJJJJ
§ 63.1	Applicability	Initial applicability determination; applicability after standard established; permit requirements; extensions, notifications.	Yes.
§ 63.2	Definitions	Definitions for part 63 standards	Yes.
§ 63.3	Units and Abbreviations	Units and abbreviations for part 63 standards	Yes.
§ 63.4	Prohibited Activities	Compliance date; circumvention; severability	Yes.
§ 63.5	Construction/Reconstruction	Applicability; applications; approvals	Yes.
§ 63.6(a)	Applicability	General Provisions (GP) apply unless compliance extension; GP apply to area sources that become major.	Yes.
§ 63.6(b)(1)–(4)	Compliance Dates for New and Reconstructed sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for section 112(f).	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes.
§ 63.6(b)(6)	[Reserved].		
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed area Sources That Become Major.	Area sources that become major must comply with major source standards immediately upon becoming major, regardless of whether required to comply when they were area sources.	Yes.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources	Comply according to date in subpart, which must be no later than 3 years after effective date; for section 112(f) standards, comply within 90 days of effective date unless compliance extension.	Yes.
§ 63.6(c)(3)–(4)	[Reserved]..		
§ 63.6(c)(5)	Compliance Dates for Existing area Sources That Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (for example, 3 years).	Yes.
§ 63.6(d)	[Reserved].		
§ 63.6(e)(1)–(2)	Operation & Maintenance	Operate to minimize emissions at all times; correct malfunctions as soon as practicable; requirements independently enforceable; information Administrator will use to determine if operation and maintenance requirements were met.	Yes.
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction Plan (SSMP).	Requirement for startup, shutdown, and malfunction (SSM) and SSMP; content of SSMP.	Yes.
§ 63.6(f)(1)	Compliance Except During SSM	You must comply with emission standards at all times except during SSM.	Yes.
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes.
§ 63.6(g)	Alternative Standard	Procedures for getting an alternative standard	Yes.
§ 63.6(h)	Opacity/VE Standards	Requirements for opacity and VE standards	No, not applicable.

TABLE 7 TO SUBPART JJJJJ OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART JJJJJ—Continued

Citation	Subject	Brief description	Applies to subpart JJJJJ
§ 63.6(i)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes.
§ 63.6(j)	Presidential Compliance Exemption	President may exempt source category	Yes.
§ 63.7(a)(1)–(2)	Performance Test Dates	Dates for conducting initial performance testing and other compliance demonstrations; must conduct 180 days after first subject to rule.	Yes.
§ 63.7(a)(3)	Section 114 Authority	Administrator may require a performance test under CAA section 114 at any time.	Yes.
§ 63.7(b)(1)	Notification of Performance Test	Must notify Administrator 60 days before the test	Yes.
§ 63.7(b)(2)	Notification of Rescheduling	Must notify Administrator 5 days before scheduled date of rescheduled date.	Yes.
§ 63.7(c)	Quality Assurance(QA)/Test Plan	Requirements; test plan approval procedures; performance audit requirements; internal and external QA procedures for testing.	Yes.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests.	Performance tests must be conducted under representative conditions.	No, § 63.8445 specifies requirements.
		Cannot conduct performance tests during SSM; not a violation to exceed standard during SSM.	Yes.
§ 63.7(e)(2)–(3)	Conditions for Conducting Performance Tests.	Must conduct according to subpart and EPA test methods unless Administrator approves alternative; must have at least three test runs of at least 1 hour each; compliance is based on arithmetic mean of three runs; conditions when data from an additional test run can be used.	Yes.
§ 63.7(f)	Alternative Test Method	Procedures by which Administrator can grant approval to use an alternative test method.	Yes.
§ 63.7(g)	Performance Test Data Analysis	Must include raw data in performance test report; must submit performance test data 60 days after end of test with the notification of compliance status.	Yes.
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements.	Subject to all monitoring requirements in subpart	Yes.
§ 63.8(a)(2)	Performance Specifications	Performance Specifications in appendix B of 40 CFR part 60 apply.	Yes.
§ 63.8(a)(3)	[Reserved].		
§ 63.8(a)(4)	Monitoring with Flares	Requirements for flares in § 63.11 apply	No, not applicable.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes.
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing and reporting on monitoring systems.	Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance.	Maintenance consistent with good air pollution control practices.	Yes.
§ 63.8(c)(1)(i)	Routine and Predictable SSM	Reporting requirements for SSM when action is described in SSMP.	Yes.
§ 63.8(c)(1)(ii)	SSM not in SSMP	Reporting requirements for SSM when action is not described in SSMP.	Yes.
§ 63.8(c)(1)(iii)	Compliance with Operation and Maintenance Requirements.	How Administrator determines if source complying with operation and maintenance requirements.	Yes.
§ 63.8(c)(2)–(3)	Monitoring System Installation	Must install to get representative emission and parameter measurements.	Yes.
§ 63.8(c)(4)	CMS Requirements	Requirements for CMS	No, §§ 63.8425 and 63.8465 specify requirements.
§ 63.8(c)(5)	Continuous Opacity Monitoring System (COMS) Minimum Procedures.	COMS minimum procedures	No, not applicable.
§ 63.8(c)(6)	CMS Requirements	Zero and high level calibration check requirements	No, § 63.8425 specifies requirements.
§ 63.8(c)(7)–(8)	CMS Requirements	Out-of-control periods	No, § 63.8425 specifies requirements.
§ 63.8(d)	CMS Quality Control	Requirements for CMS quality control	No, § 63.8425 specifies requirements.
§ 63.8(e)	CMS Performance Evaluation	Requirements for CMS performance evaluation	No, § 63.8425 specifies requirements.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method	Procedures for Administrator to approve alternative monitoring.	Yes.

TABLE 7 TO SUBPART JJJJJ OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART JJJJJ—Continued

Citation	Subject	Brief description	Applies to subpart JJJJJ
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	Procedures for Administrator to approve alternative relative accuracy test for continuous emissions monitoring systems (CEMS).	No, not applicable.
§ 63.8(g)	Data Reduction	COMS and CEMS data reduction requirements	No, not applicable.
§ 63.9(a)	Notification Requirements	Applicability; State delegation	Yes.
§ 63.9(b)	Initial Notifications	Requirements for initial notifications	Yes.
§ 63.9(c)	Request for Compliance Extension	Can request if cannot comply by date or if installed BACT/LAER.	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes.
§ 63.9(e)	Notification of Performance Test	Notify Administrator 60 days prior	Yes.
§ 63.9(f)	Notification of VE/Opacity Test	Notify Administrator 30 days prior	No, not applicable.
§ 63.9(g)(1)	Additional Notifications When Using CMS.	Notification of performance evaluation	Yes.
§ 63.9(g)(2)–(3)	Additional Notifications When Using CMS.	Notification of COMS data use; notification that relative accuracy alternative criterion were exceeded.	No, not applicable.
§ 63.9(h)	Notification of Compliance Status	Contents; submittal requirements	Yes.
§ 63.9(i)	Adjustment of Submittal Deadlines	Procedures for Administrator to approve change in when notifications must be submitted.	Yes.
§ 63.9(j)	Change in Previous Information	Must submit within 15 days after the change	Yes.
§ 63.10(a)	Recordkeeping/Reporting	Applicability; general information	Yes.
§ 63.10(b)(1)	General Recordkeeping Requirements	General requirements	Yes.
§ 63.10(b)(2)(i)–(v)	Records Related to SSM	Requirements for SSM records	Yes.
§ 63.10(b)(2)(vi)–(xii) and (xiv).	CMS Records	Records when CMS is malfunctioning, inoperative or out-of-control.	Yes.
§ 63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test	No, not applicable.
§ 63.10(b)(3)	Records	Applicability Determinations	Yes.
§ 63.10(c)(1)–(15)	Records	Additional records for CMS	No, §§ 63.8425 and 63.8490 specify requirements.
§ 63.10(d)(1) and (2).	General Reporting Requirements	Requirements for and reporting; performance test results reporting.	Yes.
§ 63.10(d)(3)	Reporting Opacity or VE Observations	Requirements for reporting opacity and VE	No, not applicable.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes.
§ 63.10(d)(5)	SSM Reports	Contents and submission	Yes.
§ 63.10(e)(1)–(3)	Additional CMS Reports	Requirements for CMS reporting	No, §§ 63.8425 and 63.8485 specify requirements.
§ 63.10(e)(4)	Reporting COMS data	Requirements for reporting COMS data with performance test data.	No, not applicable.
§ 63.10(f)	Waiver for Recordkeeping/Reporting	Procedures for Administrator to waive	Yes.
§ 63.11	Flares	Requirement for flares	No, not applicable.
§ 63.12	Delegation	State authority to enforce standards	Yes.
§ 63.13	Addresses	Addresses for reports, notifications, requests	Yes.
§ 63.14	Incorporation by Reference	Materials incorporated by reference	Yes.
§ 63.15	Availability of Information	Information availability; confidential information	Yes.

3. Part 63 is amended by adding subpart KKKKK to read as follows:

Subpart KKKKK—National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing

Sec.

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Tables to Subpart KKKKK of Part 63

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Table 2 to Subpart KKKKK of Part 63—Operating Limits
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Table 4 to Subpart KKKKK of Part 63—Requirements for Performance Tests
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Table 7 to Subpart KKKKK of Part 63—Requirements for Reports
Table 8 to Subpart KKKKK of Part 63—Applicability of General Provisions to Subpart KKKKK

What This Subpart Covers

§ 63.8530 What is the purpose of this subpart?

This subpart establishes national emission limitations and work practice standards for hazardous air pollutants (HAP) emitted from clay ceramics manufacturing facilities. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations and work practice standards.

§ 63.8535 Am I subject to this subpart?

You are subject to this subpart if you own or operate a clay ceramics manufacturing facility that is, is located at, or is part of a major source of HAP emissions according to the criteria in paragraphs (a) and (b) of this section.

(a) A clay ceramics manufacturing facility is a plant site that manufactures pressed floor tile, pressed wall tile, other pressed tile, or sanitaryware (*e.g.*, sinks and toilets). Clay ceramics manufacturing facilities typically process clay, shale, and various additives; form the processed materials into tile or sanitaryware shapes; and dry and fire the ceramic products. Glazes are applied to many tile and sanitaryware products.

(b) A major source of HAP emissions is any stationary source or group of stationary sources within a contiguous area under common control that emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (10 tons) or more per year or any combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year.

§ 63.8540 What parts of my plant does this subpart cover?

(a) This subpart applies to each existing, new, or reconstructed affected source at a clay ceramics manufacturing facility and to each affected source described in paragraphs (f)(1) or (f)(2) of this section.

(b) Each existing, new, or reconstructed periodic kiln, tunnel kiln, and roller kiln is an affected source regardless of design capacity. Each source that meets the description in paragraphs (f)(1) or (f)(2) also is an affected source.

(c) Kilns that are used exclusively for research and development (R&D) and are not used to manufacture products for commercial sale, except in a *de minimis* manner, are not subject to the requirements of this subpart.

(d) Kilns that are used exclusively for setting glazes on previously fired products or for refiring are not subject to the requirements of this subpart.

(e) A source is a new affected source if construction of the affected source began after July 22, 2002, and you met the applicability criteria at the time you began construction.

(f) An affected source is reconstructed if you meet the criteria as defined in § 63.2, except as provided in paragraphs (f)(1) and (f)(2) of this section.

(1) It is not technologically and economically feasible for an existing tunnel kiln whose design capacity is less than 9.07 megagrams per hour (Mg/hr) (10 tons per hour (tph)) of fired product but is increased such that it is equal to or greater than 9.07 Mg/hr (10 tph) of fired product to meet the relevant standards (*i.e.*, new source maximum achievable control technology (MACT)) by retrofitting with a dry lime injection fabric filter (DIFF), dry lime scrubber/fabric filter (DLS/FF), or wet scrubber (WS).

(2) It is not technologically and economically feasible for an existing dry limestone adsorber (DLA)-controlled kiln whose design capacity is equal to or greater than 9.07 Mg/hr (10 tph) of fired product to meet the relevant standards by retrofitting with a DIFF, DLS/FF, or WS.

(g) An affected source is existing if it is not new or reconstructed and does not meet the descriptions provided in paragraphs (f)(1) and (f)(2) of this section.

§ 63.8545 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source or an affected source described in § 63.8540(f)(1) or § 63.8540(f)(2), you must comply with this subpart according to paragraphs (a)(1) and (2) of this section.

(1) If the initial startup of your affected source is before May 16, 2003, then you must comply with the applicable emission limitations and work practice standards in Tables 1, 2, and 3 to this subpart no later than May 16, 2003.

(2) If the initial startup of your affected source is after May 16, 2003, then you must comply with the applicable emission limitations and work practice standards in Tables 1, 2, and 3 to this subpart upon initial startup of your affected source.

(b) If you have an existing affected source, you must comply with the work practice standards for existing sources in Table 3 to this subpart no later than May 16, 2003.

(c) If you have an existing area source that increases its emissions or its potential to emit such that it becomes a major source of HAP by adding a new affected source or by reconstructing, you must be in compliance with this subpart upon initial startup of your affected source as a major source.

(d) If you have a new area source (*i.e.*, an area source for which construction or reconstruction was commenced after July 22, 2002) 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 upon initial startup of your affected source as a major source.

(e) You must meet the notification requirements in § 63.8630 according to the schedule in § 63.8630 and in 40 CFR part 63, subpart A. Some of the notifications must be submitted before you are required to comply with the emission limitations in this subpart.

Emission Limitations and Work Practice Standards

§ 63.8555 What emission limitations and work practice standards must I meet?

(a) You must meet each emission limit in Table 1 to this subpart that applies to you.

(b) You must meet each operating limit in Table 2 to this subpart that applies to you.

(c) You must meet each work practice standard in Table 3 to this subpart that applies to you.

§ 63.8560 What are my options for meeting the emission limitations and work practice standards?

(a) To meet the emission limitations in Tables 1 and 2 to this subpart, you must use one or more of the options listed in paragraphs (a)(1) and (2) of this section.

(1) *Emissions control system.* Use an emissions capture and collection system and an air pollution control device (APCD) and demonstrate that the resulting emissions or emissions reductions meet the emission limits in Table 1 to this subpart, and that the capture and collection system and APCD meet the applicable operating limits in Table 2 to this subpart.

(2) *Process changes.* Use low-HAP raw materials or implement manufacturing process changes and demonstrate that the resulting emissions or emissions reductions meet the emission limits in Table 1 to this subpart.

(b) To meet the work practice standards in Table 3 to this subpart, for each affected kiln, you must use natural gas, or an equivalent fuel (such as propane or other clean burning fuel), as the kiln fuel at all times except during periods of natural gas curtailment or other periods when natural gas is not available.

General Compliance Requirements

§ 63.8570 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations (including operating limits) in this subpart at all times, except during periods of startup, shutdown, and malfunction and during periods of routine control device maintenance as specified in paragraph (e) of this section.

(b) Except as specified in paragraph (e) of this section, you must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i). During the period between the compliance date specified for your affected source in § 63.8545 and the date upon which continuous monitoring systems (CMS) (*e.g.*, continuous parameter monitoring systems) have been installed and verified and any applicable operating limits have been set, you must maintain a log detailing the operation and maintenance of the process and emissions control equipment.

(c) For each kiln that is subject to the emission limits specified in Table 1 to this subpart, you must develop and implement a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

(d) For each kiln that is subject to the emission limits specified in Table 1 to this subpart, you must prepare and implement a written operation, maintenance, and monitoring (OM&M) plan according to the requirements in § 63.8575.

(e) If you own or operate a kiln that is subject to the emission limits specified in Table 1 to this subpart and must perform routine maintenance on the control device for that kiln, you may bypass the kiln control device and continue operating the kiln upon approval by the Administrator provided you satisfy the conditions listed in paragraphs (e)(1) through (5) of this section.

(1) You must request a routine control device maintenance exemption from the Administrator. Your request must justify the need for the routine maintenance on the control device and the time required to accomplish the maintenance activities, describe the maintenance activities and the frequency of the maintenance activities, explain why the maintenance cannot be accomplished during kiln shutdowns, describe how you plan to minimize emissions to the greatest extent possible during the maintenance, and provide any other documentation required by the Administrator.

(2) The routine control device maintenance exemption must not exceed 4 percent of the annual operating uptime for each kiln.

(3) The request for the routine control device maintenance exemption, if approved by the Administrator, must be incorporated by reference in and attached to the affected source's title V permit.

(4) You must minimize HAP emissions during the period when the kiln is operating and the control device is offline.

(5) You must minimize the time period during which the kiln is operating and the control device is offline.

(f) You must be in compliance with the work practice standards in this subpart at all times, except during periods of natural gas curtailment or other periods when natural gas is not available.

(g) You must be in compliance with the provisions of subpart A of this part, except as noted in Table 8 to this subpart.

§ 63.8575 What do I need to know about operation, maintenance, and monitoring plans?

(a) For each kiln that is subject to the emission limits specified in Table 1 to this subpart, you must prepare, implement, and revise as necessary an OM&M plan that includes the information in paragraph (b) of this section. Your OM&M plan must be available for inspection by the permitting authority upon request.

(b) Your OM&M plan must include, as a minimum, the information in paragraphs (b)(1) through (13) of this section.

(1) Each process and APCD to be monitored, the type of monitoring device that will be used, and the operating parameters that will be monitored.

(2) A monitoring schedule that specifies the frequency that the parameter values will be determined and recorded.

(3) The limits for each parameter that represent continuous compliance with the emission limitations in § 63.8555. The limits must be based on values of the monitored parameters recorded during performance tests.

(4) Procedures for the proper operation and routine and long-term maintenance of each APCD, including a maintenance and inspection schedule that is consistent with the manufacturer's recommendations.

(5) Procedures for installing the CMS sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (*e.g.*, on or downstream of the last APCD).

(6) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system.

(7) Continuous monitoring system performance evaluation procedures and acceptance criteria (*e.g.*, calibrations).

(8) Procedures for the proper operation and maintenance of monitoring equipment consistent with the requirements in §§ 63.8600 and 63.8(c)(1), (3), (4)(ii), (7), and (8).

(9) Continuous monitoring system data quality assurance procedures consistent with the requirements in § 63.8(d).

(10) Continuous monitoring system recordkeeping and reporting procedures consistent with the requirements in § 63.10(c), (e)(1), and (e)(2)(i).

(11) Procedures for responding to operating parameter deviations, including the procedures in paragraphs (b)(11)(i) through (iii) of this section.

(i) Procedures for determining the cause of the operating parameter deviation.

(ii) Actions for correcting the deviation and returning the operating parameters to the allowable limits.

(iii) Procedures for recording the times that the deviation began and ended, and corrective actions were initiated and completed.

(12) Procedures for keeping records to document compliance.

(13) If you operate an affected kiln and you plan to take the kiln control device out of service for routine maintenance, as specified in § 63.8570(e), the procedures specified in paragraphs (b)(13)(i) and (ii) of this section.

(i) Procedures for minimizing HAP emissions from the kiln during periods of routine maintenance of the kiln control device when the kiln is operating and the control device is offline.

(ii) Procedures for minimizing the duration of any period of routine maintenance on the kiln control device when the kiln is operating and the control device is offline.

(c) Changes to the operating limits in your OM&M plan require a new performance test. If you are revising an operating limit parameter value, you must meet the requirements in paragraphs (c)(1) and (2) of this section.

(1) Submit a notification of performance test to the Administrator as specified in § 63.7(b).

(2) After completing the performance test to demonstrate that compliance with the emission limits can be achieved at the revised operating limit parameter value, you must submit the performance test results and the revised operating limits as part of the Notification of Compliance Status required under § 63.9(h).

(d) If you are revising the inspection and maintenance procedures in your OM&M plan, you do not need to conduct a new performance test.

Testing and Initial Compliance Requirements

§ 63.8585 By what date must I conduct performance tests?

For each kiln that is subject to the emission limits specified in Table 1 to this subpart, you must conduct performance tests within 180 calendar days after the compliance date that is specified for your source in § 63.8545 and according to the provisions in § 63.7(a)(2).

§ 63.8590 When must I conduct subsequent performance tests?

(a) For each kiln that is subject to the emission limits specified in Table 1 to this subpart, you must conduct a performance test before renewing your 40 CFR part 70 operating permit or at least every 5 years following the initial performance test.

(b) You must conduct a performance test when you want to change the parameter value for any operating limit specified in your OM&M plan.

§ 63.8595 How do I conduct performance tests and establish operating limits?

(a) You must conduct each performance test in Table 4 to this subpart that applies to you.

(b) Before conducting the performance test, you must install and calibrate all monitoring equipment.

(c) Each performance test must be conducted according to the requirements in § 63.7 and under the specific conditions in Table 4 to this subpart.

(d) You must test while operating at the maximum production level.

(e) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(f) You must conduct at least three separate test runs for each performance test required in this section, as specified in § 63.7(e)(3). Each test run must last at least 1 hour.

(g) You must use the data gathered during the performance test and the equations in paragraphs (g)(1) and (2) of this section to determine compliance with the emission limitations.

(1) To determine compliance with the production-based hydrogen fluoride (HF), hydrogen chloride (HCl), and particulate matter (PM) emission limits in Table 1 to this subpart, you must calculate your mass emissions per unit of production for each test run using Equation 1 of this section:

$$MP = \frac{ER}{P} \qquad \text{(Eq. 1)}$$

Where:

MP=mass per unit production, kilograms (pounds) of pollutant per megagram (ton) of fired product

ER=mass emission rate of pollutant (HF, HCl, or PM) during each performance test run, kilograms (pounds) per hour

P=production rate during each performance test run, megagrams (tons) of fired product per hour.

(2) To determine compliance with the percent reduction HF and HCl emission limits in Table 1 to this subpart, you must calculate the percent reduction for each test run using Equation 2 of this section:

$$PR = \frac{ER_i - ER_o}{ER_i}\ (100) \qquad \text{(Eq. 2)}$$

Where:

PR=percent reduction, percent

ER_i=mass emission rate of specific HAP (HF or HCl) entering the APCD, kilograms (pounds) per hour

ER_o=mass emission rate of specific HAP (HF or HCl) exiting the APCD, kilograms (pounds) per hour.

(h) You must establish each site-specific operating limit in Table 2 to this subpart that applies to you as specified in Table 4 to this subpart.

(i) For each kiln that is subject to the emission limits specified in Table 1 to this subpart and is equipped with an APCD that is not addressed in Table 2 to this subpart or that is using process changes as a means of meeting the emission limits in Table 1 to this subpart, you must meet the requirements in § 63.8(f) and paragraphs (i)(1) and (2) of this section.

(1) Submit a request for approval of alternative monitoring procedures to the Administrator no later than the notification of intent to conduct a performance test. The request must contain the information specified in paragraphs (i)(1)(i) through (iv) of this section.

(i) A description of the alternative APCD or process changes.

(ii) The type of monitoring device or procedure that will be used.

(iii) The operating parameters that will be monitored.

(iv) The frequency that the operating parameter values will be determined and recorded to establish continuous compliance with the operating limits.

(2) Establish site-specific operating limits during the performance test based on the information included in the approved alternative monitoring procedures request and, as applicable, as specified in Table 4 to this subpart.

§ 63.8600 What are my monitoring installation, operation, and maintenance requirements?

(a) You must install, operate, and maintain each CMS according to your OM&M plan and the requirements in paragraphs (a)(1) through (5) of this section.

(1) Conduct a performance evaluation of each CMS according to your OM&M plan.

(2) The CMS must complete a minimum of one cycle of operation for each successive 15-minute period. To have a valid hour of data, you must have

at least three of four equally spaced data values (or at least 75 percent if you collect more than four data values per hour) for that hour (not including startup, shutdown, malfunction, out-of-control periods, or periods of routine control device maintenance covered by a routine control device maintenance exemption as specified in § 63.8570(e)).

(3) Determine and record the 3-hour block averages of all recorded readings, calculated after every 3 hours of operation as the average of the previous 3 operating hours. To calculate the average for each 3-hour average period, you must have at least 75 percent of the recorded readings for that period (not including startup, shutdown, malfunction, out-of-control periods, or periods of routine control device maintenance covered by a routine control device maintenance exemption as specified in § 63.8570(e)).

(4) Record the results of each inspection, calibration, and validation check.

(5) At all times, maintain the monitoring equipment including, but not limited to, maintaining necessary parts for routine repairs of the monitoring equipment.

(b) For each liquid flow measurement device, you must meet the requirements in paragraphs (a)(1) through (5) and paragraphs (b)(1) through (3) of this section.

(1) Locate the flow sensor in a position that provides a representative flowrate.

(2) Use a flow sensor with a minimum measurement sensitivity of 2 percent of the liquid flowrate.

(3) At least semiannually, conduct a flow sensor calibration check.

(c) For each pressure measurement device, you must meet the requirements in paragraphs (a)(1) through (5) and paragraphs (c)(1) through (7) of this section.

(1) Locate the pressure sensor(s) in or as close to a position that provides a representative measurement of the pressure.

(2) Minimize or eliminate pulsating pressure, vibration, and internal and external corrosion.

(3) Use a gauge with a minimum measurement sensitivity of 0.5 inch of water or a transducer with a minimum measurement sensitivity of 1 percent of the pressure range.

(4) Check the pressure tap daily to ensure that it is not plugged.

(5) Using a manometer, check gauge calibration quarterly and transducer calibration monthly.

(6) Any time the sensor exceeds the manufacturer's specified maximum operating pressure range, conduct calibration checks or install a new pressure sensor.

(7) At least monthly, inspect all components for integrity, all electrical connections for continuity, and all mechanical connections for leakage.

(d) For each pH measurement device, you must meet the requirements in paragraphs (a)(1) through (5) and paragraphs (d)(1) through (4) of this section.

(1) Locate the pH sensor in a position that provides a representative measurement of pH.

(2) Ensure the sample is properly mixed and representative of the fluid to be measured.

(3) Check the pH meter's calibration on at least two points every 8 hours of process operation.

(4) At least monthly, inspect all components for integrity and all electrical connections for continuity.

(e) For each bag leak detection system, you must meet the requirements in paragraphs (e)(1) through (11) of this section.

(1) Each triboelectric bag leak detection system must be installed, calibrated, operated, and maintained according to the "Fabric Filter Bag Leak Detection Guidance," (EPA–454/R–98–015, September 1997). This document is available from the U.S. Environmental Protection Agency (U.S. EPA); Office of Air Quality Planning and Standards; Emissions, Monitoring and Analysis Division; Emission Measurement Center (MD–19), Research Triangle Park, NC 27711. This document is also available on the Technology Transfer Network (TTN) under Emission Measurement Center, Continuous Emission Monitoring. Other types of bag leak detection systems must be installed, operated, calibrated, and maintained in a manner consistent with the manufacturer's written specifications and recommendations.

(2) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 10 milligrams per actual cubic meter (0.0044 grains per actual cubic foot) or less.

(3) The bag leak detection system sensor must provide an output of relative PM loadings.

(4) The bag leak detection system must be equipped with a device to continuously record the output signal from the sensor.

(5) The bag leak detection system must be equipped with an audible alarm system that will sound automatically when an increase in relative PM emissions over a preset level is detected. The alarm must be located where it is easily heard by plant operating personnel.

(6) For positive pressure fabric filter systems, a bag leak detector must be installed in each baghouse compartment or cell.

(7) For negative pressure or induced air fabric filters, the bag leak detector must be installed downstream of the fabric filter.

(8) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(9) The baseline output must be established by adjusting the range and the averaging period of the device and establishing the alarm set points and the alarm delay time according to section 5.0 of the "Fabric Filter Bag Leak Detection Guidance."

(10) Following initial adjustment of the system, the sensitivity or range, averaging period, alarm set points, or alarm delay time may not be adjusted except as detailed in your OM&M plan. In no case may the sensitivity be increased by more than 100 percent or decreased more than 50 percent over a 365-day period unless such adjustment follows a complete fabric filter inspection which demonstrates that the fabric filter is in good operating condition. Record each adjustment.

(11) Record the results of each inspection, calibration, and validation check.

(f) For each lime or chemical feed rate measurement device, you must meet the requirements in paragraphs (a)(1) through (5) and paragraphs (f)(1) and (2) of this section.

(1) Locate the measurement device in a position that provides a representative feed rate measurement.

(2) At least semiannually, conduct a calibration check.

(g) For each limestone feed system on a DLA, you must meet the requirements in paragraphs (a)(1), (4), and (5) of this section and must ensure on a monthly basis that the feed system replaces limestone at least as frequently as the schedule set during the performance test.

(h) Requests for approval of alternate monitoring procedures must meet the requirements in §§ 63.8595(i) and 63.8(f).

§ 63.8605 How do I demonstrate initial compliance with the emission limitations and work practice standards?

(a) You must demonstrate initial compliance with each emission limitation and work practice standard that applies to you according to Table 5 to this subpart.

(b) You must establish each site-specific operating limit in Table 2 to

this subpart that applies to you according to the requirements in § 63.8595 and Table 4 to this subpart.

(c) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.8630(e).

Continuous Compliance Requirements

§ 63.8615 How do I monitor and collect data to demonstrate continuous compliance?

(a) You must monitor and collect data according to this section.

(b) Except for periods of monitor malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating. This includes periods of startup, shutdown, malfunction, and routine control device maintenance as specified in § 63.8570(e) when the affected source is operating.

(c) You may not use data recorded during monitoring malfunctions, associated repairs, out-of-control periods, or required quality assurance or control activities for purposes of calculating data averages. A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions. You must use all the valid data collected during all other periods in assessing compliance. Any averaging period for which you do not have valid monitoring data and such data are required constitutes a deviation from the monitoring requirements.

§ 63.8620 How do I demonstrate continuous compliance with the emission limitations and work practice standards?

(a) You must demonstrate continuous compliance with each emission limit, operating limit, and work practice standard in Tables 1, 2, and 3 to this subpart that applies to you according to the methods specified in Table 6 to this subpart.

(b) For each kiln that is subject to the emission limits specified in Table 1 to this subpart and is equipped with an APCD that is not addressed in Table 2 to this subpart, or that is using process changes as a means of meeting the emission limits in Table 1 to this subpart, you must demonstrate continuous compliance with each emission limit in Table 1 to this subpart, and each operating limit established as required in § 63.8595(i)(2) according to the methods specified in your approved alternative monitoring procedures request, as described in §§ 63.8595(i)(1) and 63.8(f).

(c) You must report each instance in which you did not meet each emission limit and operating limit in this subpart that applies to you. This includes periods of startup, shutdown, malfunction, and routine control device maintenance. These instances are deviations from the emission limitations in this subpart. These deviations must be reported according to the requirements in § 63.8635.

(d) During periods of startup, shutdown, and malfunction, you must operate according to your SSMP.

(e) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating according to an SSMP that satisfies the requirements of § 63.6(e) and your OM&M plan. The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

(f) Deviations that occur during periods of control device maintenance covered by an approved routine control device maintenance exemption according to § 63.8570(e) are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the approved routine control device maintenance exemption.

(g) You must demonstrate continuous compliance with the operating limits in Table 2 to this subpart for visible emissions (VE) from tunnel kilns equipped with DLA, DIFF, or DLS/FF by monitoring VE at each kiln stack according to the requirements in paragraphs (g)(1) through (3) of this section.

(1) Perform daily VE observations of each kiln stack according to the procedures of Method 22 of 40 CFR part 60, appendix A. You must conduct the Method 22 test while the affected source is operating under normal conditions. The duration of each Method 22 test must be at least 15 minutes.

(2) If VE are observed during any daily test conducted using Method 22 of 40 CFR part 60, appendix A, you must promptly initiate and complete corrective actions according to your OM&M plan. If no VE are observed in 30 consecutive daily Method 22 tests for any kiln stack, you may decrease the frequency of Method 22 testing from daily to weekly for that kiln stack. If VE are observed during any weekly test, you must promptly initiate and complete corrective actions according to your OM&M plan, resume Method 22 testing of that kiln stack on a daily basis, and maintain that schedule until no VE are observed in 30 consecutive daily tests, at which time you may again decrease the frequency of Method 22 testing to a weekly basis.

(3) If VE are observed during any test conducted using Method 22 of 40 CFR part 60, appendix A, you must report these deviations by following the requirements in § 63.8635.

Notifications, Reports, and Records

§ 63.8630 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.7(b) and (c), 63.8(f)(4), and 63.9 (b) through (e), (g)(1), and (h) that apply to you, by the dates specified.

(b) As specified in § 63.9(b)(2) and (3), if you start up your affected source before May 16, 2003, you must submit an Initial Notification not later than 120 calendar days after May 16, 2003.

(c) As specified in § 63.9(b)(3), if you start up your new or reconstructed affected source or affected source described in § 63.8540(f)(1) or § 63.8540(f)(2) on or after May 16, 2003, you must submit an Initial Notification not later than 120 calendar days after you become subject to this subpart.

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

(e) 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 as specified in § 63.9(h) and paragraphs (e)(1) through (3) of this section.

(1) For each compliance demonstration that includes a performance test conducted according to the requirements in Table 4 to this subpart, you must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test, according to § 63.10(d)(2).

(2) In addition to the requirements in § 63.9(h)(2)(i), you must include the information in paragraphs (e)(2)(i) and (ii) of this section in your Notification of Compliance Status:

(i) The operating limit parameter values established for each affected source with supporting documentation and a description of the procedure used to establish the values.

(ii) For each APCD that includes a fabric filter, if a bag leak detection system is used, analysis and supporting documentation demonstrating conformance with EPA guidance and specifications for bag leak detection systems in § 63.8600(e).

(3) For each compliance demonstration required in Table 5 to this subpart that does not include a performance test (*i.e.*, compliance demonstration for the work practice standard), you must submit the Notification of Compliance Status before the close of business on the 30th calendar day following the completion of the compliance demonstration.

(f) If you request a routine control device maintenance exemption according to § 63.8570(e), you must submit your request for the exemption no later than 30 days before the compliance date.

(g) If you own or operate an affected kiln that is subject to the work practice standards specified in Table 3 to this subpart, and you intend to use a fuel other than natural gas or equivalent to fire the affected kiln, you must submit a notification of alternative fuel use within 48 hours of the declaration of a period of natural gas curtailment or supply interruption, as defined in § 63.8665. The notification must include the information specified in paragraphs (g)(1) through (5) of this section.

(1) Company name and address.

(2) Identification of the affected kiln.

(3) Reason you are unable to use natural gas or equivalent fuel, including the date when the natural gas curtailment was declared or the natural gas supply interruption began.

(4) Type of alternative fuel that you intend to use.

(5) Dates when the alternative fuel use is expected to begin and end.

§ 63.8635 What reports must I submit and when?

(a) You must submit each report in Table 7 to this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report by the date in Table 7 to this subpart and as specified in paragraphs (b)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.8545 and ending on June 30 or December 31, and lasting at least 6 months, but less than 12 months. For example, if your compliance date is March 1, then the first semiannual reporting period would begin on March 1 and end on December 31.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31 for compliance periods ending on June 30 and December 31, respectively.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31 for compliance periods ending on June 30 and December 31, respectively.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section.

(c) The compliance report must contain the information in paragraphs (c)(1) through (7) of this section.

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying that, based on information and belief formed after reasonable inquiry, the statements and information in the report are true, accurate, and complete.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If you had a startup, shutdown or malfunction during the reporting period and you took actions consistent with your SSMP and OM&M plan, the compliance report must include the information specified in § 63.10(d)(5)(i).

(5) A description of control device maintenance performed while the control device was offline and the kiln controlled by the control device was operating, including the information specified in paragraphs (c)(5)(i) through (iii) of this section.

(i) The date and time when the control device was shutdown and restarted.

(ii) Identification of the kiln that was operating and the number of hours that the kiln operated while the control device was offline.

(iii) A statement of whether or not the control device maintenance was included in your approved routine control device maintenance exemption developed as specified in § 63.8570(e). If the control device maintenance was included in your approved routine control device maintenance exemption, then you must report the information in paragraphs (c)(5)(iii)(A) through (C) of this section.

(A) The total amount of time that the kiln controlled by the control device operated during the current semiannual compliance period and during the previous semiannual compliance period.

(B) The amount of time that each kiln controlled by the control device operated while the control device was offline for maintenance covered under the routine control device maintenance exemption during the current semiannual compliance period and during the previous semiannual compliance period.

(C) Based on the information recorded under paragraphs (c)(5)(iii)(A) and (B) of this section, compute the annual percent of kiln operating uptime during which the control device was offline for routine maintenance using Equation 1 of this section.

$$RM = \frac{DT_p + DT_c}{KU_p + KU_c}\ (100) \qquad \text{(Eq. 1)}$$

Where:

RM=Annual percentage of kiln uptime during which control device is down for routine control device maintenance

DT_p=Control device downtime claimed under the routine control device maintenance exemption for the previous semiannual compliance period

DT_c=Control device downtime claimed under the routine control device maintenance exemption for the current semiannual compliance period

KU_p=Kiln uptime for the previous semiannual compliance period

KU_c=Kiln uptime for the current semiannual compliance period

(6) If there are no deviations from any emission limitations (emission limits or operating limits) or work practice standards that apply to you, the compliance report must contain a statement that there were no deviations from the emission limitations or work practice standards during the reporting period.

(7) If there were no periods during which the CMS was out-of-control as specified in your OM&M plan, the

compliance report must contain a statement that there were no periods during which the CMS was out-of-control during the reporting period.

(d) For each deviation from an emission limitation (emission limit or operating limit) that occurs at an affected source where you are not using a CMS to comply with the emission limitations in this subpart, the compliance report must contain the information in paragraphs (c)(1) through (5) and paragraphs (d)(1) and (2) of this section. This includes periods of startup, shutdown, malfunction, and routine control device maintenance.

(1) The total operating time of each affected source during the reporting period.

(2) Information on the number, duration, and cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

(e) For each deviation from an emission limitation (emission limit or operating limit) occurring at an affected source where you are using a CMS to comply with the emission limitations in this subpart, you must include the information in paragraphs (c)(1) through (5) and paragraphs (e)(1) through (13) of this section. This includes periods of startup, shutdown, malfunction, and routine control device maintenance.

(1) The total operating time of each affected source during the reporting period.

(2) The date and time that each malfunction started and stopped.

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

(4) The date, time, and duration that each CMS was out-of-control, including the pertinent information in your OM&M plan.

(5) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction; during routine control device maintenance covered in your approved routine control device maintenance exemption; or during another period.

(6) A description of corrective action taken in response to a deviation.

(7) A summary of the total duration of the deviation during the reporting period and the total duration as a percent of the total source operating time during that reporting period.

(8) A breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(9) A summary of the total duration of CMS downtime during the reporting period and the total duration of CMS downtime as a percent of the total source operating time during that reporting period.

(10) A brief description of the process units.

(11) A brief description of the CMS.

(12) The date of the latest CMS certification or audit.

(13) A description of any changes in CMS, processes, or control equipment since the last reporting period.

(f) If you have obtained a title V operating permit according to 40 CFR part 70 or 40 CFR part 71, you must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If you submit a compliance report according to Table 7 to this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the compliance report includes all required information concerning deviations from any emission limitation (including any operating limit), then submitting the compliance report will satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submitting a compliance report will not otherwise affect any obligation you may have to report deviations from permit requirements to the permitting authority.

(g) If you own or operate an affected kiln that is subject to the work practice standard specified in Table 3 to this subpart, and you use a fuel other than natural gas or equivalent to fire the affected kiln, you must submit a report of alternative fuel use within 10 working days after terminating the use of the alternative fuel. The report must include the information in paragraphs (g)(1) through (6) of this section.

(1) Company name and address.

(2) Identification of the affected kiln.

(3) Reason for using the alternative fuel.

(4) Type of alternative fuel used to fire the affected kiln.

(5) Dates that the use of the alternative fuel started and ended.

(6) Amount of alternative fuel used.

§ 63.8640 What records must I keep?

(a) You must keep the records listed in paragraphs (a)(1) through (4) of this section.

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(3) Records of performance tests as required in § 63.10(b)(2)(viii).

(4) Records relating to control device maintenance and documentation of your approved routine control device maintenance exemption, if you request such an exemption under § 63.8570(e).

(b) You must keep the records required in Table 6 to this subpart to show continuous compliance with each emission limitation that applies to you.

(c) You must also maintain the records listed in paragraphs (c)(1) through (7) of this section.

(1) For each bag leak detection system, records of each alarm, the time of the alarm, the time corrective action was initiated and completed, and a brief description of the cause of the alarm and the corrective action taken.

(2) For each deviation of an operating limit parameter value, the date, time, and duration of the deviation, a brief explanation of the cause of the deviation and the corrective action taken, and whether the deviation occurred during a period of startup, shutdown, or malfunction.

(3) For each kiln that is subject to the emission limits in Table 1, records of production rates on a fired-product weight basis.

(4) For each kiln that is subject to the emission limits in Table 1, records for any approved alternative monitoring or test procedures.

(5) For each kiln that is subject to the emission limits in Table 1, records of maintenance and inspections performed on the APCD.

(6) For each kiln that is subject to the emission limits in Table 1, current copies of your SSMP and OM&M plan, including any revisions, with records documenting conformance.

(7) Records that document compliance with any work practice standard that applies to you.

§ 63.8645 In what form and for how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record onsite for at least 2 years after the date of each occurrence, measurement, maintenance,

corrective action, report, or record, according to § 63.10(b)(1). You may keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.8655 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.

§ 63.8660 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. EPA, or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under section 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the applicability requirements in §§ 63.8535 and 63.8540, the compliance date requirements in § 63.8545, and the non-opacity emission limitations in § 63.8555.

(2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.8665 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in § 63.2, and in this section as follows:

Air pollution control device (APCD) means any equipment that reduces the quantity of a pollutant that is emitted to the air.

Bag leak detection system means an instrument that is capable of monitoring PM loadings in the exhaust of a fabric filter in order to detect bag failures. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light-scattering, light-transmittance, or other effects to monitor relative PM loadings.

Clay ceramics manufacturing facility means a plant site that manufactures pressed floor tile, pressed wall tile, other pressed tile, or sanitaryware (*e.g.*, sinks and toilets). Clay ceramics manufacturing facilities typically process clay, shale, and various additives, form the processed materials into tile or sanitaryware shapes, and dry and fire the ceramic products. Glazes are applied to many tile and sanitaryware products.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart including, but not limited to, any emission limitation (including any operating limit) or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation (including any operating limit) or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Dry lime injection fabric filter (DIFF) means an APCD that includes continuous injection of hydrated lime or other sorbent into a duct or reaction chamber followed by a fabric filter.

Dry lime scrubber/fabric filter (DLS/FF) means an APCD that includes continuous injection of humidified hydrated lime or other sorbent into a reaction chamber followed by a fabric filter. These systems typically include recirculation of some of the sorbent.

Dry limestone adsorber (DLA) means an APCD that includes a limestone storage bin, a reaction chamber that is essentially a packed tower filled with limestone, and may or may not include a peeling drum that mechanically scrapes reacted limestone to regenerate the stone for reuse.

Emission limitation means any emission limit or operating limit.

Fabric filter means an APCD used to capture PM by filtering a gas stream through filter media; also known as a baghouse.

Initial startup means:

(1) For a new or reconstructed tunnel kiln controlled with a DLA, and for a tunnel kiln that would be considered reconstructed but for § 63.8540(f)(1) or § 63.8540(f)(2), the time at which the temperature in the kiln first reaches 260 °C (500 °F) and the kiln contains product; or

(2) For a new or reconstructed tunnel kiln controlled with a DIFF, DLS/FF, or WS, the time at which the kiln first reaches a level of production that is equal to 75 percent of the kiln design capacity or 12 months after the affected source begins firing clay ceramics, whichever is earlier.

Particulate matter (PM) means, for purposes of this subpart, emissions of PM that serve as a measure of total particulate emissions, as measured by Method 5 (40 CFR part 60, appendix A), and as a surrogate for metal HAP contained in the particulates including, but not limited to, antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, mercury, nickel, and selenium.

Period of natural gas curtailment or supply interruption means a period of time during which the supply of natural gas to an affected facility is halted for reasons beyond the control of the facility. An increase in the cost or unit price of natural gas does not constitute a period of natural gas curtailment or supply interruption.

Plant site means all contiguous or adjoining property that is under common control, including properties that are separated only by a road or other public right-of-way. Common control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, or any combination thereof.

Research and development kiln means any kiln whose purpose is to conduct research and development for new processes and products and is not engaged in the manufacture of products for commercial sale, except in a *de minimis* manner.

Responsible official means responsible official as defined in 40 CFR 70.2.

Startup means the setting in operation of an affected source and starting the production process.

Tunnel kiln means any continuous kiln that is not a roller kiln that is used to fire clay ceramics.

Tunnel kiln design capacity means the maximum amount of clay ceramics, in Mg (tons), that a kiln is designed to produce in one year divided by the number of hours in a year (8,760 hours). If a kiln is modified to increase the capacity, the design capacity is considered to be the capacity following modifications.

Wet scrubber (WS) means an APCD that uses water, which may include

caustic additives or other chemicals, as the sorbent. Wet scrubbers may use any of various design mechanisms to increase the contact between exhaust gases and the sorbent.

Work practice standard means any design, equipment, work practice, operational standard, or combination thereof, that is promulgated pursuant to section 112(h) of the Clean Air Act.

Tables to Subpart KKKKK of Part 63

As stated in § 63.8555, you must meet each emission limit in the following table that applies to you:

TABLE 1 TO SUBPART KKKKK OF PART 63.—EMISSION LIMITS

For each . . .	You must meet the following emission limits . . .	Or you must comply with the following . . .
1. New or reconstructed tunnel kiln with a design capacity less than 9.07 Mg/hr (10 tph) of fired product; each tunnel kiln that would be considered reconstructed but for § 63.8540(f)(1); and each tunnel kiln that would be considered reconstructed but for § 63.8540(f)(2).	a. HF emissions must not exceed 0.029 kilograms per megagram (kg/Mg) (0.057 pounds per ton (lb/ton)) of fired product.	Reduce uncontrolled HF emissions by at least 90 percent.
	b. HCl emissions must not exceed 0.13 kg/Mg (0.26 lb/ton) of fired product.	Reduce uncontrolled HCl emissions by at least 30 percent.
	c. PM emissions must not exceed 0.21 kg/Mg (0.42 lb/ton) of fired product.	Not applicable.
2. New or reconstructed tunnel kiln with a design capacity equal to or greater than 10 tph of fired product.	a. HF emissions must not exceed 0.029 kg/Mg (0.057 lb/ton) of fired product.	Reduce uncontrolled HF emissions by at least 90 percent.
	b. HCl emissions must not exceed 0.028 kg/Mg (0.056 lb/ton) of fired product.	Reduce uncontrolled HCl emissions by at least 85 percent.
	c. PM emissions must not exceed 0.060 kg/Mg (0.12 lb/ton) of fired product.	Not applicable.

As stated in § 63.8555, you must meet each operating limit in the following table that applies to you:

TABLE 2 TO SUBPART KKKKK OF PART 63.—OPERATING LIMITS

For each . . .	You must . . .
1. Kiln equipped with a DLA	a. Maintain the average pressure drop across the DLA for each 3-hour block period at or above the average pressure drop established during the performance test; and b. Maintain a sufficient amount of limestone in the limestone hopper, storage bin (located at the top of the DLA), and DLA at all times; maintain the limestone feeder setting at or above the level established during the performance test; and c. Use the same grade of limestone from the same source as was used during the performance test; maintain records of the source and grade of limestone; and d. Maintain no VE from the DLA stack.
2. Kiln equipped with a DIFF or DLS/FF.	a. If you use a bag leak detection system, initiate corrective action within 1 hour of a bag leak detection system alarm and complete corrective actions in accordance with your OM&M plan; operate and maintain the fabric filter such that the alarm is not engaged for more than 5 percent of the total operating time in a 6-month block reporting period; or maintain no VE from the DIFF or DLS/FF stack; and b. Maintain free-flowing lime in the feed hopper or silo and to the APCD at all times for continuous injection systems; maintain the feeder setting at or above the level established during the performance test for continuous injection systems.
3. Kiln equipped with a WS	a. Maintain the average scrubber pressure drop for each 3-hour block period at or above the average pressure drop established during the performance test; and b. Maintain the average scrubber liquid pH for each 3-hour block period at or above the average scrubber liquid pH established during the performance test; and c. Maintain the average scrubber liquid flow rate for each 3-hour block period at or above the average scrubber liquid flow rate established during the performance test; and d. If chemicals are added to the scrubber water, maintain the average scrubber chemical feed rate for each 3-hour block period at or above the average scrubber chemical feed rate established during the performance test.

As stated in § 63.8555, you must comply with each work practice standard in the following table that applies to you:

TABLE 3 TO SUBPART KKKKK OF PART 63.—WORK PRACTICE STANDARDS

For . . .	You must . . .	According to one of the following requirements . . .
Each existing, new, or reconstructed periodic kiln, tunnel kiln, or roller kiln; each tunnel kiln that would be considered reconstructed but for § 63.8540(f)(1); and each tunnel kiln that would be considered reconstructed but for § 63.8540(f)(2).	Minimize fuel-based HAP emissions.	Use natural gas, or equivalent, as the kiln fuel, except during periods of natural gas curtailment or supply interruption, as defined in § 63.8665.

As stated in § 63.8595, you must conduct each performance test in the following table that applies to you:

TABLE 4 TO SUBPART KKKKK OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS

For each . . .	You must . . .	Using . . .	According to the following requirements . . .
1. New or reconstructed tunnel kiln; each tunnel kiln that would be considered reconstructed but for § 63.8540(f)(1); and each tunnel kiln that would be considered reconstructed but for § 63.8540(f)(2).	a. Select locations of sampling ports and the number of traverse points.	Method 1 or 1A of 40 CFR part 60, appendix A.	Sampling sites must be located at the outlet of the APCD and prior to any releases to the atmosphere for all affected sources. If you choose to meet the percent emission reduction requirements for HF or HCl, a sampling site must also be located at the APCD inlet.
	b. Determine velocities and volumetric flow rate.	Method 2 of 40 CFR part 60, appendix A.	You may use Method 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A, as appropriate, as an alternative to using Method 2 of 40 CFR part 60, appendix A.
	c. Conduct gas molecular weight analysis.	Method 3 of 40 CFR part 60, appendix A.	You may use Method 3A or 3B of 40 CFR part 60, appendix A, as appropriate, as an alternative to using Method 3 of 40 CFR part 60, appendix A.
	d. Measure moisture content of the stack gas.	Method 4 of 40 CFR part 60, appendix A.	
	e. Measure HF and HCl emissions.	Method 26A of 40 CFR part 60, appendix A; or	Conduct the test while operating at the maximum production level. You may use Method 26 of 40 CFR part 60, appendix A, as an alternative to using Method 26A of 40 CFR part 60, appendix A, when no acid PM (*e.g.*, HF or HCl dissolved in water droplets emitted by sources controlled by a WS) is present.
		Method 320 of 40 CFR part 63, appendix A.	Conduct the test while operating at the maximum production level. When using Method 320 of 40 CFR part 63, appendix A, you must follow the analyte spiking procedures of section 13 of Method 320 of 40 CFR part 63, appendix A, unless you can demonstrate that the complete spiking procedure has been conducted at a similar source.
	f. Measure PM emissions	Method 5 of 40 CFR part 60, appendix A.	Conduct the test while operating at the maximum production level.
2. Kiln that is complying with production-based emission limits.	Determine the production rate during each test run in order to determine compliance with production-based emission limits.	Production data collected during the performance tests (*e.g.*, the number of ceramic pieces and weight per piece in the kiln during a test run divided by the amount of time to fire a piece).	You must measure and record the production rate, on a fired-product weight basis, of the affected kiln for each of the three test runs.
3. Kiln equipped with a DLA.	a. Establish the operating limit for the average pressure drop across the DLA.	Data from the pressure drop measurement device during the performance test.	You must continuously measure the pressure drop across the DLA, determine and record the block average pressure drop values for the three test runs, and determine and record the 3-hour block average of the recorded pressure drop measurements for the three test runs.

TABLE 4 TO SUBPART KKKKK OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

For each . . .	You must . . .	Using . . .	According to the following requirements . . .
	b. Establish the operating limit for the limestone feeder setting.	Data from the limestone feeder during the performance test.	You must ensure that you maintain an adequate amount of limestone in the limestone hopper, storage bin (located at the top of the DLA), and DLA at all times during the performance test. You must establish your limestone feeder setting one week prior to the performance test and maintain the feeder setting for the one-week period that precedes the performance test and during the performance test.
	c. Document the source and grade of limestone used.	Records of limestone purchase.	
4. Kiln equipped with a DIFF or DLS/FF	Establish the operating limit for the lime feeder setting.	Data from the lime feeder during the performance test.	For continuous lime injection systems, you must ensure that lime in the feed hopper or silo and to the APCD is free-flowing at all times during the performance test and record the feeder setting for the three test runs. If the feed rate setting varies during the three test runs, determine and record the average feed rate from the three test runs.
5. Kiln equipped with a WS	a. Establish the operating limit for the average scrubber pressure drop.	Data from the pressure drop measurement device during the performance test.	You must continuously measure the scrubber pressure drop, determine and record the block average pressure drop values for the three test runs, and determine and record the 3-hour block average of the recorded pressure drop measurements for the three test runs.
	b. Establish the operating limit for the average scrubber liquid pH.	Data from the pH measurement device during the performance test.	You must continuously measure the scrubber liquid pH, determine and record the block average pH values for the three test runs, and determine and record the 3-hour block average of the recorded pH measurements for the three test runs.
	c. Establish the operating limit for the average scrubber liquid flow rate.	Data from the flow rate measurement device during the performance test.	You must continuously measure the scrubber liquid flow rate, determine and record the block average flow rate values for the three test runs, and determine and record the 3-hour block average of the recorded flow rate measurements for the three test runs.
6. Kiln equipped with a WS that includes chemical addition to the water.	Establish the operating limit for the average scrubber chemical feed rate.	Data from the chemical feed rate measurement device during the performance test.	You must continuously measure the scrubber chemical feed rate, determine and record the block average chemical feed rate values for the three test runs, and determine and record the 3-hour block average of the recorded chemical feed rate measurements for the three test runs.

As stated in § 63.8605, you must demonstrate initial compliance with each emission limitation that applies to you according to the following table:

TABLE 5 TO SUBPART KKKKK OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS AND WORK PRACTICE STANDARDS

For each . . .	For the following . . .	You have demonstrated initial compliance if . . .
1. New or reconstructed tunnel kiln with a design capacity less than 9.07 Mg/hr (10 tph) of fired product; each tunnel kiln that would be considered reconstructed but for § 63.8540(f)(1); and each tunnel kiln that would be considered reconstructed but for § 63.8540(f)(2).	a. HF emissions must not exceed 0.029 kg/Mg (0.057 lb/ton) of fired product; or uncontrolled HF emissions must be reduced by at least 90 percent; and.	i. The HF emissions measured using Method 26A of 40 CFR part 60, appendix A or Method 320 of 40 CFR part 63, appendix A over the period of the initial performance test, according to the calculations in § 63.8595(g)(1), do not exceed 0.029 kg/Mg (0.057 lb/ton); or uncontrolled HF emissions measured using Method 26A of 40 CFR part 60, appendix A or Method 320 of 40 CFR part 63, appendix A over the period of the initial performance test are reduced by at least 90 percent, according to the calculations in § 63.8595(g)(2); and ii. You establish and have a record of the operating limits listed in Table 2 to this subpart over the 3-hour performance test during which HF emissions did not exceed 0.029 kg/Mg (0.057 lb/ton) or uncontrolled HF emissions were reduced by at least 90 percent.
	b. HCl emissions must not exceed 0.13 kg/Mg (0.26 lb/ton) of fired product; or uncontrolled HCl emissions must be reduced by at least 30 percent; and	i. The HCl emissions measured using Method 26A of 40 CFR part 60, appendix A or Method 320 of 40 CFR part 63, appendix A over the period of the initial performance test, according to the calculations in § 63.8595(g)(1), do not exceed 0.13 kg/Mg (0.26 lb/ton); or uncontrolled HCl emissions measured using Method 26A of 40 CFR part 60, appendix A or Method 320 of 40 CFR part 63, appendix A over the period of the initial performance test are reduced by at least 30 percent, according to the calculations in § 63.8595(g)(2); and ii. You establish and have a record of the operating limits listed in Table 2 to this subpart over the 3-hour performance test during which HCl emissions did not exceed 0.13 kg/Mg (0.26 lb/ton) or uncontrolled HCl emissions were reduced by at least 30 percent.
	c. PM emissions must not exceed 0.21 kg/Mg (0.42 lb/ton) of fired product.	i. The PM emissions measured using Method 5 of 40 CFR part 60, appendix A, over the period of the initial performance test, according to the calculations in § 63.8595(g)(1), do not exceed 0.21 kg/Mg (0.42 lb/ton); and ii. You establish and have a record of the operating limits listed in Table 2 to this supbart over the 3-hour performance test during which PM emissions did not exceed 0.21 kg/Mg (0.42 lb/ton).
2. New or reconstructed tunnel kiln with a design capacity equal to or greater than 10 tph of fired product.	a. HF emissions must not exceed 0.029 kg/Mg (0.057 lb/ton) of fired product; or uncontrolled HF emissions must be reduced by at least 90 percent; and	i. The HF emissions measured using Method 26A of 40 CFR part 60, appendix A or Method 320 of 40 CFR part 63, appendix A over the period of the initial performance test, according to the calculations in § 63.8595(g)(1), do not exceed 0.029 kg/Mg (0.057 lb/ton); or uncontrolled HF emissions measured using Method 26A of 40 CFR part 60, appendix A or Method 320 of 40 CFR part 63, appendix A over the period of the initial performance test are reduced by at least 90 percent, according to the calculations in § 63.8595(g)(2); and ii. You establish and have a record of the operating limits listed in Table 2 to this subpart over the 3-hour performance test during which HF emissions did not exceed 0.029 kg/Mg (0.057 lb/ton) or uncontrolled HF emissions were reduced by at least 90 percent.
	b. HCl emissions must not exceed 0.028 kg/Mg (0.056 lb.ton) of fired product; or uncontrolled HCl emissions must be reduced by at least 85 percent; and	i. The HCl emissions measured using Method 26A of 40 CFR part 60, appendix A or Method 320 of 40 CFR part 63, appendix A over the period of the initial performance test, according to the calculations in § 63.8595(g)(1), do not exceed 0.028 kg/Mg (0.056 lb/ton); or uncontrolled HCl emissions measured using Method 26A of 40 CFR part 60, appendix A or Method 320 of 40 CFR part 63, appendix A over the period of the initial performance test are reduced by at least 85 percent, according to the calculations in § 63.8595(g)(2); and ii. You establish and have a record of the operating limits listed in Table 2 to this subpart over the 3-hour performance test during which HCl emissions did not exceed 0.028 kg/Mg (0.056 lb/ton) or uncontrolled HCl emissions were reduced by at least 85 percent.
	c. PM emissions must not exceed 0.060 kg/Mg (0.12 lb/ton) of fired product.	i. The PM emissions measured using Method 5 of 40 CFR part 60, appendix A, over the period of the initial performance test, according to the calculations on § 63.8595(g)(1), do not exceed 0.060 kg/Mg (0.12 lb/ton); and ii. You establish and have a record of the operating limits listed in Table 2 to this subpart over the 3-hour performance test during which PM emissions did not exceed 0.060 kg/Mg (0.12 lb/ton).

TABLE 5 TO SUBPART KKKKK OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS AND WORK PRACTICE STANDARDS—Continued

For each . . .	For the following . . .	You have demonstrated initial compliance if . . .
3. Existing, new, or reconstructed periodic kiln, tunel kiln, or roller kiln; each tunnel kiln that would be considered reconstructed but for § 63.8540(f)(1); and each tunnel kiln that would be considered reconstructed but for § 63.8540(f)(2).	Minimize fuel-based HAP emissions.	You use natural gas, or equivalent, as the kiln fuel.

As stated in § 63.8620, you must demonstrate continuous compliance with each emission limit and operating limit that applies to you according to the following table:

TABLE 6 TO SUBPART KKKKK OF PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS AND WORK PRACTICE STANDARDS

For each . . .	For the following . . .	You must demonstrate continuous compliance by . . .
1. Kiln equipped with a DLA	a. Each emission limit in Table 1 to this subpart and each operating limit in Item 1 of Table 2 to this subpart for kilns equipped with a DLA.	i. Collecting the DLA pressure drop data according to § 63.8600(a); reducing the DLA pressure drop data to 3-hour block averages according to § 63.8600(a); maintaining the average pressure drop across the DLA for each 3-hour block period at or above the average pressure drop established during the performance test; and ii. Verifying that the limestone hopper and storage bin (located at the top of the DLA) contain adequate limestone by performing a daily visual check; and iii. Recording the limestone feeder setting daily to verify that the feeder setting is being maintained at or above the level established during the performance test; and iv. Using the same grade of limestone from the same source as was used during the performance test; maintaining records of the source and type of limestone; and v. Performing VE observations of the DLA stack at the frequency specified in § 63.8620(g) using Method 22 of 40 CFR part 60, appendix A; maintaining no VE from the DLA stack.
2. Kiln equipped with a DIFF or DLS/FF.	a. Each emission limit in Table 1 to this subpart and each operating limit in Item 2 of Table 2 to this subpart for kilns equipped with DIFF or DLS/FF.	i. If you use a bag leak detection system, initiating corrective action within 1 hour of a bag leak detection system alarm and completing corrective actions in accordance with your OM&M plan; operating and maintaining the fabric filter such that the alarm is not engaged for more than 5 percent of the total operating time in a 6-month block reporting period; in calculating this operating time fraction, if inspection of the fabric filter demonstrates that no corrective action is required, no alarm time is counted; if corrective action is required, each alarm is counted as a minimum of 1 hour; if you take longer than 1 hour to initiate corrective action, the alarm time is counted as the actual amount of time taken by you to initiate corrective action; or performing VE observations of the DIFF or DLS/FF stack at the frequency specified in § 63.8620(g) using Method 22 of 40 CFR part 60, appendix A; maintaining no VE from the DIFF or DLS/FF stack; and ii. Verifying that lime is free-flowing via a load cell, carrier gas/lime flow indicator, carrier gas pressure drop measurement system, or other system; recording all monitor or sensor output, and if lime is found not to be free flowing, promptly initiating and completing corrective actions in accordance with your OM&M plan; recording the feeder setting once each shift of operation to verify that the feeder setting is being maintained at or above the level established during the performance test.
3. Kiln equipped with a WS	a. Each emission limit in Table 1 to this subpart and each operating limit in Item 3 of Table 2 to this subpart for kilns equipped with WS.	i. Collecting the scrubber pressure drop data according to § 63.8600(a); reducing the scrubber pressure drop data to 3-hour block averages according to § 63.8600(a); maintaining the average scrubber pressure drop for each 3-hour block period at or above the average pressure drop established during the performance test; and ii. Collecting the scrubber liquid pH data according to § 63.8600(a); reducing the scrubber liquid pH data to 3-hour block averages according to § 63.8600(a); maintaining the average scrubber liquid pH for each 3-hour block period at or above the average scrubber liquid pH established during the performance test; and

TABLE 6 TO SUBPART KKKKK OF PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS AND WORK PRACTICE STANDARDS—Continued

For each . . .	For the following . . .	You must demonstrate continuous compliance by . . .
		iii. Collecting the scrubber liquid flow rate data according to §63.8600(a); reducing the scrubber liquid flow rate data to 3-hour block averages according to §63.8600(a); maintaining the average scrubber liquid flow rate for each 3-hour block period at or above the average scrubber liquid flow rate established during the performance test; and iv. If chemicals are added to the scrubber water, collecting the scrubber chemical feed rate data according to §63.8600(a); reducing the scrubber chemical feed rate data to 3-hour block averages according to §63.8600(a); maintaining the average scrubber chemical feed rate for each 3-hour block period at or above the average scrubber chemical feed rate established during the performance test.
4. Existing, new, or reconstructed periodic kiln, tunnel kiln, or roller kiln; each tunnel kiln that would be considered reconstructed but for §63.8540 (f)(1); and each tunnel kiln that would be considered reconstructed but for §63.8540(f)(2).	Minimize fuel-based HAP emissions.	i. Maintaining records documenting your use of natural gas, or an equivalent fuel, as the kiln fuel at all times except during periods of natural gas curtailment or supply interruption; and ii. If you intend to use an alternative fuel, submitting a notification of alternative fuel use within 48 hours of the declaration of a period of natural gas curtailment or supply interruption, as defined in §63.8665; and iii. Submitting a report of alternative fuel use within 10 working days after terminating the use of the alternative fuel, as specified in §63.8635(g).

As stated in §63.8635, you must submit each report that applies to you according to the following table:

TABLE 7 TO SUBPART KKKKK OF PART 63.—REQUIREMENTS FOR REPORTS

You must submit . . .	The report must contain . . .	You must submit the report . . .
1. A compliance report	a. If there are no deviations from any emission limitations or work practice standards that apply to you, a statement that there were no deviations from the emission limitations or work practice standards during the reporting period. If there were no periods during which the CMS was out-of-control as specified in your OM&M plan, a statement that there were no periods during which the CMS was out-of-control during the reporting period.	Semiannually according to the requirements in §63.8635(b).
	b. If you have a deviation from any emission limitation (emission limit, operating limit) during the reporting period, the report must contain the information in §63.8635(d) or (e). If there were periods during which the CMS was out-of-control, as specified in your OM&M plan, the report must contain the information in §63.8635(e).	Semiannually according to the requirements in §63.8635(b).
	c. If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information in §63.10(d)(5)(i).	Semiannually according to the requirements in §63.8635(b).
2. An immediate startup, shutdown, and malfunction report if you took actions during a startup, shutdown, or malfunction during the reporting period that are not consistent with your SSMP.	a. Actions taken for the event according to the requirements in §63.10(d)(5)(ii).	By fax or telephone within 2 working days after starting actions inconsistent with the plan.
	b. The information in §63.10(d)(5)(ii)	By letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority.
3. A report of alternative fuel use	The information in §63.8635(g)	If you are subject to the work practice standards specified in Table 3 to this subpart, and you use an alternative fuel to fire an affected kiln, by letter within 10 working days after terminating the use of the alternative fuel.

As stated in §63.8655, you must comply with the General Provisions in §§63.1 through 63.15 that apply to you according to the following table:

TABLE 8 TO SUBPART KKKKK OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART KKKKK

Citation	Subject	Brief description	Applies to subpart KKKKK
§ 63.1	Applicability	Initial applicability determination; applicability after standard established; permit requirements; extensions, notifications..	Yes.
§ 63.2	Definitions	Definitions for part 63 standards	Yes.
§ 63.3	Units and Abbreviations	Units and abbreviations for part 63 standards	Yes.
§ 63.4	Prohibited Activities	Compliance date; circumvention; severability	Yes.
§ 63.5	Construction/Reconstruction	Applicability; applications; approvals	Yes.
§ 63.6(a)	Applicability	General Provisions (GP) apply unless compliance extension; GP apply to area sources that become major.	Yes.
§ 63.6(b)(1)–(4)	Compliance Dates for New and Reconstructed Sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for section 112(f).	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes.
§ 63.6(b)(6)	[Reserved].		
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed area Sources That Become Major.	Area sources that become major must comply with major source standards immediately upon becoming major, regardless of whether required to comply when they were area sources.	Yes.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources	Comply according to date in subpart, which must be no later than 3 years after effective date; for section 112(f) standards, comply within 90 days of effective date unless compliance extension.	Yes.
§ 63.6(c)(3)–(4)	[Reserved].		
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources That Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (for example, 3 years).	Yes.
§ 63.6(d)	[Reserved].		
§ 63.6(e)(1)–(2)	Operation & Maintenance	Operate to minimize emissions at all times; correct malfunctions as soon as practicable; requirements independently enforceable; information Administrator will use to determine if operation and maintenance requirements were met.	Yes.
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction Plan (SSMP).	Requirement for startup, shutdown, and malfunction (SSM) and SSMP; content of SSMP.	Yes.
§ 63.6(f)(1)	Compliance Except During SSM	You must comply with emission standards at all times except during SSM.	Yes.
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes.
§ 63.6(g)	Alternative Standard	Procedures for getting an alternative standard	Yes.
§ 63.6(h)	Opacity/VE Standards	Requirements for opacity and VE standards	No, not applicable.
§ 63.6(i)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes.
§ 63.6(j)	Presidential Compliance Exemption	President may exempt source category	Yes.
§ 63.7(a)(1)–(2)	Performance Test Dates	Dates for conducting initial performance testing and other compliance demonstrations; must conduct 180 days after first subject to rule.	Yes.
§ 63.7(a)(3)	Section 114 Authority	Administrator may require a performance test under CAA section 114 at any time.	Yes.
§ 63.7(b)(1)	Notification of Performance Test	Must notify Administrator 60 days before the test.	Yes.
§ 63.7(b)(2)	Notification of Rescheduling	Must notify Administrator 5 days before scheduled date of rescheduled date.	Yes.
§ 63.7(c)	Quality Assurance (QA)/Test Plan	Requirements; test plan approval procedures; performance audit requirements; internal and external QA procedures for testing.	Yes.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests	Performance tests must be conducted under representative conditions.	No, § 63.8595 specifies requirements.
		Cannot conduct performance tests during SSM; not a violation to exceed standard during SSM.	Yes.

TABLE 8 TO SUBPART KKKKK OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART KKKKK—Continued

Citation	Subject	Brief description	Applies to subpart KKKKK
§ 63.7(e)(2)–(3)	Conditions for Conducting Performance Tests	Must conduct according to subpart and EPA test methods unless Administrator approves alternative; must have at least three test runs of at least 1 hour each; compliance is based on arithmetic mean of three runs; conditions when data from an additional test run can be used.	Yes.
§ 63.7(f)	Alternative Test Method	Procedures by which Administrator can grant approval to use an alternative test method.	Yes.
§ 63.7(g)	Performance Test Data Analysis	Must include raw data in performance test report; must submit performance test data 60 days after end of test with the notification of compliance status.	Yes.
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test.	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements	Subject to all monitoring requirements in subpart	Yes.
§ 63.8(a)(2)	Performance Specifications	Performance Specifications in appendix B of 40 CFR part 60 apply.	Yes.
§ 63.8(a)(3)	[Reserved].		
§ 63.8(a)(4)	Monitoring with Flares	Requirements for flares in § 63.11 apply	No, not applicable.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes.
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing and reporting on monitoring systems.	Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance	Maintenance consistent with good air pollution control practices.	Yes.
§ 63.8(c)(1)(i)	Routine and Predictable SSM	Reporting requirements for SSM when action is described in SSMP.	Yes.
§ 63.8(c)(1)(ii)	SSM not in SSMP	Reporting requirements for SSM when action is not described in SSMP.	Yes.
§ 63.8(c)(1)(iii)	Compliance with Operation and Maintenance Requirements.	How Administrator determines if source complying with operation and maintenance requirements.	Yes.
§ 63.8(c)(2)–(3)	Monitoring System Installation	Must install to get representative emission and parameter measurements.	Yes.
§ 63.8(c)(4)	CMS Requirements	Requirements for CMS	No, §§ 63.8575 and 63.8615 specify requirements.
§ 63.8(c)(5)	Continuous Opacity Monitoring System (COMS) Minimum Procedures.	COMS minimum procedures	No, not applicable.
§ 63.8(c)(6)	CMS Requirements	Zero and high level calibration check requirements.	No, § 63.8575 specifies requirements.
§ 63.8(c)(7)–(8)	CMS Requirements	Out-of-control periods	No, § 63.8575 specifies requirements.
§ 63.8(d)	CMS Quality Control	Requirements for CMS quality control	No, § 63.8575 specifies requirements.
§ 63.8(e)	CMS Performance Evaluation	Requirements for CMS performance evaluation	No, § 63.8575 specifies requirements.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method	Procedures for Administrator to approve alternative monitoring.	Yes.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	Procedures for Administrator to approve alternative relative accuracy test for continuous emission monitoring systems (CEMS).	No, not applicable.
§ 63.8(g)	Data Reduction	COMS and CEMS data reduction requirements	No, not applicable.
§ 63.9(a)	Notification Requirements	Applicability; State delegation	Yes.
§ 63.9(b)	Initial Notifications	Requirements for initial notifications	Yes.
§ 63.9(c)	Request for Compliance Extension	Can request if cannot comply by date or if installed BACT/LAER.	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes.
§ 63.9(e)	Notification of Performance Test	Notify Administrator 60 days prior	Yes.
§ 63.9(f)	Notification of VE/Opacity Test	Notify Administrator 30 days prior	No, not applicable.
§ 63.9(g)(1)	Additional Notifications When Using CMS	Notification of performance evaluation	Yes.
§ 63.9(g)(2)–(3)	Additional Notifications When Using CMS	Notification of COMS data use; notification that relative accuracy alternative criterion were exceeded..	No, not applicable.

TABLE 8 TO SUBPART KKKKK OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART KKKKK—Continued

Citation	Subject	Brief description	Applies to subpart KKKKK
§ 63.9(h)	Notification of Compliance Status	Contents; submittal requirements	Yes.
§ 63.9(i)	Adjustment of Submittal Deadlines	Procedures for Administrator to approve change in when notifications must be submitted.	Yes.
§ 63.9(j)	Change in Previous Information	Must submit within 15 days after the change	Yes.
§ 63.10(a)	Recordkeeping/Reporting	Applicability; general information	Yes.
§ 63.10(b)(1)	General Recordkeeping Requirements	General requirements	Yes.
§ 63.10(b)(2)(i)–(v)	Records Related to SSM	Requirements for SSM records	Yes.
§ 63.10(b)(2)(vi)–(xii) and (xiv).	CMS Records	Records when CMS is malfunctioning, inoperative or out-of-control.	Yes.
§ 63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test.	No, not applicable.
§ 63.10(b)(3)	Records	Applicability Determinations	Yes.
§ 63.10(c)(1)–(15)	Records	Additional records for CMS	No, §§ 63.8575 and 63.8640 specify requirements.
§ 63.10(d)(1) and (2)	General Reporting Requirements	Requirements for reporting; performance test results reporting.	Yes.
§ 63.10(d)(3)	Reporting Opacity or VE Observations	Requirements for reporting opacity and VE	No, not applicable.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes.
§ 63.10(d)(5)	SSM Reports	Contents and submission	Yes.
§ 63.10(e)(1)–(3)	Additional CMS Reports	Requirements for CMS reporting	No, §§ 63.8575 and 63.8635 specify requirements.
§ 63.10(e)(4)	Reporting COMS data	Requirements for reporting COMS data with performance test data.	No, not applicable.
§ 63.10(f)	Waiver for Recordkeeping/Reporting	Procedures for Administrator to waive	Yes.
§ 63.11	Flares	Requirement for flares	No, not applicable.
§ 63.12	Delegation	State authority to enforce standards	Yes.
§ 63.13	Addresses	Addresses for reports, notifications, requests	Yes.
§ 63.14	Incorporation by Reference	Materials incorporated by reference	Yes.
§ 63.15	Availability of Information	Information availability; confidential information	Yes.

[FR Doc. 03–5739 Filed 5–15–03; 8:45 am]

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Federal Register

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May 20, 2003

Part II

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR 2002–0083; FRL–7460–2]

RIN 2060–AE48

National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for integrated iron and steel manufacturing facilities. The final standards establish emission limitations for hazardous air pollutants (HAP) emitted from new and existing sinter plants, blast furnaces, and basic oxygen process furnace (BOPF) shops. The final standards will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting application of the maximum achievable control technology (MACT).

The HAP emitted by integrated iron and steel manufacturing facilities include metals (primarily manganese and lead with small quantities of other metals) and trace amounts of organic HAP (such as polycyclic organic matter, benzene, and carbon disulfide). Exposure to these substances has been demonstrated to cause adverse health effects, including chronic and acute disorders of the blood, heart, kidneys, reproductive system, and central nervous system.

EFFECTIVE DATE: May 20, 2003. The incorporation by reference of certain publications listed in the final rule is approved by the Director of the Federal Register as of May 20, 2003.

ADDRESSES: *Docket.* The official public docket is the collection of materials used in developing the final rule and is available for public viewing at the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Phil Mulrine, Metals Group (C439–02), Emission Standards Division, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–5289, electronic mail (e-mail) address, *mulrine.phil@epa.gov.*

SUPPLEMENTARY INFORMATION:

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

Category	NAICS code*	Example of regulated entities
Industry	331111	Integrated iron and steel mills, steel companies, sinter plants, blast furnaces, BOPF shops.
Federal government	.....	Not affected.
State/local/tribal government	.....	Not affected.

*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 facility is regulated by this action, you should examine the applicability criteria in § 63.7781 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. *Docket.* The EPA has established an official public docket for this action under Docket ID No. OAR–2002–0083. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center 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 Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742. *Electronic Docket Access.* You may access the final rule electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility in the above paragraph entitled "Docket." Once in the system, select "search," then key in the appropriate docket identification number. *Worldwide Web (WWW).* In addition to being available in the docket, an electronic copy of the final rule will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the final rule will be placed 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. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Judicial Review. This action constitutes final administrative action on the proposed NESHAP for integrated iron and steel manufacturing facilities (66 FR 36836, July 13, 2001). Under CAA section 307(b)(1), judicial review of the final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by July 21, 2003. Under CAA section 307(b)(2), the requirements that are the subject of this document may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

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

I. Background
II. Summary of Final Rule
A. Who must comply with the final rule?
B. What are the affected sources and emission points?
C. What are the emission limitations?
D. What are the operation and maintenance requirements?
E. What are the general compliance requirements?
F. What are the initial compliance requirements?
G. What are the continuous compliance requirements?

H. What are the notification, recordkeeping, and reporting requirements?
I. What are the compliance deadlines?
III. Summary of Responses to Major Comments
A. How did we develop the MACT floors?
B. What surrogates did we use for HAP?
C. Is a risk analysis warranted?
D. How did we revise the emission limitations?
E. How did we revise the performance test requirements?
F. How did we revise the cost estimates and economic analysis?
IV. Summary of Environmental, Energy, and Economic Impacts
A. What are the air emission impacts?
B. What are the cost impacts?
C. What are the economic impacts?
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V. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
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F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045: Protection of Children from Environmental Health & Safety Risks
H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer Advancement Act
J. Congressional Review Act

I. Background

Section 112(d) of the CAA requires us (the EPA) to establish national emission standards for all categories and subcategories of major sources of HAP and for area sources listed for regulation under section 112(c). Major sources are those that emit or have the potential to emit at least 10 tons per year (tpy) of any single HAP or 25 tpy of any combination of HAP. Area sources are stationary sources of HAP that are not major sources. Additional information on the NESHAP development process can be found in the preamble to the proposed rule (66 FR 36836).

We received a total of 16 comment letters on the proposed NESHAP from industry and trade association representatives, State agencies, industry experts, environmental groups, universities, and private citizens. We offered to provide interested individuals the opportunity for oral presentations of data, views, or arguments concerning the proposed rule, but a public hearing was not requested.

Today's final rule reflects our full consideration of all the comments we received. Major public comments on the proposed rule along with our responses to these comments are summarized in section III of this document. A detailed response to all the comments is included in the Background Information Document (BID) for the Promulgated Standards (Docket ID No. OAR–2002–0083).

II. Summary of Final Rule

A. Who Must Comply With the Final Rule?

Each owner or operator of an affected source at an integrated iron and steel manufacturing facility that is (or is part of) a major source of HAP emissions must comply with the final rule.

B. What Are the Affected Sources and Emission Points?

The affected sources are each new or existing sinter plant, blast furnace, and BOPF shop at an integrated iron and steel manufacturing facility that is (or is part of) a major source of HAP emissions. Emission limitations apply to the sinter plant windbox exhaust, discharge end, and sinter cooler; the blast furnace casthouse; and the BOPF shop including each furnace and ancillary operations (hot metal transfer, hot metal desulfurization, slag skimming, and ladle metallurgy). These processes, as well as their emissions and controls, are described in the preamble to the proposed rule (66 FR 36838–36839).

C. What Are the Emission Limitations?

The final rule includes particulate matter (PM) emission limits and opacity limits as well as operating limits for capture systems and control devices. An operating limit also applies either to the oil content of the sinter plant feedstock or to the volatile organic compound (VOC) emissions from the sinter plant windbox exhaust stream. Particulate matter and opacity serve as surrogate measures of HAP emissions.

1. Sinter Plants

The PM emission limits for a windbox exhaust stream are 0.4 pounds per ton (lb/ton) of product sinter for an existing sinter plant and 0.3 lb/ton for a new sinter plant. The final rule limits PM emissions from a discharge end to 0.02 grains per dry standard cubic foot (gr/dscf) for an existing plant and 0.01 gr/dscf for a new plant. The discharge end PM limits are a flow-weighted average when multiple control devices are operated in parallel. A 20 percent opacity limit applies to fugitive emissions from a discharge end at an existing sinter plant; a 10 percent opacity limit applies to a new sinter plant (both are 6-minute averages). The PM emission limits for sinter cooler stacks are 0.03 gr/dscf for an existing plant and 0.01 gr/dscf for a new plant. If the sinter cooler is vented to the same control device as the discharge end, the PM limit is 0.02 gr/dscf for an existing plant and 0.01 gr/dscf for a new plant.

2. Blast Furnaces

The PM emission limits for a control device applied to emissions from a casthouse are 0.01 gr/dscf for an existing blast furnace and 0.003 gr/dscf for a new blast furnace. The opacity limits for fugitive emissions from a casthouse are 20 percent for an existing blast furnace and 15 percent for a new blast furnace (both are 6-minute averages).

3. BOPF Shops

For primary emissions from BOPF, different PM emission limits apply based on the type of hood system (closed or open). For BOPF with closed hood systems at a new or existing BOPF shop, the PM emission limit is 0.03 gr/dscf, and it only applies during periods of primary oxygen blow. The primary oxygen blow is the period in which oxygen is initially blown into the furnace and does not include any subsequent reblows. For BOPF with open hood systems, the PM emission limits are 0.02 gr/dscf for an existing BOPF shop and 0.01 gr/dscf for a new BOPF shop. These emission limits apply during all periods of the steel production cycle. The steel production cycle begins when the furnace is first charged with scrap and ends 3 minutes after slag is removed. The BOPF limits are a flow-weighted average when multiple control devices are operated in parallel.

The PM emission limits for a control device applied solely to secondary emissions from a BOPF are 0.01 gr/dscf for an existing BOPF shop and 0.0052 gr/dscf for a new BOPF shop. Secondary emissions are those not controlled by the primary emission control system, including emissions that escape from open and closed hoods and openings in the ductwork to the primary control system.

For the BOPF shop, the PM emission limit for a control device applied to emissions from ancillary operations (hot metal transfer, skimming, and desulfurization) is 0.01 gr/dscf for an existing BOPF shop and 0.003 for a new BOPF shop. The PM emission limits for ladle metallurgy operations are 0.01 gr/dscf for an existing BOPF shop and 0.004 gr/dscf for a new BOPF shop.

For the BOPF roof monitor, a 20 percent opacity limit applies to fugitive emissions from the BOPF or BOPF shop operations in an existing BOPF shop. This opacity limit is based on 3-minute

averages. For a new BOPF shop housing a bottom-blown furnace, a 10 percent opacity limit applies (6-minute average) except that one 6-minute period not to exceed 20 percent may occur once during each steel production cycle. For a new BOPF shop housing a top-blown furnace, a 10 percent opacity limit applies (3-minute average) except that one 3-minute period greater than 10 percent but less than 20 percent may occur once during each steel production cycle.

4. Capture Systems

We revised the requirements for capture systems to allow plants to choose operating parameters appropriate for assessing capture system performance, establish the values or settings for the parameters, and designate monitoring requirements. At a minimum, the limits must indicate the level of the ventilation draft and damper position settings. Plants must include information to support their selected parameter(s) in their operation and maintenance plan (including other process configurations that may be used) and certify in their performance test report that during the tests, the capture system operated at the limit(s) established in their plan.

5. Operating Limits

For bag leak detection systems, we require that corrective actions be initiated within 1 hour of a bag leak detection system alarm. For a venturi scrubber, the hourly average pressure drop and scrubber water flow rate must remain at or above the level established during the initial performance test. Plants using an electrostatic precipitator (ESP) must install and operate a continuous opacity monitoring system (COMS) according to Performance Specification 1 in 40 CFR part 60, appendix B. The average opacity for each 6-minute period must remain at or below the site-specific limit. The final rule uses a statistical approach, requiring that the limit be based on the COMS average corresponding to the 99 percent upper confidence limit on the mean of a normal distribution of average opacity values established during the initial performance test. Plants must submit information on monitoring parameters if another type of control device is used.

The final rule requires sinter plants to maintain the oil content of the feedstock at or below 0.02 percent. This limit is based on a 30-day rolling average. We are including an alternative VOC limit of 0.2 pound of VOC per ton (lb/ton) of sinter produced. This limit is also based on a 30-day rolling average.

D. What Are the Operation and Maintenance Requirements?

All plants subject to the final rule must prepare and implement a written startup, shutdown, and malfunction plan according to the requirements in 40 CFR 63.6(e). A written operation and maintenance plan is also required for capture systems and control devices subject to an operating limit. This plan must describe procedures for monthly inspections of capture systems, preventative maintenance requirements for control devices, and corrective action requirements for baghouses. To avoid potential implementation issues, we have added specific descriptions of the equipment to be inspected and a requirement to correct any deficiency or defect as soon as practicable. In the event of a bag leak detection system alarm, the plan must include specific requirements for initiating corrective action to determine the cause of the problem within 1 hour, initiating corrective action to fix the problem within 24 hours, and completing all corrective actions needed to fix the problem as soon as practicable. If applicable, the plan also must include procedures for determining and recording the sinter plant production rate.

E. What Are the General Compliance Requirements?

The final rule requires compliance with the emission limitations and operation and maintenance requirements at all times, except during periods of startup, shutdown, and malfunction as defined in 40 CFR 63.2. The owner or operator must develop and implement a written startup, shutdown, and malfunction plan according to the requirements in 40 CFR 63.6(e)(3).

The final rule also requires keeping a log detailing the operation and maintenance of the process and emission control equipment. This requirement applies during the period between the compliance date and the date that continuous monitoring systems are installed and any operating limits set.

F. What Are the Initial Compliance Requirements?

The final rule requires performance tests to demonstrate that each affected source meets all applicable emission and opacity limits. The final rule allows the owner or operator to conduct representative sampling of stacks where there are more than three stacks associated with a process (subject to approval by the permitting authority). The PM concentration (front-half filterable catch only) is to be measured using EPA Method 5, 5D, or 17 in 40 CFR part 60, appendix A. The EPA Method 9 in 40 CFR part 60, appendix A, is required for determining the opacity of emissions, with instructions for computing 6-minute and 3-minute block averages.

The final rule also includes procedures for establishing site-specific operating limits for control devices during the performance test. We have also included procedures to be followed during opacity tests to ensure capture systems operate at the limits established in the operation and maintenance plan.

The final rule requires a performance test to demonstrate initial compliance with the operating limit for the oil content of the sinter plant feedstock using OSW 846 Method 9071B (Revision 2, April 1998). Plants must sample for 30 consecutive days and compute the 30-day rolling average for each operating day. Plants electing the alternative operating limit must conduct a performance test by sampling VOC emissions and analyzing the samples according to EPA Method 25 in 40 CFR part 60, appendix A. Plants may use an alternative method that has been previously approved by the permitting authority in lieu of OSW 846 Method 9071B for oil content or EPA Method 25 for VOC emissions.

To demonstrate initial compliance with the operation and maintenance requirements, owners or operators must prepare the operation and maintenance plan, certify in the performance test report that capture systems operated at the limits established in the operation and maintenance plan, and submit their notification of compliance status. In the notification of compliance status, the owner or operator must certify that the capture systems will be operated at the limits established in the plan.

G. What Are the Continuous Compliance Requirements?

Plant owners or operators must conduct PM and opacity performance tests at least twice during each title V operating permit term (at midterm and renewal). Owners or operators also must monitor operating parameters for capture systems and control devices subject to operating limits, and carry out the procedures in their operation and maintenance plan.

To demonstrate continuous compliance with the operating limit for the oil content of sinter plant feedstock, owners or operators must determine the oil content every 24 hours (from the composite of at least three samples taken at 8-hour intervals) and compute

and record the 30-day rolling average percent oil content of sinter feed for each operating day. Plants electing the alternative limit must determine VOC emissions every 24 hours (from at least three samples taken at 8-hour intervals) and compute and record the 30-day rolling average emissions (in lb/ton of sinter) for each operating day.

The final rule requires a continuous parameter monitoring system (CPMS) to measure and record operating parameters for capture systems subject to an operating limit. Dampers that are manually set and remain in the same position are exempt from the CPMS requirement. For dampers that are not manually set and remain in the same position, the final rule requires a daily visual check (every 24 hours) to verify they are in the correct positions.

For baghouses, owners or operators are required to monitor the relative change in PM loading using a bag leak detection system and make inspections at specified intervals. The bag leak detection system must be installed and operated according to the EPA guidance document "Fabric Filter Bag Leak Detection Guidance," EPA 454/R–98–015, September 1997. The document is available on the TTN at *http://www.epa.gov/ttnemc01/cem/tribo.pdf*. If the system does not work based on the triboelectric effect, it must be installed and operated consistent with the manufacturer's written specifications and recommendations. The basic inspection requirements include daily, weekly, monthly, or quarterly inspections of specified parameters or mechanisms with monitoring of bag cleaning cycles by an appropriate method. To demonstrate continuous compliance, the final rule requires records documenting conformance with the operation and maintenance plan, as well as the inspection and maintenance procedures.

For venturi scrubbers, owners or operators must use CPMS to measure and record the hourly average pressure drop and scrubber water flow rate. For ESP, owners or operators must use COMS to measure and record the average opacity of emissions exiting each stack of the control device for each 6-minute period. Owners or operators must operate and maintain the COMS according to the requirements in 40 CFR 63.8 and Performance Specification 1 in 40 CFR part 60, appendix B. These requirements include a quality control program including a daily calibration drift assessment, quarterly performance audit, and annual zero alignment.

The final rule requires owners or operators to prepare a site-specific monitoring plan for CPMS that addresses installation, performance, operation and maintenance, quality assurance, and recordkeeping and reporting procedures. These requirements replace the more detailed performance specifications contained in the proposed rule.

To demonstrate continuous compliance, owners or operators must keep records documenting compliance with the monitoring requirements (including installation, operation, and maintenance requirements for monitoring systems) and the operation and maintenance plan.

H. What Are the Notification, Recordkeeping, and Reporting Requirements?

The notification, recordkeeping, and reporting requirements are based on the NESHAP General Provisions in 40 CFR part 63, subpart A. Table 4 to subpart FFFFF lists each of the requirements in the General Provisions (§§ 63.2 through 63.15) with an indication of whether they apply.

The plant owner or operator must submit each initial notification required in the NESHAP General Provisions that applies to their facility. These include an initial notification of applicability with general information about the facility and notifications of performance tests, performance evaluations, and compliance status.

Owners or operators are required to maintain the records required by the NESHAP General Provisions that are needed to document compliance, such as performance test results; copies of startup, shutdown, and malfunction plans and associated corrective action records; monitoring data; and inspection records. Except for the operation and maintenance plan for capture systems and control devices, all records must be kept for a total of 5 years, with the records from the most recent 2 years kept onsite. The final rule requires that the operation and maintenance plan for capture systems and control devices subject to an operating limit be kept onsite and available for inspection upon request for the life of the affected source or until the affected source is no longer subject to the final rule requirements.

We clarified the recordkeeping requirements required to demonstrate compliance with the operating limit for sinter plants. The final rule requires records of the sampling date and time, sampling values (oil content or VOC measurements), sinter produced (tons/day), and the 30-day rolling average for each operating day.

Semiannual reports are required for any deviation from an emission limitation (including an operating limit) or operation and maintenance requirement. Each report is due no later than 30 days after the end of the reporting period. If no deviation occurs, only a summary report is required. If a deviation does occur, more detailed information is required.

An immediate report is required if actions taken during a startup, shutdown, or malfunction are not consistent with the startup, shutdown, and malfunction plan. Deviations that occur during a period of startup, shutdown, or malfunction are not violations if the owner or operator demonstrates to the authority with delegation for enforcement that the source was operating in accordance with the startup, shutdown, and malfunction plan.

I. What Are the Compliance Deadlines?

The owner or operator of an existing affected source must comply by May 22, 2006. An existing affected source is one constructed or reconstructed before July 13, 2001. We changed the compliance date for existing affected sources from 2 years to 3 years after the effective date because some plants must install new capture and control systems and perform significant upgrades of primary emission control systems.

In the final rule, we have corrected a printing error that incorrectly listed the date defining a new affected source as July 23, 2001. A new affected source is one constructed or reconstructed on or after July 13, 2001. New or reconstructed sources that startup on or before the effective date of today's final rule must comply by May 20, 2003. New or reconstructed sources that startup after the effective date of the final rule must comply upon initial startup.

III. Summary of Responses to Major Comments

A. How Did We Develop the MACT Floors?

We stated in the proposal preamble that we may take alternative approaches to establish a MACT floor, depending on the type, quality, and applicability of available data. The three approaches most commonly used involve: (1) Reliance on State regulations or permit limits in conjunction with emission test data; (2) use of emissions test data alone to estimate actual emissions; and (3) use of control technology information in conjunction with emission test data to estimate actual emissions performance. In practice, regardless of what approach we select, we attempt to ensure that our emissions performance estimates reasonably characterize the level of performance that the relevant sources

consistently achieve, considering normal operational variability.

Comment. One commenter contends that EPA may use State regulations or permit limits to set floors only to the extent that such regulations and limits provide a demonstrably accurate picture of the relevant best source's actual performance. The commenter also states that EPA may only use the performance of a chosen floor technology to set floors if such technology is the only factor influencing the relevant best sources' actual performance. In addition, the floor must reflect actual performance, not what EPA thinks is achievable with a particular technology. The commenter concludes that all of EPA's floors suffer from the same basic defect in that ". . . they do not represent the actual performance of the relevant best sources."

Response. While EPA may use any reasonable approach to estimate the emissions control achieved in practice by the best-controlled similar source and the average emissions limitation achieved by the best-performing 12 percent of units in a category (or best 5 units for categories of less that 30 sources), we generally agree with the commenter that it is preferable to use actual performance test data to determine the MACT floor when there are adequate such data available to reasonably characterize the level of performance of the relevant sources. Our approach to identifying the MACT floors and establishing emission limits for the various emission points at integrated iron and steel facilities is consistent with this preference. Nonetheless, we did use State regulations and permit limits in some instances to help us estimate the MACT floor level of performance for certain emission points for which we have limited emission test data. However, in each case where we used such information, we also evaluated the available emission test data and other factors (such as type of control technology and the design parameters that affect performance) to confirm that the State limits reasonably reflect the actual performance of the best units.

In those instances where we had a sufficient quantity of emission test data to reasonably estimate the performance of the relevant best units, we applied a statistical approach to confirm and refine the emission estimates from proposal. This process involved application of a statistical approach to determine the average emission limitation achieved and account for normal operational variability. As described below, this approach ensures that the emissions estimates used to identify the MACT floors reasonably reflect the level of control that is actually achieved by the relevant units over time, and under the most adverse foreseeable circumstances. (The full supplemental analysis is documented in the docket.) We had adequate test data to apply this approach to the emission limits for the sinter plant windboxes, casthouse control devices, primary control systems on open and closed hood BOPF, and control devices applied to hot metal transfer, desulfurization, and ladle metallurgy.

For each of these emission points we confirmed and refined our earlier estimates of the performance of the relevant best-performing units used to identify the MACT floors. At proposal, we estimated the performance of the best-controlled sources by identifying the best control technology that had been demonstrated for each source. We then evaluated the available data for sources using the best control technology and established emission limits for new and existing sources based on the level of control that sources with the technology had achieved.

Conceptually, our approach to estimating the performance of the best-controlled units is relatively straightforward. While we believe each emissions source test gives a good indication of the level of control achieved by the control device during the time of the emissions test, we do not believe a single emissions source test can be used as an estimate of the long term emissions performance achieved by that source. Normal variations in process and control device performance and other factors, such as the inherent imprecision of sampling and analysis, which cannot be controlled, will result in variability in the performance of every source over time, including the best-performing sources. We believe that the MACT floor performance level must reasonably account for the ordinary variability in the performance of the best-controlled sources over time and under the most adverse circumstances which can reasonably be expected to occur. As such, the MACT floor performance limit must include a consideration for the variability inherent in the process operations and the control device performance.

For today's final rule, when emissions source test data were available, we used a statistical method to confirm and refine the emission estimates used at proposal to identify the MACT floors for the relevant units. For each case where emissions source test data were available, we estimated the emissions limitation achieved for each source at the 95th percentile using the one-sided z-statistic test (*i.e.*, the emission limitation which the emission point is estimated to be able to achieve 95 percent of the time). Assuming a normal distribution, the 95th percentile is 1.645 standard deviations above the mean. We chose the median of the 95th percentiles of the top-performing sources as the MACT floor. We used the median as the most representative estimate of the average emission limitation achieved by the best-performing five sources because the median points to the performance of an actual unit, with a specific combination of process operations and control device performance.

We evaluated several options to estimate the standard deviation that is needed to perform the analysis. We decided not to estimate the standard deviation for each source based on the available emissions data for just that one source since we have only three data points for most sources to use in estimating the standard deviation-one data point for each run in a three run emissions source test. Instead, we calculated a relative standard deviation (RSD) for each test and then averaged the RSD to provide our best estimate of the variability of the test data. The RSD is the standard deviation divided by the mean. The RSD provides a way to estimate the standard deviation for different values of the mean when there are too few data points to calculate the standard deviation directly. We believe this method adequately accounts for the normal variability in emissions source test data and provides a reasonable estimate of the long term emissions limitation achieved.

For new sources, the MACT floor is the emissions control that is achieved in practice by the best-controlled similar source. In order to confirm and refine our emissions estimates for new sources, we identified the best-controlled source based on test data and applied the same statistical techniques to determine the emission limitation achieved in practice for new sources. We calculated the upper 95th percentile of performance for the best-controlled source, and we chose this value as the emission limitation that can be achieved by new sources.

We believe the statistical technique used to account for general variability is appropriate and reasonable. However, we also recognize that some of the empirical test data may imply a level of accuracy that is not present throughout the entire data set. As a result, we have some reservations about identifying a MACT floor with a level of accuracy that is not warranted by the underlying data. Accordingly, we have concluded

that it is appropriate in some instances to round the results to two decimal places. This approach encompasses the specific statistically-derived numbers, while acknowledging that there is some residual uncertainty about the representativeness of the data. Thus, while we believe generally that our use of the 95th percentile adequately identifies the range of actual performance of individual facilities, our rounding approach should alleviate any concerns regarding whether the statistics sufficiently capture the full range of ordinary performance of the best-performing units over time and under the most adverse circumstances that can be reasonably expected to occur.

Changes resulting from rounding will have no practical effect on how industry responds to the emission limitations. That is, the control technology needed is exactly the same and the equipment must be operated in the same manner regardless of whether the numbers are rounded or not. A properly designed and operated control device will still be required to meet the rounded emission limit. Today's final rule has provisions for operating parameters and operation and maintenance plans to ensure proper operation. Thus, other than serving to better reflect uncertainties in the underlying data, the rounding has no practical impact on the stringency of the requirements.

Additional information on the statistical analysis used to confirm and refine our emissions estimates, including the data used and the complete ranking of sources, is available in the docket.

The objective of both the MACT floor methodology used at proposal, and the methodology used here to confirm and refine the proposed estimates of performance, is exactly the same. For each relevant operation at integrated iron and steel facilities, both approaches expressly are intended to provide a quantified estimate of the emission performance of the best-controlled similar source, or of the average emission limitation achieved by the relevant best-performing sources in the category, taking into consideration the ordinary and unavoidable variations in process operations and performance of the emissions control equipment.

Moreover, the conclusions growing from the supplemental statistical analysis, regarding the levels of performance that reflect the MACT floor for both new and existing units, in large measure simply confirm that the analysis underlying the proposal provided a reasonable estimation of performance.

Indeed, none of the refinements to our performance estimates will have any practical effect on how industry responds to the emission limitations. As is the case with our decision to round the emission estimates, any changes in the emission limitations in the final rule will require the same control technology as would have been needed to meet the proposed limits, and the control equipment will need to be operated in the same manner as would have been the case with the proposed emission limitations.

For three emission points (sinter cooler, sinter plant discharge end, and control devices for BOPF fugitive emissions), we had only one or two test results. Consequently, we did not have an adequate set of emissions test data to directly estimate the actual performance of the top-performing sources. Consequently, we developed the floors for these three emission points based on the facilities subject to the most stringent State regulations or permit limits, and we used the available emissions information (emissions data and a characterization of the operational processes and emissions controls) to confirm that the identified State limits reasonably reflect the actual performance of the relevant best-performing units. That is, the best units are able to achieve the required State limits but are not consistently achieving a level of emissions performance that is more stringent than the State limits. The EPA may use State limits as long as we demonstrate that such limits provide a reasonable estimate of the actual performance of the best-performing sources.

For floors based on State opacity regulations that limit fugitive emissions, we collected additional data and found that sources are achieving a level of performance that is within the current limits, but they are not consistently achieving a level of control more stringent than the identified State limits. Consequently, we believe these State limits provide an accurate picture of the best sources' actual performance considering inherent and unavoidable variability. We used this approach to develop the MACT floor for opacity from the sinter plant discharge end, blast furnace casthouse, and BOPF shop.

We provide additional rationale in the following sections where we discuss in detail the development of the MACT floors for each emission point.

1. Sinter Plant Windbox Exhaust

Comment. One commenter stated that EPA proposed an emission limitation of 0.3 lb/ton of PM based on the performance of either a baghouse or scrubber. According to the commenter, EPA's floor does not reflect the actual performance of the relevant best sources—the average emission limitation achieved by the top five sources. As shown in the BID, the average emission limitation achieved by the best-performing five sources is 0.079 pound per ton (lb/ton), not the proposed limit of 0.3 lb/ton. Second, floor reflects what EPA believed to be achievable with the control technologies and not the actual performance of the relevant best sources. Third, EPA admits that several factors other than the performance of the technologies influence emissions.

Response. As we documented in appendix B of the BID, the floor for sinter plant windboxes was based on actual source test data and the five best-performing sources. We collected test data and verified that EPA Method 5 (40 CFR part 60, appendix A) was used. We ranked the results (in lb/ton of sinter) and calculated the average of the five best-performing sources (0.3 lb/ton). Contrary to the commenter's assertion, we did not rely on control technology to identify the best-performing units or to estimate the performance of the best units. In this particular case, we had adequate test data to directly estimate the average emission limitation achieved by the five best-performing sources.

The calculation performed by the commenter is inappropriate and does not provide an accurate estimate of the emission limitation achieved by the plants. The commenter misinterpreted the information in the BID, which is not source test data, but is simply a best estimate of annual average emissions based on approximate emissions factors and the assumption that all plants operate continuously at their design capacity. Such an estimate cannot be used to represent actual performance in a MACT floor calculation.

After proposal, we reviewed our approach for developing the MACT floor and concluded that our original analysis did not sufficiently account for the normal and unavoidable variability inherent in the process operations and emission control equipment (as demonstrated by the emission test data). The average performance of the five best-performing sinter plants ranged from 0.26 to 0.32 lb/ton of sinter. To account for inherent variability, we applied the z-statistic to estimate the 95th percentile of a normal distribution for each source. The median of the 95th percentiles of the five best-performing sources is 0.4 lb/ton, which we chose to represent the MACT floor. This level of performance reasonably reflects the

average emission limitation achieved by the five best-performing sources considering inherent variability. The best-controlled source averaged 0.26 lb/ton with a 95th percentile of 0.3 lb/ton, which represents the MACT floor for new sources.

2. Sinter Plant Limit on Oil Content

Comment. Two commenters stated that the proposed limit on oil content of 0.025 percent was based on the highest oil percentage of any of the four plants for which EPA had oil percentage data. They claim this is not a valid approach because it does not represent the actual performance of the relevant best sources. One commenter recommended that EPA consider beyond-the-floor technologies for dioxin emissions, such as elimination of rolling mill scale from sinter feed, de-greasing of sinter plant feed, quality control of water used in sinter plant feed preparation, and use of low-organic waterborne rolling mill lubricants.

Response. Our research indicates that emissions of organic compounds from sinter plant windboxes are controlled by limiting the amount of oil in the sinter feed. Emission control devices applied to sinter plants are designed primarily for the removal of PM and not for the various organic compounds that are formed from the oil. We believe that oil content is the most significant factor affecting organic compound HAP emissions. Consequently, we identified the MACT floor for organic HAP emissions from sinter plants based on the level of oil content that we observed for the sinter plants with the best programs to control oil in the sinter feed.

We obtained data from four sinter plants that have implemented a program to control the oil content of the sinter feed. We then examined the data and evaluated the variability to determine the level of control that has been achieved. The average results for oil content for each plant ranged from 0.014 to 0.025 percent. These are the best-performing plants because they were the only ones that routinely sample for oil content. We applied the z-statistic and estimated the 95th percentile for each plant. (The statistical analysis considered that the limit is based on a 30-day rolling average, which reduces the inherent variability as indicated by a lower standard deviation than that associated with a single analysis of oil content.) The median of the 95th percentiles for the top-performing plants is 0.022 percent. We rounded this value to 0.02 percent, and this level represents the MACT floor for existing units. The best-performing source averaged 0.014 percent oil with a 95th percentile of 0.015 percent. We rounded this value to 0.02 percent, and this level represents the MACT floor for new units.

We reviewed opportunities for control beyond the floor. We do not believe it is practical or feasible to eliminate rolling mill scale from the sinter feed. The sinter plant provides the only opportunity to recycle and recover the raw material value. Otherwise, the mill scale would be landfilled. De-greasing or de-oiling the sinter feed has been investigated by the industry, but there is no demonstrated technology in use at any sinter plant that has proven to be successful. There is no indication that the water used in preparing the sinter feed contributes to the oil content; therefore, water quality control is not expected to have an impact on emissions of organic compounds. Waterborne lubricants may have some advantages in certain applications. However, they are problematic in some applications in the demanding environment of steel rolling mills. We could find no indication that the practices cited by the commenter have been demonstrated to reduce dioxin or other organic compound emissions. Consequently, we selected a limit on oil content as the MACT floor. We believe it is more appropriate to set a performance standard that limits oil content rather than mandating a technology that an owner or operator must use to reduce oil content. The performance standard for oil content will encourage owners or operators to investigate technologies that reduce oil content to find the most effective approach for their specific situation.

Comment. Six commenters object to the proposed limit on oil content because EPA has not shown that it is achievable by the best-performing sinter plants under the most adverse anticipated circumstances over time.

Response. As we discussed in our previous response, we confirmed and refined the MACT floor estimates using a statistical approach to account for inherent variability. Based on this approach, we believe the MACT floor has been achieved on a continuing basis by the best-performing units. In addition, the limit is enforced based on a 30-day rolling average, which further enhances achievability because it allows an occasional high daily value to be averaged with lower values on other days to achieve compliance. A 30-day rolling average also provides time to take corrective action and lower the oil content before the limit is exceeded.

3. PM Standard for Blast Furnace Casthouse Control Device

Comment. One commenter stated that the technology approach used to develop the floor does not reflect the actual performance of the relevant best sources. The commenter further states that EPA admits that there are factors other than the type of control technology that affect the actual emission control performance of blast furnace casthouse control devices. Specifically, factors affecting emissions include duration of tapping, exposed surface area of metal and slag, length of runners, and the presence or absence of runner covers or flame suppression. Thus, the performance of a baghouse cannot be representative of the best sources's actual performance.

Response. We proposed a PM standard of 0.009 gr/dscf for blast furnace casthouse control devices based on the performance of existing units using baghouses. We re-evaluated the emissions test data for blast furnace casthouses based on the statistical approach previously discussed in order to confirm and refine our emissions estimates for the best-performing units. We have test data for fugitive emissions from source tests at four casthouses. The available data clearly indicate that a baghouse is the best technology for controlling emissions from blast furnace casthouses. We reviewed the test data and the design features of these baghouses (such as air-to-cloth ratio), and we concluded that the baghouses that had been tested were among the best-performing units. The test results ranged from 0.002 to 0.0072 gr/dscf. We calculated the 95th percentile for each plant. The median of the 95th percentiles for the top-performing plants is 0.005 gr/dscf. We rounded this value to two decimal places and chose 0.01 gr/dscf to represent the MACT floor level of control for existing sources.

The best-controlled source averaged 0.002 gr/dscf with a 95th percentile of 0.0034 gr/dscf. We rounded the 95th percentile to 0.003 gr/dscf to represent the MACT floor for new sources.

4. PM Standard for BOPF Primary Control Devices

Comment. One commenter stated that the chosen floor technologies do not represent the actual performance of the relevant best sources.

Response. We proposed a PM limit of 0.019 gr/dscf for new and existing open hood BOPF primary control systems based on the performance of existing units using ESP. We re-evaluated the emissions test data for open hood BOPF using the statistical approach previously

discussed, in order to confirm and refine our emissions estimates for the best-performing units. The available data clearly indicate that ESP perform better than venturi scrubbers in controlling emissions from open hood shops. We have test data for five ESP that are similar in design, each of which, based on design and operating data, are among the best-performing units at open hood shops. The data include multiple tests at some plants, and these data indicate there is variability in performance from test to test and from run to run. The plant averages ranged from 0.007 to 0.019 gr/dscf, and individual tests (three-run averages) ranged from 0.004 to 0.019 gr/dscf. We calculated the 95th percentile for each plant. The median of the 95th percentiles for the top-performing plants is 0.019 gr/dscf. We rounded this value to two decimal places and chose 0.02 gr/dscf to represent the MACT floor for existing units.

The best-controlled open hood shop averaged 0.0066 gr/dscf with a 95th percentile of 0.01 gr/dscf, which we chose to represent the MACT floor for new sources.

We proposed a limit of 0.024 gr/dscf for new and existing closed hood BOPF primary control systems based on the performance of existing units using venturi scrubbers. All of the closed hood shops use venturi scrubbers as the primary control device. The test data and design information indicated that shops having high-energy venturi scrubbers with a pressure drop of 50 inches of water or more are the best-performing sources. We have recent test data for only one closed hood shop. However, we have data from 1971 to 1978 for high-energy venturi scrubbers on closed hood shops. These data include four BOPF shops that are currently operating. The test results range from 0.021 to 0.024 gr/dscf. For purposes of today's final rule, we did not include Kaiser Steel because the plant has been closed for several years. We calculated the 95th percentile for each plant. The median of the 95th percentiles for the top-performing plants is 0.027 gr/dscf. We rounded this value to two decimal places and chose 0.03 gr/dscf to represent the MACT floor for existing sources.

The best-controlled closed hood shop averaged 0.021 gr/dscf with a 95th percentile of 0.027 gr/dscf. We rounded the 95th percentile to two decimal places and chose 0.03 gr/dscf to represent the MACT floor for new sources.

Comment. Six commenters said EPA used test data dating from 1971 through 1978 to establish the limit for closed hood systems. These commenters believe the data do not reflect current configurations or actual performance and cannot be used to establish the floor. Many systems have been upgraded to increase capture efficiency (including some furnaces used to establish the standard). Because there are little or no data for these sources, the commenters recommend that EPA use existing State implementation plans (SIP) to determine the floor. Another commenter agrees, adding that the test data used to support the 0.024 gr/dscf limit ranged up to 0.031 gr/dscf and represent the minimum anticipated variation of emissions from a MACT floor technology source. The proposed limit is more stringent than existing SIP and may not be achievable by plants using MACT floor controls. The analysis does not consider the current PM limit of 0.03 gr/dscf for plants in Ohio, which the commenter believes should be the limit.

Response. The test data for closed hood shops are not just from tests in 1971 to 1978—there is a 1992 test for Geneva Steel. The commenters did not provide any information on the nature of the upgrades or rationale as to their effect on emissions. For closed hood systems, testing is performed only during the oxygen blow with the capture hood tightly fitted to the furnace. Our understanding is that capture system upgrades have been made primarily to improve the capture of fugitive emissions from charging and tapping, which are not included in the performance testing for closed hood furnaces. In addition, the operating conditions of the scrubbers during the tests (*e.g.*, pressure drops of 50 inches of water or more) are representative of the way these scrubbers are currently operated. Data for venturi scrubbers in other similar processes indicate that high-pressure drop scrubbers can achieve control levels of 0.03 gr/dscf or less. We believe the statistical approach that we used to confirm and refine emissions estimates for the floor analysis accounts for inherent variability over time. We believe that source test data provide a better picture of actual performance than the use of State limits as the commenter suggests. Moreover, based on our analysis of the emission tests, we have identified as MACT an emissions limit of 0.03 gr/dscf which is consistent with the emissions limits that the commenters identified as appropriate.

5. PM Standards for Ancillary Operations at BOPF Shops

Comment. According to eight commenters, the three data points for hot metal transfer and desulfurization are not sufficient to define the floor, accurately represent current operating conditions, or reflect a level that is consistently achievable under the most adverse foreseeable circumstances over time. If sufficient data are not available, EPA should use existing State limits, if it can show that the level of control is realistically achievable under the most adverse anticipated circumstances over time. The commenters also question that the data used for characterizing performance were collected using the same test procedures specified in the proposed rule (average of three 1-hour tests during actual operation of the processes). Using data from a test method other than the required compliance method to set a standard does not meet CAA requirements.

Response. We proposed a PM standard of 0.007 gr/dscf for a control device serving BOPF ancillary processes based on the performance of existing units using baghouses. We reviewed the emissions data and confirmed the tests were conducted using EPA Method 5 (40 CFR part 60, appendix A). Every test result was presented as the average of three runs, which is consistent with our performance test requirements. Several test reports confirmed that sampling was conducted under normal operating conditions, and none of the reports indicated conditions were not normal. The tests used a sampling time of 1 hour or more to ensure an adequate sample volume was collected. As explained earlier, in response to another comment, EPA believes that it is preferable to use actual performance test data to determine the MACT floor when there are adequate such data available to reasonably characterize the level of performance of the relevant sources. The commenters did not provide us with any additional facts or data to show that any of the data we relied upon are invalid. For the reasons described above, we believe that these data are adequate to reasonably estimate the performance of the best sources for purposes of establishing a MACT floor, and these estimates more accurately reflect the actual performance of the best-performing sources than would estimates based on State permit data. Moreover, the approach that we used to confirm and refine the emissions estimates for the top-performing sources assures that we have adequately accounted for variability over time, and, therefore, addresses the concerns of the commenter.

We re-evaluated the emissions test data for ancillary operations based on the statistical approach previously discussed, in order to confirm and

refine our earlier analysis. At proposal, we considered the combined data for hot metal transfer/desulfurization and ladle metallurgy. However, we believe it is necessary to separate the two operations because hot metal transfer/desulfurization is performed on molten iron before charging to the BOPF. Ladle metallurgy is performed on molten steel from the BOPF. Consequently, the two processes have different emission characteristics which suggests each should have a separate MACT floor determination.

We have test data from three source tests of desulfurization and hot metal transfer. The control device used in these source tests, and the only type of control used for these processes, is a baghouse. We reviewed the test data and the design features of these baghouses (such as air-to-cloth ratio), and we concluded that the baghouses that had been tested were among the best-performing units. The three tests ranged from 0.0016 to 0.012 gr/dscf. We calculated the 95th percentile for each plant. The median of the 95th percentiles for the top-performing plants is 0.006 gr/dscf. We rounded this value to two decimal places and chose 0.01 gr/dscf to represent the MACT floor for existing units.

The best-controlled source averaged 0.0016 gr/dscf with a 95th percentile of 0.003 gr/dscf, which we chose to represent the MACT floor for new sources.

We have test results for six source tests of typical ladle metallurgy operations. As with desulfurization, the control device used in these source tests, and the only type of control used for these processes, is a baghouse. We reviewed the test data and the design features of these baghouses (such as air-to-cloth ratio), and we concluded that the baghouses that had been tested were among the best-performing units. The five best-performing units ranged from 0.0021 to 0.0047 gr/dscf. We calculated the 95th percentile for each plant. The median of the 95th percentiles for the top-performing plants is 0.006 gr/dscf. We rounded this value to two decimal places and chose 0.01 gr/dscf to represent the MACT floor for existing units.

The best-controlled source with typical ladle metallurgy operations (lance injection, electromagnetic stirring, and alloy addition), averaged 0.0021 gr/dscf with a 95th percentile of 0.004 gr/dscf, which we chose to represent the MACT floor for ladle metallurgy for new sources.

6. Opacity Standard for Sinter Plant Discharge End

Comment. According to one commenter, EPA does not explain how the floor determination represents an accurate picture of the relevant best sources' actual performance, or how it knows that the best sources are not doing better than their permits require.

Response. We proposed an opacity limit of 20 percent for the sinter plant discharge end based on the five sources subject to the most stringent existing State regulations or permit limits. One plant has a 10 percent opacity limit, and four plants have a 20 percent opacity limit. We chose the median (20 percent) to represent the MACT floor.

A total of six of the seven operating plants use a capture and control system vented to a baghouse for the discharge end, and engineering knowledge of their design features and the nature of emissions indicate that these baghouses are the best demonstrated control technology for the discharge end. Following the end of the comment period, in order to confirm the appropriateness of the proposed opacity limit, we surveyed the industry to obtain additional opacity data for the discharge end. The only substantive data we obtained was from Ispat-Inland, which submitted the results of 1,745 hours of observations by EPA Method 9 (40 CFR part 60, appendix A) conducted over 4 years (1997 to 2000). Ispat-Inland is among the better-performing plants because it controls the discharge end, crusher, and hot screen by capturing emissions using local hooding and ventilation and venting them to a baghouse for collection. Consequently, we believe that the control system at Ispat-Inland is representative of the best-performing sources.

At Ispat-Inland, approximately one percent of the hourly opacity observations had a 6-minute average that exceeded 20 percent opacity, and the plant met the proposed limit 99 percent of the time. Although many of the observations were below 20 percent opacity, the limit accommodates the normal variability in the process operations and control equipment. The data clearly show that Ispat-Inland is not consistently performing substantially better than what their permit requires and that our proposed limit is a reasonable picture of what the best-controlled sources can achieve.

Comment. Seven commenters contend that EPA has not shown that existing State limits are consistently achievable under the worst foreseeable conditions over time. The commenters claimed that opacity data they submitted to EPA demonstrates that the limits are not consistently achievable by well-operated and maintained sinter plants. The EPA must reevaluate the achievability of the proposed opacity standard.

Response. None of the commenters provided evidence that facilities subject to the identified State limits have been unable to meet those limits (*e.g.*, in the form of reported violations). Moreover, as discussed in the previous response, approximately 99 percent of the hourly opacity observations at Ispat-Inland never had a 6-minute average in excess of 20 percent opacity. Performance improved to 99.9 percent compliance for more recent, 1998 to 2000, observations. As stated previously, these data show that the opacity limit based on existing State limits is achievable because it has been achieved on a continuing basis. Our analysis considered all of the data that we could obtain, and the only data available was that for Ispat-Inland which we discussed in detail.

7. Opacity Standard for Blast Furnace Casthouse

Comment. One commenter states that we failed to explain how the floor we selected reflects the best-performing 12 percent of the blast furnace casthouses. The commenter further states that we failed to pursue and collect from the affected sources or State and local agencies available opacity data, and we undermined the floor-setting process of the CAA.

Response. For blast furnace casthouses, we established the MACT floor as a 20 percent opacity limit based on the five sources subject to the most stringent existing State regulations or permit limits. Two casthouses are subject to a 15 percent opacity limit, and the next most stringent limit is 20 percent, which is applied to 22 of the 37 blast furnace casthouses.

Following the end of the comment period, in order to confirm the appropriateness of the proposed opacity limit, we obtained additional opacity data for operating blast furnace casthouses to supplement the limited data we had available at proposal. We now have opacity data for 25 of the 37 existing blast furnace casthouses, and the data range in coverage from a 1-hour test to several years of observations. (Although there were 39 blast furnace casthouses at proposal, two have subsequently shut down.) We closely examined the data that covered a reasonably long period of time (*e.g.*, at least 1 year to capture seasonal variations), which included 12 of the 25 casthouses for which we had data. We

believe it is important to account for seasonal variations and examine data covering 1 year or more to account for variability due to differences in ventilation rates, weather conditions, and changes in the process over time. We found that the casthouses with the lowest opacities were those with secondary capture and control systems. For some casthouses, most of the 6-minute averages were routinely below the proposed 20 percent limit with occasional readings that approached or exceeded 20 percent. The blast furnace casthouses at U.S. Steel (Gary) achieved the 20 percent opacity limit 99 to 100 percent of the time. One blast furnace casthouse had a maximum 6-minute average of 21 percent opacity, and another casthouse had a maximum of 20 percent opacity. At Ispat-Inland, the casthouses achieved 20 percent opacity 98 to 99.6 percent of the time. At LTV Steel, the casthouses achieved 20 percent opacity 99.5 to 99.8 percent of the time. These blast furnaces were achieving the 20 percent limit, but they were not demonstrably able to consistently achieve a level of performance more stringent than this limit. Consequently, the opacity data confirm that the 20 percent opacity limit based on the median value of the sources with the five most stringent emission limits is an accurate reflection of the MACT floor.

Comment. Eight commenters contend that the limits are not consistently achievable under the worst foreseeable conditions over time even by the casthouses used to establish the MACT floor. In support, the commenters claimed they had provided opacity data showing that the limits have not been consistently achieved by well-operated and maintained casthouses. Achievability of the opacity limit for blast furnace casthouses is of particular concern because the process is subject to infrequent but significant swings in emission rates. The commenters recommend that EPA collect and analyze all available opacity data from States, Regions, and industry and determine the standard based on achievability. They recommend using a statistically-derived limit based on a high confidence level (the 99.97th percentile) to avoid an unachievable standard that would result in many violations.

Response. Following proposal, in order to confirm the appropriateness of the proposed opacity limit, we collected additional opacity data and identified the best-performing sources in terms of low opacity. Our analysis considered all of the opacity data submitted by the commenters and data obtained from other sources. For the five best-performing blast furnace casthouses (*i.e.*, lowest opacities) with observations over at least 1 year, a 20 percent opacity limit was achieved for 99 to 99.8 percent of the time. We believe the data clearly show that an opacity limit of 20 percent represents what has been achieved by the best-performing sources and that it can be achieved on a continuing basis.

8. Opacity Standards for BOPF Shops

Comment. Eight commenters contend that the limits are not consistently achievable under the worst foreseeable conditions over time. They claim that opacity data submitted to EPA by the industry demonstrate that the limits are not consistently achieved by well-operated and maintained BOPF shops, and as a result, EPA must reevaluate the achievability of the proposed opacity standards.

Response. Following proposal, in order to confirm the appropriateness of the proposed 20 percent opacity limit, we obtained additional opacity data for operating BOPF shops to supplement the limited data we had available at proposal. We now have opacity data for 19 of the 23 existing BOPF shops ranging in coverage from a single 2-hour test to multiple tests covering several years of observations. Our analysis considered all of the opacity data submitted by the commenters and data obtained from other sources. We examined the data and found that the best-controlled BOPF shops were those with secondary capture and control systems. In contrast, several BOPF shops without secondary controls experienced frequent exceedances of the 20 percent opacity limit. A total of eight BOPF shops have capture systems for secondary emissions that are vented to baghouses. We re-evaluated the data to determine the appropriateness and achievability of the proposed 20 percent opacity limit. We focused on BOPF shops for which we had a reasonable amount of long-term data. Specifically, we examined opacity data only from shops for which we had 12 months or more of observations (*i.e.*, all seasons of the year), which included observations for 11 of the 23 existing shops. The five best-performing shops achieved the limit 99.5 to 99.98 percent of the time. These data clearly indicate that the best-performing units in the category achieve the proposed opacity limit (but do not achieve a more stringent level of control), and, therefore, that the State limits are a good proxy for actual best performance. Thus, we are confident that the proposed opacity limit of 20 percent is achievable and that it provides an accurate picture of the actual performance achieved by the best-performing sources.

Our analysis of the opacity data for BOPF shops indicated that opacity observations are routinely made over several consecutive steel production cycles. In the proposal, we had included a provision that the opacity observations during the performance test did not have to be consecutive. In today's final rule, we have removed the provision which allowed non-consecutive observations. This is consistent with the opacity data used to support the opacity limit and with the procedures routinely used to make opacity observations for BOPF.

9. Sinter Cooler Stack

Comment. Six commenters note that one of the plants used to calculate the MACT floor is permanently shut down. Consequently, the floor analysis does not reflect the SIP requirements for actual operating sources. In addition, EPA has not shown that the proposed standard is achievable by the best-performing sources under the foreseeable range of operating conditions.

Response. Our investigation into this comment indicates that all five of the sinter plants listed in Table B–11 of the BID are operating (Ispat-Inland at East Chicago, IN; WCI Steel at Youngstown, OH; Bethlehem Steel at Sparrows Point, MD; U.S. Steel at Gary, IN; and AK Steel at Middletown, OH). Because we had only limited test data, we based the MACT floor on the average of the top five sources subject to the most stringent existing State regulations or permit limits. One plant has a limit of 0.01 gr/dscf (for one-half of its cooler), three of the five best-performing plants are subject to a limit of 0.03 gr/dscf, and one plant has a lb/hr limit that is equivalent to about 0.05 gr/dscf. The average and median limit applied to the top five plants is 0.03 gr/dscf. Although our data are limited, they show that the proposed emission limit is achievable and has been achieved based on the available test results. Nationwide, baghouses are used at three plants, a cyclone at one plant, and three plants are uncontrolled. Consequently, the best-performing plants and the median of the top five would be a plant with a baghouse. A test at WCI Steel, which controls these emissions with a baghouse, ranged from 0.005 to 0.02 gr/dscf and averaged 0.009 gr/dscf. The results for WCI show significant variability in the run-to-run results, which range up to 0.02 gr/dscf. The test results indicate that the better-controlled plants can achieve the limit

of 0.03 gr/dscf; however, considering the high variability from run to run, the plant is not substantially overachieving the limit.

No commenters provided any evidence that the existing State limits were not being achieved on a continuing basis (*e.g.*, in the form of violation reports), and we have no evidence that any facility has been in violation of the existing State limits. Consequently, we believe the floor based on State limits represents a reasonably accurate picture of what the best-performing sources have and continue to achieve. For new sources, we chose a limit of 0.01 gr/dscf based on the most stringent State limit. The average test results for WCI Steel (0.009 gr/dscf) show that this limit is achievable by a properly-designed and operated baghouse.

10. PM Standard for Sinter Discharge End Control Device

Comment. According to one commenter, EPA claims it has PM test data from six plants, but asserts in the preamble that it has credible test data for only one plant and never explains why data for only one plant is credible. The EPA does not explain how this represents an accurate picture of the relevant best sources' actual performance, or how it knows that the best sources are not doing better than their permits require.

Response. The reference to test data in the BID is correct; however, use of the term "test data" in the BID was not correct. We had estimates of PM emissions from the discharge end from several plants based on emission factors that they supplied in a survey questionnaire. However, these estimates were not supported by the use of reference methods for sampling and analysis or substantiated by emission test reports. For units in this category, it is not feasible to use estimates based on typical emission factors to identify the level of control that a plant routinely achieves. Therefore, this information is of no practical value for purposes of identifying the best-performing sinter discharge ends. We found the only test data we could validate for the discharge end was for the EPA test conducted at WCI Steel. The results of this test support our conclusion that the existing State limits reasonably approximate actual emissions and performance. However, we have no indication or expectation that the best-performing plants are achieving a level of control more stringent than the proposed emission limit. Consequently, we based the floor on the most stringent State limits.

Comment. Seven commenters state that three of the nine sinter plants in the existing population are now shut down, including one of the five plants used to calculate the floor for the discharge end. The commenters assert that EPA must recalculate the floor to reflect only operating sources. Also, EPA must show that the standard is consistently achievable by the best-performing sources under the foreseeable range of operating conditions.

Response. We agree that one of the five best-performing plants (Wheeling-Pittsburgh Steel) used to determine the floor was shut down at the time of the floor analysis. We elected to re-calculate the floor and exclude this plant. We determined that the floor based on the average of the five best-performing sources remains the same (0.02 gr/dscf). One plant is subject to a limit of 0.01 gr/dscf, two plants are subject to a limit of 0.02 gr/dscf, one is subject to 0.03 gr/dscf, and the fifth plant has a mass rate limit that is equivalent to about 0.04 gr/dscf. The average and median value associated with the top five limits is 0.02 gr/dscf. We have detailed design information for the baghouses applied to the discharge end, and our engineering analysis of the design information, coupled with test data for baghouses in similar applications, indicates that these controls can achieve 0.02 gr/dscf under the foreseeable range of operating conditions. Although we have test data for only one baghouse, the test averaged 0.006 gr/dscf and further supports the achievability of the MACT floor. We based the MACT floor for new sources on the most stringent State limit of 0.01 gr/dscf. Again, the available test data indicate that this limit can be achieved by a properly-designed and operated baghouse.

11. PM Standard for BOPF Fugitive Emissions

Comment. One commenter stated that EPA does not explain how the floor determination represents an accurate picture of the relevant best sources' actual performance, or how it knows that the best sources are not doing better than their permits require.

Response. We have test data for only one baghouse applied to BOPF fugitive emissions, and because of the nature of the test, the results are not useful for determining the MACT floor. During the test, sampling was performed continuously over a 3-hour period, even when the furnace was not operating and when fugitive emissions were not occurring. Consequently, the reported concentrations for the baghouse outlet are unrepresentative of the concentrations that would be measured when fugitive emissions from charging and tapping are occurring. Because of the lack of data, we based the floor on existing State limits and have made no changes to the proposed emission limits. We chose 0.01 gr/dscf as the floor from the median of the five sources with the most stringent limits (one at 0.0052, one at 0.006, two at 0.01, and one at 0.012 gr/dscf). One unit is subject to the most stringent State limit of 0.0052 gr/dscf, and we selected this limit as the MACT floor for new sources. These limits are achieved by using a capture system vented to a baghouse, and these levels are consistent with the performance of well-designed and operated baghouses. We have no evidence that plants are violating their current limits, and we have no indication they are achieving a level of control more stringent than the identified State limits. This observation is consistent with an EPA design manual for baghouses which states that typical outlet concentrations for all applications range from 0.001 to 0.01 gr/dscf (depending primarily on the design parameters).

B. What Surrogates Did We Use for HAP?

1. PM for Metal HAP

Comment. One commenter contends that PM is not a valid surrogate for HAP metal compounds and that specific limits for individual metals should be established. In support, the commenter points to other rules where EPA has recognized that PM is not a valid surrogate for mercury, lead, and cadmium because of their volatility and that these emissions cannot necessarily be controlled merely by controlling PM emissions. Consequently, EPA cannot claim PM is a valid surrogate for metal HAP in the final rule or that setting standards for individual metals would ". . . achieve little, if any, HAP emission reduction beyond what would be achieved using the surrogate pollutant approach based on total PM." Because EPA has already recognized that PM is not an adequate surrogate for mercury, lead, and cadmium, EPA must set individual emission standards for such HAP.

Response. We disagree with the commenter and believe that PM is a valid surrogate for the HAP metal compounds emitted from integrated iron and steel sources. The rationale in the preamble for the hazardous waste combustors (HWC) rule is unique to that source category and does not apply to the metal HAP emissions and controls in the integrated iron and steel industry.

The preamble for the final HWC rule makes this point clearly:

> . . . However, for sources not burning hazardous waste and without a significant potential for extreme variability in metals feed rates, PM is an adequate surrogate for metal HAP (*e.g.*, for nonhazardous waste burning cement kilns).[1]

Hazardous waste combustors are unique and different from integrated iron and steel sources in several respects:

- They have significant levels of volatile and semi-volatile HAP metal compounds in the waste-derived fuels being burned,
- The feed rate of these metals can be highly variable, and
- The high temperatures in the combustion process can volatilize semi-volatile metals and form fine PM, which can be harder to control. In contrast, the raw materials used in iron and steel processes have relatively low levels of metal HAP, the level of metal HAP does not vary significantly as do the HAP metals in waste materials fed to HWC, and test data indicate that PM control devices effectively control the HAP metals from iron and steel processes.

A key parameter for the control of both semi-volatile and non-volatile metal compounds is the operating temperature of the air pollution control device that is applied. At temperatures of 200 to 400°F, the range typical of control devices applied to emissions from integrated iron and steel processes, any semi-volatile and non-volatile HAP metal compounds present would exist in the form of fine PM, and, therefore, will be controlled in direct relationship to PM.

Mercury is an exception because of its high volatility. However, we have no data that show any significant emissions of mercury from integrated iron and steel plants, and there is no reason to suspect its presence in any appreciable quantities in emissions from ironmaking and steelmaking. In the two sinter plant tests we conducted, we sampled and analyzed for mercury. The results showed only trace levels of mercury (7×10^{-7} to 2×10^{-6} gr/dscf). Thus, we believe that mercury emissions from integrated iron and steel sources are negligible and that the performance of these units with respect to any trace levels of mercury can not be measurably improved. Moreover, no iron and steel plants operate an emissions control system that would further reduce these trace amounts of mercury emissions, or otherwise take any steps that would reduce such emissions. Because no units currently reduce mercury emissions from the integrated iron and steel industry, the MACT floor for mercury (for both new and existing sources) would be no reduction in emissions. Because the mercury concentrations are already so low, no technically feasible control technologies can be identified that could reduce these trace levels of mercury emissions. Therefore, no mercury emissions standards are proposed for integrated iron and steel sources.

2. Oil Content for Organic HAP

Comment. Two commenters urged us to establish emission standards for specific organic HAP, including dioxin, in lieu of the oil content limit. One commenter contends that the proposed rule should contain emission limits for the many organic HAP emitted from iron and steel plants, including dioxin, polycyclic organic matter, benzene, and toluene. The proposed operating requirement for sinter plants is not an emission standard and does not satisfy CAA requirements. Furthermore, regulations pursuant to section 112 of the CAA must include emission standards for each HAP emitted from an affected source category. The commenter adds that EPA provided no data in support of the proposed approach for controlling dioxin emissions. This commenter believes the proposed rule effectively ignores organic HAP in contradiction of CAA requirements because vapor phase organics are not removed by the fabric filters or wet scrubbers.

Several commenters contend that EPA has not met its requirements to show a correlation between the surrogate to be controlled and the object of control. Two commenters state that EPA has not provided sufficient data to demonstrate a correlation. Eight other commenters do not believe that there is a correlation to dioxin emissions or that control of the oil and grease would reduce HAP organic emissions. In support, they claim data from one plant (Bethlehem Steel, Sparrows Point) show no VOC increase in windbox emissions as oil content increases.

Response. The only available data regarding organic HAP emissions from these units are from two tests we conducted. These tests are insufficient to generate a meaningful characterization of emission control levels that can be achieved under varying process conditions over time, and there is no way to use this emissions test data to identify the best-performing plants. Moreover, the add-on emission controls used by units in the category (baghouses and venturi scrubbers) do not control vapor phase organic compounds. As a result, we believe that the best way to assess current levels of VOC emission control, and to limit such emissions is to rely upon existing methods of pollution prevention. Accordingly, we have established limits on the amount of organic HAP precursor material (specifically oil and grease) that may be in the sinter feed, in order to control emissions of organic compounds. Additionally, section 112(d)(2) of the CAA specifically allows EPA to establish MACT standards based on emission controls that rely on pollution prevention techniques.

We have added information to the docket from a European study that shows dioxin emissions are related to oil content-emissions increase as the oil content increases. We have also added information from two U.S. sinter plants that show VOC emissions increase as oil content increases, and the VOC contains volatile HAP such as benzene. In fact, plants in Indiana control VOC emissions by limiting the amount of oil in the sinter feed. Because the two are related, Indiana allows monitoring oil content as an alternative to VOC monitoring. In the past, sinter plants with baghouses have voluntarily limited oil content because the organic compounds that were emitted tend to condense and blind the bags as well as pose a fire hazard. We believe these studies conclusively show that oil content correlates with organic emissions.

An emission limit for individual organic compounds is not practical because the emission controls that are used do not effectively control all organic HAP. Conventional control systems used for organics, such as incineration or carbon adsorption, would not be practicable because they are ineffective at the very low concentration (parts per million levels) in the windbox exhaust stream. On the other hand, a limit on oil content effectively limits emissions of organic HAP, and control of oil content is a proven emission control measure. Consequently, in this instance, we believe that a limit on oil content is the only feasible way to ensure that all plants achieve the MACT level of control for organic HAP from the sinter plant windbox exhaust.

C. Is a Risk Analysis Warranted?

Comment. Seven commenters urge EPA to perform a risk assessment under section 112(d)(4) of the CAA for manganese to determine if HAP controls are necessary. Manganese is a health threshold pollutant, and there is little likelihood of chronic or widespread

[1] See Footnote 40 in preamble to the final HWC rule (64 FR 52846, September 30, 1999).

exposure at concentrations above the threshold at iron and steel plants. The EPA conducted this analysis for the pulp and paper standards and decided not to regulate hydrogen chloride emissions. According to the commenters, risk-based standards under section 112(d)(4) would result in no standards, or less stringent and more cost effective standards.

Response. Section 112(d)(4) of the CAA provides EPA with authority, at its discretion, to develop risk-based standards for HAP ". . . for which a health threshold has been established," provided that the standard achieves an "ample margin of safety." Section 112(d)(4) says:

> [w]ith respect to pollutants for which a health threshold has been established, the Administrator may consider such threshold level, with an ample margin of safety, when establishing emission standards under this subsection.

As EPA has indicated in the past (*see* 63 FR 18754 and 67 FR 44713), we generally apply section 112(d)(4) of the CAA only to HAP that are not carcinogens because Congress clearly expected that carcinogens would be non-threshold pollutants. The legislative history further indicates that if EPA invokes this provision, it must assure that any emission standard results in ambient concentrations less than the health threshold, with an ample margin of safety, and that the standards must also be sufficient to protect against adverse environmental effects. (*See* S. Rep. No. 228, 101st Cong. at 171.) The EPA is not to consider cost in establishing a standard pursuant to section 112(d)(4).

Therefore, EPA believes it has the discretion under section 112(d)(4) of the CAA to develop risk-based standards for some categories emitting threshold pollutants, which may be less stringent than the corresponding floor-based MACT standard would be. Where EPA develops standards under this provision, we seek to ensure that emissions from every source in the category or subcategory are less than the threshold level to an individual exposed at the upper end of the exposure distribution. We believe that assuring protection to persons at the upper end of the exposure distribution is consistent with the ample margin of safety requirement in section 112(d)(4). (*See* 63 FR 18754 at 18768.)

However, the EPA emphasizes that use of section 112(d)(4) of the CAA authority is wholly discretionary. As the legislative history described above indicates, cases may arise in which other considerations dictate that the Agency should not invoke this authority to establish less stringent standards, despite the existence of a health effects threshold that is not jeopardized. For instance, EPA does not anticipate that it would set less stringent standards where evidence indicates a threat of significant or widespread environmental effects, although it may be shown that emissions from a particular source category do not approach or exceed a level requisite to protect public health with an ample margin of safety. The EPA may also elect not to set less stringent standards where the estimated health threshold for a contaminant is subject to large uncertainty. Thus, in considering appropriate uses of its discretionary authority under section 112(d)(4), EPA considers other factors in addition to health thresholds, including uncertainty and potential adverse environmental effects, as that phrase is defined in section 112(a)(7) of the CAA.

For several reasons, in this case, we have decided not to exercise our discretion to consider existing threshold levels for manganese in setting the emission standards for metal HAP compounds from integrated iron and steel facilities. This decision is appropriate because we have insufficient data about the nature and degree of public exposures to these emissions, including background exposure levels and other relevant factors, to meaningfully consider whether maximum exposures to manganese emissions from integrated iron and steel facilities would remain below the relevant threshold. In fact, it is clear that facilities in this source category emit significant quantities of manganese, totaling about 250 tpy. Because the commenters did not provide us with any of the detailed site-specific information that we would need to perform an adequate assessment of emissions and exposures, we have concluded that it would be inappropriate to consider the threshold nature of manganese in establishing MACT standards for the integrated iron and steel source category. Additionally, the commenters have supplied no information about the environmental impact of metal emissions from integrated iron and steel plants, and we have no data upon which we can rely for such an environmental assessment.

Moreover, even if we had access to more detailed data regarding emissions, exposures, and environmental impact, it is not clear whether consideration of the manganese health threshold would have any practical effect on the MACT standards established in today's final rule. In particular, emissions from integrated iron and steel plants include metal HAP besides manganese that are not threshold pollutants (including lead, nickel, and chromium compounds), and these pollutants are controlled using the same control technologies that reduce emissions of manganese. As with manganese, we have no data regarding maximum exposures or environmental impacts from such emissions at integrated iron and steel facilities, and we have no data specifically characterizing these metal emissions. These plants emit about 360 tpy of HAP metal compounds—including about 111 tpy of lead, nickel and chromium compounds. Certain lead, nickel and chromium compounds are listed as carcinogens and have no applicable human health threshold. For additional information, see our guidance document entitled "Guidance on the Major Source Determination for Certain Hazardous Air Pollutants" available on our Web site at *http://www.epa.gov//ttn/oarpg/t3/memoranda/agghapmem.pdf.*

Today's final rule controls all metal HAP emissions (including lead, nickel, and chromium) by using PM as a surrogate. Because we use PM as a surrogate, eliminating only one or some of the metal HAP from consideration would have little if any practical impact on the MACT standards. Consequently, we believe the MACT standards finalized today are appropriate and will reduce emissions of all HAP at integrated iron and steel plants to the levels currently being achieved by the best-performing facilities.

D. How Did We Revise the Emission Limitations?

1. Sinter Cooler Emissions

Comment. Seven commenters explain that some exhaust systems on the sinter plant discharge end are designed to capture emissions at the point where sinter is loaded onto the sinter cooler and portions of the sinter cooler itself. In situations where cooler emissions are exhausted in part or in whole to the discharge end control system, the commenters request that the cooler stack emissions standard of 0.03 gr/dscf (for existing facilities) apply to the discharge end baghouse.

Response. We disagree and have written the final rule to clarify that the limit of 0.02 gr/dscf for the discharge end applies even when other emissions are ducted to the control device. The most effective technology for controlling emissions from the discharge end is a baghouse, and a properly-designed and operated baghouse can achieve 0.02 gr/dscf on a continuing basis. An emission limit of 0.03 gr/dscf is too high to be representative of the MACT floor, and

does not reflect what is currently achieved by the five best-performing sources.

2. Sinter Plant Oil Content Requirement

Comment. Sinter plants in Maryland and Indiana already must comply with rules that regulate the oil and grease content for the sinter plant raw material blend. The rules limit VOC emissions to no more than 0.25 lb/ton of sinter (except Indiana allows 0.36 lb/ton during non-ozone season). Maryland requires VOC testing and Indiana provides the option of VOC testing or sampling for oil content. Seven commenters recommend VOC testing as an option in the final rule because most plants in these states already use them; some comments also suggest a 30-day rolling average for VOC.

Response. We reviewed data submitted by two plants that showed VOC emissions correlated with oil content. LTV Steel (now owned by International Steel Group) performed simultaneous testing of oil content and VOC emissions, correlated the results, and showed that an oil content of 0.024 percent was equivalent to the State VOC limit of 0.25 lb/ton of sinter. As a result, the State allowed them to use alternative monitoring procedures. Based on our review of the data, we believe that maintaining the VOC at a level of 0.2 lb/ton or lower will ensure that the operating limit of 0.02 percent oil is maintained. Consequently, we have written the final rule to include an alternative emission limitation for VOC of 0.2 lb/ton of sinter. A plant electing the alternative limit is required to measure VOC emissions (total gaseous nonmethane organics as carbon) in source emissions using EPA Method 25 in 40 CFR part 60, appendix A (or a previously approved method). As with the oil content, the VOC limit is based on a 30-day rolling average. The 30-day average provides additional flexibility because it allows an occasional high daily value to be averaged with lower values on other days to achieve compliance. We believe the 30-day average accounts for day-to-day variability and enhances the achievability of the limit.

3. ESP Operating Limit

Comment. For plants required to use COMS to monitor ESP, the proposed rule establishes an enforceable operating limit based on the opacity observed during the initial performance test. Eight commenters argue that COMS data should not be used for compliance determinations because of measurement uncertainties and unreliability. They point to the recognized limitation for measuring opacity below 10 percent and provide supporting data comparing COMS measurements in ESP stacks to EPA Method 9 data. Like the steel pickling MACT standard, COMS data should be used only to indicate if the ESP is operating properly and to institute corrective action as appropriate; subsequent EPA Method 9 observations may be appropriate in the event of a high number of measured excursions. These commenters also object to the operating limit for ESP equipped with COMS because EPA has not demonstrated a correlation between opacity and PM emissions from BOPF controlled by ESP to support using opacity as a surrogate for PM. A COMS opacity reading that is above that observed during a performance test does not necessarily indicate an exceedance because the high reading could have been caused by water vapor or another interference. The commenters believe EPA has not demonstrated that the tiny amount of data collected during the initial performance test would be representative of the opacity performance of ESP over the full range of foreseeable operating conditions. Thirty 6-minute averages taken over a 3-hour period will not adequately characterize the range of 87,600 6-minute averages generated over an entire year. Thus, EPA has not demonstrated that a limit set in this manner would be consistently achievable by well-operated and maintained equipment under the most adverse operating conditions over time.

Response. We believe that opacity is well established as a surrogate for PM. However, we understand the concerns of the commenters with respect to variability and have written the procedures in the final rule for determining the COMS operating limit to account for variability. The opacity operating limit is based on measurement of 6-minute averages during the performance test, and then calculating the 99 percent upper confidence limit on the mean of a normal distribution of the average opacity values. This statistical approach will account for normal variability and still provide assurance that the ESP is operating properly.

4. Operating Limits for Capture Systems

Comment. Nine commenters believe that an enforceable range of operating limits applicable under all operating conditions cannot be determined from the initial performance test for damper systems. Fixed damper positions for one set of operating conditions are not appropriate due to varying simultaneous operations, normal process variations, and seasonable variations. The final rule should allow sources to specify multiple operating scenarios or ranges of operation in the operation and maintenance plan and require plants to meet the values in the plan rather than those set in the initial performance test. Eight of these commenters also recommend that the final rule include an alternative allowing continuous monitoring of fan amperage, like the provisions included in the proposed standards for coke plants.

Response. We investigated this issue further, and based on the additional information we received, we agree that fixed damper settings are not practicable or desirable in many cases. For example, damper settings may need to be changed in the BOPF shop depending on the operations underway at the time, such as hot metal transfer, desulfurization, charging, oxygen blowing, and tapping. We have written the final rule to provide flexibility and have modeled it after the MACT standard for primary copper smelters. The owner or operator must specify in the operation and maintenance plan the damper settings that will be used under different operating scenarios and for seasonal variations. These damper settings must be checked once per day. We have also added fan amperage as an acceptable alternative, consistent with the MACT standards for coke ovens and for primary copper smelters.

E. How Did We Revise the Performance Test Requirements?

1. Overlapping Cycles

Comment. Some plants have the capability of overlapping cycles of two separate furnaces (*e.g.*, they may blow one furnace while another is being tapped). It appears that EPA's database is comprised of tests conducted on single furnaces. For this reason, seven commenters ask EPA to clarify that testing of primary emissions from BOPF is to be conducted during the steel production cycle of a single furnace. Other shop operations may be suspended during the testing. This approach is consistent with the manner in which the data were collected.

Response. We specify in the final rule exactly when owners or operators must test primary emissions from BOPF. For closed hood BOPF, plants must sample only during the primary oxygen blow. For open hood BOPF, plants must sample during the steel production cycle. We clarified that the steel production cycle begins when scrap is charged to the furnace and ends 3 minutes after the slag is emptied from the vessel. These requirements are

consistent with the way the emission test data were collected. We do not agree that testing should be performed under conditions that do not represent normal operations, such as suspending certain shop operations. The provisions in 40 CFR 63.7(e) apply and require that sampling be conducted under conditions that are based on representative performance (*i.e.*, performance based on normal operating conditions of the affected source).

2. Testing Multiple Stacks

Comment. Eight commenters believe it is impractical and burdensome to require simultaneous tests of multiple stacks or vents for a control device (*e.g.*, baghouse with eight modules, each with its own fan and stack). Successive testing of each stack or vent could be more manageable, but still has excessive costs. One commenter estimates 42 days of testing could be needed at one plant if each stack and vent must be tested. For these reasons, the proposed rule should be revised to allow for performance tests of a representative exhaust flow where control devices with multiple stacks are used.

Response. We agree and believe that because of the site-specific nature of this problem, decisions should be made on a case-by-case basis by the applicable permitting authority. We have written the final rule such that a source may conduct a representative sampling of stacks subject to the approval of the permitting authority when there are more than three stacks associated with a process.

F. How Did We Revise the Cost Estimates and Economic Impact Analysis?

Comment. Several commenters stated that we significantly underestimated the cost of the proposed rule. At proposal, we estimated a capital cost of $34 million. The commenters said that the total capital cost was in the range of $270 to $320 million. Their estimate includes the cost of controls for plants not included in EPA's estimate as well as higher estimates of the cost for controls and monitoring in general.

Response. Following proposal and the receipt of comments, we contacted facilities to discuss the details of their cost estimates. Some facilities provided the details and basis of their estimates, and we incorporated them into our revised estimates. Other plants did not provide details or documentation; consequently, we developed our best estimate of potential costs for these facilities. In addition, we collected opacity data for most of the operating plants. We used these data to identify plants that may need to install capture and control systems in the blast furnace casthouse or BOPF shop to meet the 20 percent opacity limit. Our revised capital cost estimate increased to $93 million.

Comment: Eight commenters urge EPA to update it's economic impact analysis to represent current economic conditions of the steel industry and the cumulative effect of all other pending environmental regulatory requirements facing the industry during the same time period.

Response: We agree with the commenters and have performed a revised economic impact analysis. The revised analysis attempts to account for the factors mentioned in the comment. At proposal, we estimated domestic production from integrated steel mills would decline by 3,100 tons, and operating profits were expected to decrease by $5.2 million annually. With our revised analysis, we estimate domestic production from integrated mills will decline by 73,000 tons, and operating profits will decrease by $13 million per year. A complete copy of the economic impact analysis is available in the docket.

IV. Summary of Environmental, Energy, and Economic Impacts

A. What Are the Air Emission Impacts?

The installation of new controls and upgrades will result in reductions in emissions of metal HAP and PM. We estimate that five new capture and control systems for the blast furnace casthouses will reduce these emissions by 90 percent, a reduction of 14 tpy of HAP and 2,100 tpy of PM. The new BOPF scrubbers at one plant and upgrades at two others will result in a 50 percent reduction in emissions, 5 tpy of HAP and 350 tpy of PM. Six new capture and control systems for fugitive emissions from BOPF shops will result in a 90 percent reduction in emissions, 48 tpy of HAP and 3,300 tpy of PM.

Most plants currently operate air pollution control equipment sufficient to meet the final rule requirements. We expect the standard to reduce metal HAP emissions from plants that will need to install or upgrade controls by 67 tpy and PM emissions by 5,800 tpy. Nationwide emissions of metal HAP and PM from integrated iron and steel plants will be reduced by nearly 20 percent from current levels.

B. What Are the Cost Impacts?

The nationwide capital and annual costs of new and upgraded capture and control systems are estimated at $93 million and $15 million/yr, respectively. The total nationwide annual costs (including monitoring and recordkeeping) are about $16 million/yr. These costs are based on a new primary control system (high-pressure drop venturi scrubbers) for one BOPF shop, upgraded primary controls at two others, six new capture and control systems for fugitive BOPF emissions, and five new capture and control systems for blast furnace casthouses. In addition, the estimate includes a capital cost of $0.9 million and a total annual cost of $1 million for monitoring, reporting, and recordkeeping.

C. What Are the Economic Impacts?

We conducted a detailed economic impact analysis to determine the impacts of the final rule on both the industry and the U.S. market for steel mill products. We estimate the economic impacts in both areas to be negligible. We project the price of steel mill products, in aggregate, to increase by less than 0.1 percent with domestic production from integrated mills declining by 73,100 short tons. This decline in production at affected integrated mills is somewhat offset by increases at nonintegrated domestic steel producers (15,800 short tons) and foreign imports (49,500 short tons). In terms of industry impacts, the integrated steel producers are projected to experience a slight decrease in operating profits of $13 million annually, which reflects increased costs of compliance and associated reductions in revenues from producing final steel mill products. In addition, we don't foresee any individual integrated facility being in jeopardy of closure as a result of implementing the rule.

Based on the market analysis, the annual costs to society of today's final rule are projected to be $15.4 million. As a result of slightly higher prices for steel mill products, the final consumers of these products will incur an additional $6.2 million annually. Profits at integrated steel mills are expected to decline by $13 million annually because of directly incurred control costs and reduced product revenues, while nonintegrated steel mills that compete in these markets and are unaffected by today's rule will experience an increase in profits of $2.2 million. Similarly, foreign steel producers will also experience an increase in profits of $1.7 million due to the slightly higher prices and increases in imports to the U.S. market. For more information, consult the economic impact analysis supporting the proposed rule.

D. What Are the Non-Air Health, Environmental, and Energy Impacts?

Implementation of the rule will result in a small increase in solid waste-3,200 tpy of sludge and 5,500 tpy of dust. The energy increase is estimated at 24,000 megawatt-hours per year, primarily due to the energy requirements of new venturi scrubbers.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that the final rule is not a "significant regulatory action" under the terms of Executive Order 12866, and is, therefore, not subject to OMB review.

B. Paperwork Reduction Act

The information collection requirements in the final rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An information collection request (ICR) document has been prepared by EPA (ICR No. 2003.02), and a copy may be obtained from Susan Auby by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 566–1672. A copy also may be downloaded off the Internet at *http://www.epa.gov/icr*. The information requirements are not enforceable until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to NESHAP. These recordkeeping and reporting requirements are specifically authorized by section 112 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to Agency policies in 40 CFR part 2, subpart B.

The final rule requires applicable one-time notifications required by the General Provisions for each affected source. As required by the NESHAP General Provisions, all plants must prepare and operate by a startup, shutdown, and malfunction plan. Plants also are required to prepare an operation and maintenance plan for capture systems and control devices subject to operating limits. Records are required to demonstrate continuous compliance with the monitoring, operation, and maintenance requirements for capture systems, control devices, and monitoring systems. Semiannual compliance reports also are required. These reports must describe any deviation from the standards, any period a continuous monitoring system was out-of-control, or any startup, shutdown, or malfunction event where actions taken to respond were inconsistent with startup, shutdown, and malfunction plan. If no deviation or other event occurred, only a summary report is required. Consistent with the General Provisions, if actions taken in response to a startup, shutdown, or malfunction event are not consistent with the plan, an immediate report must be submitted within 2 days of the event with a letter report 7 days later.

The annual public reporting and recordkeeping burden for this collection of information averaged over the first 3 years after May 20, 2003 is estimated to total 4,772 labor hours per year at a total annual cost of $347,115, including labor, capital, and operation and maintenance. Total capital costs associated with the monitoring equipment is estimated at $885,000. The total annualized cost of the monitoring equipment is estimated at $126,000. This estimate includes the capital, operating, and maintenance costs associated with the installation and operation of the monitoring equipment.

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 purpose of collecting, validating, and verifying information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing 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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final rule. The EPA has also determined that the final rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) A small business according to the U.S. Small Business Administration (SBA) size standards for NAICS code 33111 (Iron and Steel Mills) of 1,000 or fewer employees; (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, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. Based on the SBA size category for this source category, no small businesses are subject to the final rule and its requirements.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 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, the 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 the 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 the 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.

Today's final rule contains no Federal mandate (under the regulatory provisions of the UMRA) for State, local, or tribal governments. The EPA has determined that the 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 of $100 million or more in any one year. Thus, the final rule is not subject to the requirements of sections 202 and 205 of the UMRA. The EPA has also determined that the final rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's final rule is not subject to the requirements of section 203 of the UMRA.

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" 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 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. None of the affected facilities are owned or operated by State governments. Thus, Executive Order 13132 does not apply to the final rule.

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

Executive Order 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 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. No tribal governments own facilities subject to the NESHAP. Thus, Executive Order 13175 does not apply to the final rule.

G. Executive Order 13045: Protection of Children From Environmental Health & 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 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 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.

The 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. The final rule is not subject to Executive Order 13045 because it is based on control technology and not on health or safety risks.

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

The final rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113; 15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in their regulatory and procurement 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, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

The final rule involves technical standards. Therefore, the EPA conducted a search to identify potentially applicable voluntary consensus standards. However, we identified no such standards as alternatives to EPA Methods 2F, 2G, 5D, 9 and OSW 846 Method 9071B, and none were brought to our attention in comments.

The Agency identified ASTM D4536–96, "Test Method for High Volume Sampling for Solid Particulate Matter and Determination of Particle Emissions," as being potentially applicable and proposed it as an alternative to Method 5 or 17 for testing positive pressure fabric filters. However, this standard has been replaced by ASTM D6331–98, "Standard Test Method for Determination of Mass Concentration of Particulate Matter from Stationary Sources at Low Concentrations (Manual Gravimetric Method)." We have decided not to use ASTM D6331 in the final rule. The use of this voluntary consensus standard would be impractical or inconsistent with applicable law because it is not similar enough to replace ASTM D4536–96.

The search for emissions measurement procedures identified 16 other voluntary consensus standards. The EPA has not adopted these standards as alternatives in the final rule because they are impractical or still under development. Our search and review results are available in the docket.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement 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. The EPA will submit a report containing the 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 final rule in the **Federal Register**. The final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: February 28, 2003.

Christine Todd Whitman,

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, *et seq.*

Subpart A—[Amended]

■ 2. Section 63.14 is amended by adding a new paragraph (k) to read as follows:

§ 63.14 Incorporation by reference.

* * * * *

(k) The following material may be obtained from U.S. EPA, Office of Solid Waste (5305W), 1200 Pennsylvania Avenue, NW., Washington, DC 20460:

(1) Method 9071B, "n-Hexane Extractable Material(HEM) for Sludge, Sediment, and Solid Samples," (Revision 2, April 1998) as published in EPA Publication SW–846: "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods." The incorporation by reference of Method 9071B is approved for Section 63.7824(e) of Subpart FFFFF of this part.

■ 3. Part 63 is amended by adding subpart FFFFF to read as follows:

Subpart FFFFF—National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities

Sec.

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Subpart FFFFF—National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities

What This Subpart Covers

§ 63.7780 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for integrated iron and steel manufacturing facilities. This subpart also establishes requirements to demonstrate initial and continuous compliance with all applicable emission limitations and operation and maintenance requirements in this subpart.

§ 63.7781 Am I subject to this subpart?

You are subject to this subpart if you own or operate an integrated iron and steel manufacturing facility that is (or is part of) a major source of hazardous air pollutants (HAP) emissions. Your integrated iron and steel manufacturing facility is a major source of HAP if it emits or has the potential to emit any single HAP at a rate of 10 tons or more per year or any combination of HAP at a rate of 25 tons or more per year.

§ 63.7782 What parts of my plant does this subpart cover?

(a) This subpart applies to each new and existing affected source at your integrated iron and steel manufacturing facility.

(b) The affected sources are each new or existing sinter plant, blast furnace, and basic oxygen process furnace (BOPF) shop at your integrated iron and steel manufacturing facility.

(c) This subpart covers emissions from the sinter plant windbox exhaust, discharge end, and sinter cooler; the blast furnace casthouse; and the BOPF shop including each individual BOPF and shop ancillary operations (hot metal transfer, hot metal desulfurization, slag skimming, and ladle metallurgy).

(d) A sinter plant, blast furnace, or BOPF shop at your integrated iron and steel manufacturing facility is existing if you commenced construction or reconstruction of the affected source before July 13, 2001.

(e) A sinter plant, blast furnace, or BOPF shop at your integrated iron and steel manufacturing facility is new if you commence construction or reconstruction of the affected source on or after July 13, 2001. An affected source is reconstructed if it meets the definition of reconstruction in § 63.2.

§ 63.7783 When do I have to comply with this subpart?

(a) If you have an existing affected source, you must comply with each emission limitation and operation and maintenance requirement in this subpart that applies to you no later than May 22, 2006.

(b) If you have a new affected source and its initial startup date is on or before May 20, 2003, then you must comply with each emission limitation and operation and maintenance requirement in this subpart that applies to you by May 20, 2003.

(c) If you have a new affected source and its initial startup date is after May 20, 2003, you must comply with each emission limitation and operation and maintenance requirement in this subpart that applies to you upon initial startup.

(d) If your integrated iron and steel manufacturing facility is not a major source and becomes a major source of HAP, the following compliance dates apply to you.

(1) Any portion of the existing integrated iron and steel manufacturing facility that becomes a new affected source or a new reconstructed source must be in compliance with this subpart upon startup.

(2) All other parts of the integrated iron and steel manufacturing facility must be in compliance with this subpart no later than 2 years after it becomes a major source.

(e) You must meet the notification and schedule requirements in § 63.7840. Several of these notifications must be submitted before the compliance date for your affected source.

Emission Limitations

§ 63.7790 What emission limitations must I meet?

(a) You must meet each emission limit and opacity limit in Table 1 to this subpart that applies to you.

(b) You must meet each operating limit for capture systems and control devices in paragraphs (b)(1) through (3) of this section that applies to you.

(1) You must operate each capture system applied to emissions from a sinter plant discharge end or blast furnace casthouse or to secondary emissions from a BOPF at or above the lowest value or settings established for the operating limits in your operation and maintenance plan;

(2) For each venturi scrubber applied to meet any particulate emission limit in Table 1 to this subpart, you must maintain the hourly average pressure drop and scrubber water flow rate at or above the minimum levels established during the initial performance test.

(3) For each electrostatic precipitator applied to emissions from a BOPF, you must maintain the average opacity of emissions for each 6-minute period at or below the site-specific opacity value corresponding to the 99 percent upper confidence limit on the mean of a normal distribution of average opacity values established during the initial performance test.

(c) An owner or operator who uses an air pollution control device other than a baghouse, venturi scrubber, or electrostatic precipitator must submit a description of the device; test results collected in accordance with § 63.7822 verifying the performance of the device for reducing emissions of particulate matter to the atmosphere to the levels required by this subpart; a copy of the operation and maintenance plan required in § 63.7800(b); and appropriate operating parameters that will be monitored to maintain continuous compliance with the applicable emission limitation(s). The monitoring plan identifying the operating parameters to be monitored is subject to approval by the Administrator.

(d) For each sinter plant, you must either:

(1) Maintain the 30-day rolling average oil content of the feedstock at or below 0.02 percent; or

(2) Maintain the 30-day rolling average of volatile organic compound emissions from the windbox exhaust stream at or below 0.2 lb/ton of sinter.

Operation and Maintenance Requirements

§ 63.7800 What are my operation and maintenance requirements?

(a) As required by § 63.6(e)(1)(i), you must always operate and maintain your affected source, including air pollution control and monitoring equipment, in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by this subpart.

(b) You must prepare and operate at all times according to a written operation and maintenance plan for each capture system or control device subject to an operating limit in § 63.7790(b). Each plan must address the elements in paragraphs (b)(1) through (5) of this section.

(1) Monthly inspections of the equipment that is important to the performance of the total capture system (*e.g.*, pressure sensors, dampers, and damper switches). This inspection must include observations of the physical appearance of the equipment (*e.g.*, presence of holes in ductwork or hoods, flow constrictions caused by dents or accumulated dust in the ductwork, and fan erosion). The operation and maintenance plan also must include requirements to repair any defect or deficiency in the capture system before the next scheduled inspection.

(2) Preventative maintenance for each control device, including a preventative maintenance schedule that is consistent with the manufacturer's instructions for routine and long-term maintenance.

(3) Operating limits for each capture system applied to emissions from a sinter plant discharge end or blast furnace casthouse, or to secondary emissions from a BOPF. You must establish the operating limits according to the requirements in paragraphs (b)(3)(i) through (iii) of this section.

(i) Select operating limit parameters appropriate for the capture system design that are representative and reliable indicators of the performance of the capture system. At a minimum, you must use appropriate operating limit parameters that indicate the level of the ventilation draft and the damper position settings for the capture system when operating to collect emissions, including revised settings for seasonal variations. Appropriate operating limit parameters for ventilation draft include, but are not limited to, volumetric flow rate through each separately ducted hood, total volumetric flow rate at the inlet to the control device to which the capture system is vented, fan motor amperage, or static pressure.

(ii) For each operating limit parameter selected in paragraph (b)(3)(i) of this section, designate the value or setting for the parameter at which the capture system operates during the process operation. If your operation allows for more than one process to be operating simultaneously, designate the value or setting for the parameter at which the capture system operates during each possible configuration that you may operate.

(iii) Include documentation in your plan to support your selection of the operating limits established for the capture system. This documentation must include a description of the capture system design, a description of the capture system operating during production, a description of each selected operating limit parameter, a rationale for why you chose the parameter, a description of the method used to monitor the parameter according to the requirements of § 63.7830(a), and the data used to set the value or setting for the parameter for each of your process configurations.

(4) Corrective action procedures for bag leak detection systems. In the event a bag leak detection system alarm is triggered, you must initiate corrective action to determine the cause of the alarm within 1 hour of the alarm, initiate corrective action to correct the cause of the problem within 24 hours of the alarm, and complete the corrective action as soon as practicable. Corrective actions may include, but are not limited to:

(i) Inspecting the baghouse for air leaks, torn or broken bags or filter media, or any other condition that may cause an increase in emissions.

(ii) Sealing off defective bags or filter media.

(iii) Replacing defective bags or filter media or otherwise repairing the control device.

(iv) Sealing off a defective baghouse compartment.

(v) Cleaning the bag leak detection system probe, or otherwise repair the bag leak detection system.

(vi) Shutting down the process producing the particulate emissions; and

(5) Procedures for determining and recording the daily sinter plant production rate in tons per hour.

General Compliance Requirements

§ 63.7810 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations and operation and maintenance requirements in this subpart at all times, except during periods of startup, shutdown, and malfunction as defined in § 63.2.

(b) During the period between the compliance date specified for your affected source in § 63.7783 and the date upon which continuous monitoring systems have been installed and certified and any applicable operating limits have been set, you must maintain a log detailing the operation and maintenance of the process and emissions control equipment.

(c) You must develop and implement a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

Initial Compliance Requirements

§ 63.7820 By what date must I conduct performance tests or other initial compliance demonstrations?

(a) You must conduct a performance test to demonstrate initial compliance with each emission and opacity limit in Table 1 to this subpart that applies to you. You must also conduct a performance test to demonstrate initial compliance with the 30-day rolling average operating limit for the oil content of the sinter plant feedstock in § 63.7790(d)(1) or alternative limit for volatile organic compound emissions from the sinter plant windbox exhaust stream in § 63.7790(d)(2). You must conduct the performance tests within 180 calendar days after the compliance date that is specified in § 63.7783 for your affected source and report the results in your notification of compliance status.

(b) For each operation and maintenance requirement that applies to you where initial compliance is not demonstrated using a performance test or opacity observation, you must demonstrate initial compliance within 30 calendar days after the compliance date that is specified for your affected source in § 63.7783.

(c) If you commenced construction or reconstruction between July 13, 2001 and May 20, 2003, you must demonstrate initial compliance with either the proposed emission limit or the promulgated emission limit no later than November 17, 2003 or no later than 180 days after startup of the source, whichever is later, according to § 63.7(a)(2)(ix).

(d) If you commenced construction or reconstruction between July 13, 2001 and May 20, 2003, and you chose to comply with the proposed emission limit when demonstrating initial compliance, you must conduct a second performance test to demonstrate compliance with the promulgated emission limit by November 17, 2006, or no later than 180 days after startup of the source, whichever is later, according to § 63.7(a)(2)(ix).

§ 63.7821 When must I conduct subsequent performance tests?

You must conduct subsequent performance tests to demonstrate compliance with all applicable PM and opacity limits in Table 1 to this subpart no less frequently than twice (at mid-term and renewal) during each term of your title V operating permit. For sources without a title V operating permit, you must conduct subsequent performance tests every 2.5 years.

§ 63.7822 What test methods and other procedures must I use to demonstrate initial compliance with the emission limits for particulate matter?

(a) You must conduct each performance test that applies to your affected source according to the requirements in § 63.7(e)(1) and the conditions detailed in paragraphs (b) through (i) of this section.

(b) To determine compliance with the applicable emission limit for particulate matter in Table 1 to this subpart, follow the test methods and procedures in paragraphs (b)(1) and (2) of this section.

(1) Determine the concentration of particulate matter according to the following test methods in appendix A to part 60 of this chapter:

(i) Method 1 to select sampling port locations and the number of traverse points. Sampling ports must be located at the outlet of the control device and prior to any releases to the atmosphere.

(ii) Method 2, 2F, or 2G to determine the volumetric flow rate of the stack gas.

(iii) Method 3, 3A, or 3B to determine the dry molecular weight of the stack gas.

(iv) Method 4 to determine the moisture content of the stack gas.

(v) Method 5, 5D, or 17, as applicable, to determine the concentration of particulate matter (front half filterable catch only).

(2) Collect a minimum sample volume of 60 dry standard cubic feet (dscf) of gas during each particulate matter test run. Three valid test runs are needed to comprise a performance test.

(c) For each sinter plant windbox exhaust stream, you must complete the requirements of paragraphs (c)(1) and (2) of this section:

(1) Follow the procedures in your operation and maintenance plan for measuring and recording the sinter production rate for each test run in tons per hour; and

(2) Compute the process-weighted mass emissions (E_p) for each test run using Equation 1 of this section as follows:

$$E_p = \frac{C \times Q}{P \times K} \qquad \text{(Eq. 1)}$$

Where:

E_p = Process-weighted mass emissions of particulate matter, lb/ton;
C = Concentration of particulate matter, grains per dry standard cubic foot (gr/dscf);
Q = Volumetric flow rate of stack gas, dry standard cubic foot per hour (dscf/hr);
P = Production rate of sinter during the test run, tons/hr; and
K = Conversion factor, 7,000 grains per pound (gr/lb).

(d) If you apply two or more control devices in parallel to emissions from a sinter plant discharge end or a BOPF, compute the average flow-weighted concentration for each test run using Equation 2 of this section as follows:

$$C_W = \frac{\sum_{i=1}^{n} C_i Q_i}{\sum_{i=1}^{n} Q_i} \qquad \text{(Eq. 2)}$$

Where:

C_w = Flow-weighted concentration, gr/dscf;
C_i = Concentration of particulate matter from exhaust stream "i", gr/dscf; and
Q_i = Volumetric flow rate of effluent gas from exhaust stream "i", dry standard cubic foot per minute (dscfm).

(e) For a control device applied to emissions from a blast furnace casthouse, sample for an integral number of furnace tapping operations sufficient to obtain at least 1 hour of sampling for each test run.

(f) For a primary emission control device applied to emissions from a BOPF with a closed hood system, sample only during the primary oxygen blow and do not sample during any subsequent reblows. Continue sampling for each run for an integral number of primary oxygen blows.

(g) For a primary emission control system applied to emissions from a BOPF with an open hood system and for a control device applied solely to secondary emissions from a BOPF, you must complete the requirements of paragraphs (g)(1) and (2) of this section:

(1) Sample only during the steel production cycle. Conduct sampling under conditions that are representative of normal operation. Record the start and end time of each steel production cycle and each period of abnormal operation; and

(2) Sample for an integral number of steel production cycles. The steel production cycle begins when the scrap is charged to the furnace and ends 3 minutes after the slag is emptied from the vessel into the slag pot.

(h) For a control device applied to emissions from BOPF shop ancillary operations (hot metal transfer, skimming, desulfurization, or ladle metallurgy), sample only when the operation(s) is being conducted.

(i) Subject to approval by the permitting authority, you may conduct representative sampling of stacks when there are more than three stacks associated with a process.

§ 63.7823 What test methods and other procedures must I use to demonstrate initial compliance with the opacity limits?

(a) You must conduct each performance test that applies to your affected source according to the requirements in § 63.7(h)(5) and the conditions detailed in paragraphs (b) through (d) of this section.

(b) You must conduct each visible emissions performance test such that the opacity observations overlap with the performance test for particulate matter.

(c) To determine compliance with the applicable opacity limit in Table 1 to this subpart for a sinter plant discharge end or a blast furnace casthouse:

(1) Using a certified observer, determine the opacity of emissions according to Method 9 in appendix A to part 60 of this chapter.

(2) Obtain a minimum of 30 6-minute block averages. For a blast furnace casthouse, make observations during tapping of the furnace. Tapping begins when the furnace is opened, usually by creating a hole near the bottom of the furnace, and ends when the hole is plugged.

(d) To determine compliance with the applicable opacity limit in Table 1 to this subpart for BOPF shops:

(1) For an existing BOPF shop:

(i) Using a certified observer, determine the opacity of emissions according to Method 9 in appendix A to part 60 of this chapter except as specified in paragraphs (d)(1)(ii) and (iii) of this section.

(ii) Instead of procedures in section 2.4 of Method 9 in appendix A to part 60 of this chapter, record observations to the nearest 5 percent at 15-second intervals for at least three steel production cycles.

(iii) Instead of procedures in section 2.5 of Method 9 in appendix A to part 60 of this chapter, determine the 3-minute block average opacity from the average of 12 consecutive observations recorded at 15-second intervals.

(2) For a new BOPF shop housing a bottom-blown BOPF:

(i) Using a certified observer, determine the opacity of emissions according to Method 9 in appendix A to part 60 of this chapter.

(ii) Determine the highest and second highest sets of 6-minute block average opacities for each steel production cycle.

(3) For a new BOPF shop housing a top-blown BOPF:

(i) Determine the opacity of emissions according to the requirements for an existing BOPF shop in paragraphs (d)(1)(i) through (iii) of this section.

(ii) Determine the highest and second highest sets of 3-minute block average opacities for each steel production cycle.

(4) Opacity observations must cover the entire steel production cycle and must be made for at least three cycles. The steel production cycle begins when the scrap is charged to the furnace and ends 3 minutes after the slag is emptied from the vessel into the slag pot.

(5) Determine and record the starting and stopping times of the steel production cycle.

§ 63.7824 What test methods and other procedures must I use to establish and demonstrate initial compliance with operating limits?

(a) For each capture system subject to an operating limit in § 63.7790(b)(1), you must certify that the system operated during the performance test at the site-specific operating limits established in your operation and maintenance plan using the procedures in paragraphs (a)(1) through (4) of this section.

(1) Concurrent with all opacity observations, measure and record values for each of the operating limit parameters in your capture system operation and maintenance plan according to the monitoring requirements specified in § 63.7830(a).

(2) For any dampers that are manually set and remain at the same position at all times the capture system is operating, the damper position must be visually checked and recorded at the beginning and end of each opacity observation period segment.

(3) Review and record the monitoring data. Identify and explain any times the capture system operated outside the applicable operating limits.

(4) Certify in your performance test report that during all observation period segments, the capture system was operating at the values or settings established in your capture system operation and maintenance plan.

(b) For a venturi scrubber subject to operating limits for pressure drop and scrubber water flow rate in

§ 63.7790(b)(2), you must establish site-specific operating limits according to the procedures in paragraphs (b)(1) and (2) of this section.

(1) Using the continuous parameter monitoring system (CPMS) required in § 63.7830(c), measure and record the pressure drop and scrubber water flow rate during each run of the particulate matter performance test.

(2) Compute and record the hourly average pressure drop and scrubber water flow rate for each individual test run. Your operating limits are the lowest average pressure drop and scrubber water flow rate value in any of the three runs that meet the applicable emission limit.

(c) For an electrostatic precipitator subject to the operating limit in § 63.7790(b)(3) for opacity, you must establish a site-specific operating limit according to the procedures in paragraphs (c)(1) through (3) of this section.

(1) Using the continuous opacity monitoring system (COMS) required in § 63.7830(d), measure and record the opacity of emissions from each control device stack during each run of the particulate matter performance test.

(2) Compute and record the 6-minute block average opacity from 36 or more data points equally spaced over each 6-minute period during the test runs.

(3) Determine, based on the 6-minute block averages, the opacity value corresponding to the 99 percent upper confidence limit on the mean of a normal distribution of average opacity values.

(d) You may change the operating limits for a capture system, venturi scrubber, or electrostatic precipitator if you meet the requirements in paragraphs (d)(1) through (3) of this section.

(1) Submit a written notification to the Administrator of your request to conduct a new performance test to revise the operating limit.

(2) Conduct a performance test to demonstrate compliance with the applicable emission limitation in Table 1 to this subpart.

(3) Establish revised operating limits according to the applicable procedures in paragraphs (a) through (c) of this section for a control device or capture system.

(e) For each sinter plant subject to the operating limit for the oil content of the sinter plant feedstock in § 63.7790(d)(1), you must demonstrate initial compliance according to the procedures in paragraphs (e)(1) through (3) of this section.

(1) Sample the feedstock at least three times a day (once every 8 hours), composite the three samples each day, and analyze the composited samples using Method 9071B, "n-Hexane Extractable Material(HEM) for Sludge, Sediment, and Solid Samples," (Revision 2, April 1998). Method 9071B is incorporated by reference (see § 63.14) and is published in EPA Publication SW–846 "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods." Record the sampling date and time, oil content values, and sinter produced (tons/day).

(2) Continue the sampling and analysis procedure for 30 consecutive days.

(3) Each day, compute and record the 30-day rolling average using that day's value and the 29 previous daily values.

(f) To demonstrate initial compliance with the alternative operating limit for volatile organic compound emissions from the sinter plant windbox exhaust stream in § 63.7790(d)(2), follow the test methods and procedures in paragraphs (f)(1) through (5) of this section.

(1) Determine the volatile organic compound emissions according to the following test methods in appendix A to part 60 of this chapter:

(i) Method 1 to select sampling port locations and the number of traverse points. Sampling ports must be located at the outlet of the control device and prior to any releases to the atmosphere.

(ii) Method 2, 2F, or 2G to determine the volumetric flow rate of the stack gas.

(iii) Method 3, 3A, or 3B to determine the dry molecular weight of the stack gas.

(iv) Method 4 to determine the moisture content of the stack gas.

(v) Method 25 to determine the mass concentration of volatile organic compound emissions (total gaseous nonmethane organics as carbon) from the sinter plant windbox exhaust stream stack.

(2) Determine volatile organic compound (VOC) emissions every 24 hours (from at least three samples taken at 8-hour intervals) using Method 25 in 40 CFR part 60, appendix A. Record the sampling date and time, sampling results, and sinter produced (tons/day).

(3) Compute the process-weighted mass emissions (E_v) each day using Equation 1 of this section as follows:

$$E_v = \frac{M_C \times Q}{35.31 \times 454{,}000 \times K} \quad \text{(Eq. 1)}$$

Where:

E_v = Process-weighted mass emissions of volatile organic compounds, lb/ton;

M_c = Average concentration of total gaseous nonmethane organics as carbon by Method 25 (40 CFR part 60, appendix A), milligrams per dry standard cubic meters (mg/dscm) for each day;

Q = Volumetric flow rate of stack gas, dscf/hr;

35.31 = Conversion factor (dscf/dscm);

454,000 = Conversion factor (mg/lb); and

K = Daily production rate of sinter, tons/hr.

(4) Continue the sampling and analysis procedure in paragraphs (f)(1) through (3) of this section for 30 consecutive days.

(5) Compute and record the 30-day rolling average of VOC emissions for each operating day.

(g) You may use an alternative test method to determine the oil content of the sinter plant feedstock or the volatile organic compound emissions from the sinter plant windbox exhaust stack if you have already demonstrated the equivalency of the alternative method for a specific plant and have received previous approval from the applicable permitting authority.

§ 63.7825 How do I demonstrate initial compliance with the emission limitations that apply to me?

(a) For each affected source subject to an emission or opacity limit in Table 1 to this subpart, you have demonstrated initial compliance if:

(1) You meet the conditions in Table 2 to this subpart; and

(2) For each capture system subject to the operating limit in § 63.7790(b)(1), you have established appropriate site-specific operating limit(s) and have a record of the operating parameter data measured during the performance test in accordance with § 63.7824(a)(1).

(3) For each venturi scrubber subject to the operating limits for pressure drop and scrubber water flow rate in § 63.7790(b)(2), you have established appropriate site-specific operating limits and have a record of the pressure drop and scrubber water flow rate measured during the performance test in accordance with § 63.7824(b); and

(4) For each electrostatic precipitator subject to the opacity operating limit in § 63.7790(b)(3), you have established an appropriate site-specific operating limit and have a record of the opacity measurements made during the performance test in accordance with § 63.7824(c).

(b) For each existing or new sinter plant subject to the operating limit in § 63.7790(d)(1), you have demonstrated initial compliance if the 30-day rolling average of the oil content of the feedstock, measured during the initial performance test in accordance with § 63.7824(e) is no more than 0.02

percent or the volatile organic compound emissions from the sinter plant windbox exhaust stream, measured during the initial performance test in accordance with § 63.7824(f), is no more than 0.2 lb/ton of sinter produced.

(c) For each emission limitation that applies to you, you must submit a notification of compliance status according to § 63.7840(e).

§ 63.7826 How do I demonstrate initial compliance with the operation and maintenance requirements that apply to me?

(a) For a capture system applied to emissions from a sinter plant discharge end or blast furnace casthouse or to secondary emissions from a BOPF, you have demonstrated initial compliance if you meet all of the conditions in paragraphs (a)(1) through (4) of this section.

(1) Prepared the capture system operation and maintenance plan according to the requirements of § 63.7800(b), including monthly inspection procedures and detailed descriptions of the operating parameter(s) selected to monitor the capture system;

(2) Certified in your performance test report that the system operated during the test at the operating limits established in your operation and maintenance plan;

(3) Submitted a notification of compliance status according to the requirements in § 63.7840(e), including a copy of the capture system operation and maintenance plan and your certification that you will operate the capture system at the values or settings established for the operating limits in that plan; and

(4) Prepared a site-specific monitoring plan according to the requirements in § 63.7831(a).

(b) For each control device subject to operating limits in § 63.7790(b)(2) or (3), you have demonstrated initial compliance if you meet all the conditions in paragraphs (b)(1) through (3) of this section.

(1) Prepared the control device operation and maintenance plan according to the requirements of § 63.7800(b), including a preventative maintenance schedule and, if applicable, detailed descriptions of the procedures you use for corrective action for baghouses;

(2) Submitted a notification of compliance status according to the requirements in § 63.7840(e), including a copy of the operation and maintenance plan; and

(3) Prepared a site-specific monitoring plan according to the requirements in § 63.7831(a).

Continuous Compliance Requirements

§ 63.7830 What are my monitoring requirements?

(a) For each capture system subject to an operating limit in § 63.7790(b)(1) established in your capture system operation and maintenance plan, you must install, operate, and maintain a CPMS according to the requirements in § 63.7831(e) and the requirements in paragraphs (a)(1) through (3) of this section.

(1) Dampers that are manually set and remain in the same position are exempt from the requirement to install and operate a CPMS. If dampers are not manually set and remain in the same position, you must make a visual check at least once every 24 hours to verify that each damper for the capture system is in the same position as during the initial performance test.

(2) If you use a flow measurement device to monitor the operating limit parameter for a sinter plant discharge end or blast furnace casthouse, you must monitor the hourly average rate (*e.g.*, the hourly average actual volumetric flow rate through each separately ducted hood, the average hourly total volumetric flow rate at the inlet to the control device) according to the requirements in § 63.7832.

(3) If you use a flow measurement device to monitor the operating limit parameter for a capture system applied to secondary emissions from a BOPF, you must monitor the average rate for each steel production cycle (*e.g.*, the average actual volumetric flow rate through each separately ducted hood for each steel production cycle, the average total volumetric flow rate at the inlet to the control device for each steel production cycle) according to the requirements in § 63.7832.

(b) For each baghouse applied to meet any particulate emission limit in Table 1 of this subpart, you must install, operate, and maintain a bag leak detection system according to § 63.7831(f), monitor the relative change in particulate matter loadings according to the requirements in § 63.7832, and conduct inspections at their specified frequencies according to the requirements in paragraphs (b)(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 inspection 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 laying 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.

(c) For each venturi scrubber subject to the operating limits for pressure drop and scrubber water flow rate in § 63.7790(b)(2), you must install, operate, and maintain CPMS according to the requirements in § 63.7831(g) and monitor the hourly average pressure drop and water flow rate according to the requirements in § 63.7832.

(d) For each electrostatic precipitator subject to the opacity operating limit in § 63.7790(b)(3), you must install, operate, and maintain a COMS according to the requirements in § 63.7831(h) and monitor the 6-minute average opacity of emissions exiting each control device stack according to the requirements in § 63.7832.

(e) For each sinter plant subject to the operating limit in § 63.7790(d), you must either:

(1) Compute and record the 30-day rolling average of the oil content of the feedstock for each operating day using the procedures in § 63.7824(e); or

(2) Compute and record the 30-day rolling average of volatile organic compound emissions (lbs/ton of sinter) for each operating day using the procedures in § 63.7824(f).

§ 63.7831 What are the installation, operation, and maintenance requirements for my monitors?

(a) For each CPMS required in § 63.7830, you must develop and make available for inspection upon request by the permitting authority a site-specific monitoring plan that addresses the requirements in paragraphs (a)(1) through (6) of this section.

(1) Installation of the CPMS sampling probe or other interface at a

measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (*e.g.*, on or downstream of the last control device);

(2) Performance and equipment specifications for the sample interface, the parametric signal analyzer, and the data collection and reduction system;

(3) Performance evaluation procedures and acceptance criteria (*e.g.*, calibrations);

(4) Ongoing operation and maintenance procedures in accordance with the general requirements of §§ 63.8(c)(1), (c)(3), (c)(4)(ii), (c)(7), and (c)(8);

(5) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d); and

(6) Ongoing recordkeeping and reporting procedures in accordance the general requirements of §§ 63.10(c), (e)(1), and (e)(2)(i).

(b) Unless otherwise specified, each CPMS must:

(1) Complete a minimum of one cycle of operation for each successive 15-minute period and collect a minimum of three of the required four data points to constitute a valid hour of data;

(2) Provide valid hourly data for at least 95 percent of every averaging period; and

(3) Determine and record the hourly average of all recorded readings.

(c) You must conduct a performance evaluation of each CPMS in accordance with your site-specific monitoring plan.

(d) You must operate and maintain the CPMS in continuous operation according to the site-specific monitoring plan.

(e) For each capture system subject to an operating limit in § 63.7790(b)(1), you must install, operate, and maintain each CPMS according to the requirements in paragraphs (a) through (d) of this section.

(f) For each baghouse applied to meet any particulate emission limit in Table 1 of this subpart, you must install, operate, and maintain a bag leak detection system according to the requirements in paragraphs (f)(1) through (7) of this section.

(1) The system must be certified by the manufacturer to be capable of detecting emissions of particulate matter at concentrations of 10 milligrams per actual cubic meter (0.0044 grains per actual cubic foot) or less.

(2) The system must provide output of relative changes in particulate matter loadings.

(3) The system must be equipped with an alarm that will sound when an increase in relative particulate loadings is detected over a preset level. The alarm must be located such that it can be heard by the appropriate plant personnel.

(4) Each system that works based on the triboelectric effect must be installed, operated, and maintained in a manner consistent with the guidance document, "Fabric Filter Bag Leak Detection Guidance," EPA–454/R–98–015, September 1997. You may install, operate, and maintain other types of bag leak detection systems in a manner consistent with the manufacturer's written specifications and recommendations.

(5) To make the initial adjustment of the system, establish the baseline output by adjusting the sensitivity (range) and the averaging period of the device. Then, establish the alarm set points and the alarm delay time.

(6) Following the initial adjustment, do not adjust the sensitivity or range, averaging period, alarm set points, or alarm delay time, except as detailed in your operation and maintenance plan. Do not increase the sensitivity by more than 100 percent or decrease the sensitivity by more than 50 percent over a 365-day period unless a responsible official certifies, in writing, that the baghouse has been inspected and found to be in good operating condition.

(7) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(g) For each venturi scrubber subject to operating limits in § 63.7790(b)(2) for pressure drop and scrubber water flow rate, you must install, operate, and maintain each CPMS according to the requirements in paragraphs (a) through (d) of this section.

(h) For each electrostatic precipitator subject to the opacity operating limit in § 63.7790(b)(3), you must install, operate, and maintain each COMS according to the requirements in paragraphs (h)(1) through (4) of this section.

(1) You must install, operate, and maintain each COMS according to Performance Specification 1 in 40 CFR part 60, appendix B.

(2) You must conduct a performance evaluation of each COMS according to § 63.8 and Performance Specification 1 in appendix B to 40 CFR part 60.

(3) Each COMS must complete a minimum of one cycle of sampling and analyzing for each successive 10-second period and one cycle of data recording for each successive 6-minute period.

(4) COMS data must be reduced as specified in § 63.8(g)(2).

§ 63.7832 How do I monitor and collect data to demonstrate continuous compliance?

(a) Except for monitoring malfunctions, out-of-control periods as specified in § 63.8(c)(7), associated repairs, and required quality assurance or control activities (including as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times an affected source is operating.

(b) You may not use data recorded during monitoring malfunctions, associated repairs, and required quality assurance or control activities in data averages and calculations used to report emission or operating levels or to fulfill a minimum data availability requirement, if applicable. You must use all the data collected during all other periods in assessing compliance.

(c) A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions.

§ 63.7833 How do I demonstrate continuous compliance with the emission limitations that apply to me?

(a) You must demonstrate continuous compliance for each affected source subject to an emission or opacity limit in § 63.7790(a) by meeting the requirements in Table 3 to this subpart.

(b) You must demonstrate continuous compliance for each capture system subject to an operating limit in § 63.7790(b)(1) by meeting the requirements in paragraphs (b)(1) and (2) of this section.

(1) Operate the capture system at or above the lowest values or settings established for the operating limits in your operation and maintenance plan; and

(2) Monitor the capture system according to the requirements in § 63.7830(a) and collect, reduce, and record the monitoring data for each of the operating limit parameters according to the applicable requirements of this subpart;

(c) For each baghouse applied to meet any particulate emission limit in Table 1 to this subpart, you must demonstrate continuous compliance by completing the requirements in paragraphs (c)(1) and (2) of this section:

(1) Maintaining records of the time you initiated corrective action in the event of a bag leak detection system alarm, the corrective action(s) taken, and the date on which corrective action was completed.

(2) Inspecting and maintaining each baghouse according to the requirements in § 63.7831(f) and recording all information needed to document conformance with these requirements. If you increase or decrease the sensitivity of the bag leak detection system beyond the limits specified in § 63.7831(f)(6), you must include a copy of the required written certification by a responsible official in the next semiannual compliance report.

(d) For each venturi scrubber subject to the operating limits for pressure drop and scrubber water flow rate in § 63.7790(b)(2), you must demonstrate continuous compliance by completing the requirements of paragraphs (d)(1) through (3) of this section:

(1) Maintaining the hourly average pressure drop and scrubber water flow rate at levels no lower than those established during the initial or subsequent performance test;

(2) Operating and maintaining each venturi scrubber CPMS according to § 63.7831(g) and recording all information needed to document conformance with these requirements; and

(3) Collecting and reducing monitoring data for pressure drop and scrubber water flow rate according to § 63.7831(b) and recording all information needed to document conformance with these requirements.

(e) For each electrostatic precipitator subject to the site-specific opacity operating limit in § 63.7790(b)(3), you must demonstrate continuous compliance by completing the requirements of paragraphs (e)(1) and (2) of this section:

(1) Maintaining the average opacity of emissions for each 6-minute period no higher than the site-specific limit established during the initial or subsequent performance test; and

(2) Operating and maintaining each COMS and reducing the COMS data according to § 63.7831(h).

(f) For each new or existing sinter plant subject to the operating limit in § 63.7790(d), you must demonstrate continuous compliance by either:

(1) For the sinter plant feedstock oil content operating limit in § 63.7790(d)(1),

(i) Computing and recording the 30-day rolling average of the percent oil content for each operating day according to the performance test procedures in § 63.7824(e);

(ii) Recording the sampling date and time, oil content values, and sinter produced (tons/day); and

(iii) Maintaining the 30-day rolling average oil content of the feedstock no higher than 0.02 percent.

(2) For the volatile organic compound operating limit in § 63.7790(d)(2),

(i) Computing and recording the 30-day rolling average of volatile organic compound emissions for each operating day according to the performance test procedures in § 63.7824(f);

(ii) Recording the sampling date and time, sampling values, and sinter produced (tons/day); and

(iii) Maintaining the 30-day rolling average of volatile organic compound emissions no higher than 0.2 lb/ton of sinter produced.

§ 63.7834 How do I demonstrate continuous compliance with the operation and maintenance requirements that apply to me?

(a) For each capture system and control device subject to an operating limit in § 63.7790(b), you must demonstrate continuous compliance with the operation and maintenance requirements in § 63.7800(b) by meeting the requirements of paragraphs (a)(1) through (3) of this section:

(1) Making monthly inspections of capture systems and initiating corrective action according to § 63.7800(b)(1) and recording all information needed to document conformance with these requirements;

(2) Performing preventative maintenance according to § 63.7800(b)(2) and recording all information needed to document conformance with these requirements; and

(3) Initiating and completing corrective action for a bag leak detection system alarm according to § 63.7800(b)(4) and recording all information needed to document conformance with these requirements.

(b) You must maintain a current copy of the operation and maintenance plan required in § 63.7800(b) onsite and available for inspection upon request. You must keep the plans for the life of the affected source or until the affected source is no longer subject to the requirements of this subpart.

§ 63.7835 What other requirements must I meet to demonstrate continuous compliance?

(a) *Deviations.* You must report each instance in which you did not meet each emission limitation in § 63.7790 that applies to you. This includes periods of startup, shutdown, and malfunction. You also must report each instance in which you did not meet each operation and maintenance requirement in § 63.7800 that applies to you. These instances are deviations from the emission limitations and operation and maintenance requirements in this subpart. These deviations must be reported according to the requirements in § 63.7841.

(b) *Startups, shutdowns, and malfunctions.* During periods of startup, shutdown, and malfunction, you must operate in accordance with your startup, shutdown, and malfunction plan.

(1) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the startup, shutdown, and malfunction plan.

(2) The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

Notifications, Reports, and Records

§ 63.7840 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.6(h)(4) and (5), 63.7(b) and (c), 63.8(e) and (f)(4), and 63.9(b) through (h) that apply to you by the specified dates.

(b) As specified in § 63.9(b)(2), if you startup your affected source before May 20, 2003, you must submit your initial notification no later than September 17, 2003.

(c) As specified in § 63.9(b)(3), if you start your new affected source on or after May 20, 2003, you must submit your initial notification no later than 120 calendar days after you become subject to this subpart.

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

(e) If you are required to conduct a performance test, opacity observation, or other initial compliance demonstration, you must submit a notification of compliance status according to § 63.9(h)(2)(ii).

(1) For each initial compliance demonstration that does not include a performance test, you must submit the notification of compliance status before the close of business on the 30th calendar day following completion of the initial compliance demonstration.

(2) For each initial compliance demonstration that does include a performance test, you must submit the notification of compliance status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2).

§ 63.7841 What reports must I submit and when?

(a) *Compliance report due dates.* Unless the Administrator has approved a different schedule, you must submit a semiannual compliance report to your permitting authority according to the requirements in paragraphs (a)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.7783 and ending on June 30 or December 31, whichever date comes first after the compliance date that is specified for your source in § 63.7783.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date comes first after your first compliance report is due.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date comes first after the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (a)(1) through (4) of this section.

(b) *Compliance report contents.* Each compliance report must include the information in paragraphs (b)(1) through (3) of this section and, as applicable, paragraphs (b)(4) through (8) of this section.

(1) Company name and address.

(2) Statement by a responsible official, with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).

(5) If there were no deviations from the continuous compliance requirements in §§ 63.7833 and 63.7834 that apply to you, a statement that there were no deviations from the emission limitations or operation and maintenance requirements during the reporting period.

(6) If there were no periods during which a continuous monitoring system (including a CPMS, COMS, or continuous emission monitoring system (CEMS) was out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which the CPMS was out-of-control during the reporting period.

(7) For each deviation from an emission limitation in § 63.7790 that occurs at an affected source where you are not using a continuous monitoring system (including a CPMS, COMS, or CEMS) to comply with an emission limitation in this subpart, the compliance report must contain the information in paragraphs (b)(1) through (4) of this section and the information in paragraphs (b)(7)(i) and (ii) of this section. This includes periods of startup, shutdown, and malfunction.

(i) The total operating time of each affected source during the reporting period.

(ii) Information on the number, duration, and cause of deviations (including unknown cause, if applicable) as applicable and the corrective action taken.

(8) For each deviation from an emission limitation occurring at an affected source where you are using a continuous monitoring system (including a CPMS or COMS) to comply with the emission limitation in this subpart, you must include the information in paragraphs (b)(1) through (4) of this section and the information in paragraphs (b)(8)(i) through (xi) of this section. This includes periods of startup, shutdown, and malfunction.

(i) The date and time that each malfunction started and stopped.

(ii) The date and time that each continuous monitoring was inoperative, except for zero (low-level) and high-level checks.

(iii) The date, time, and duration that each continuous monitoring system was out-of-control as specified in § 63.8(c)(7), including the information in § 63.8(c)(8).

(iv) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(v) A summary of the total duration of the deviation during the reporting period and the total duration as a percent of the total source operating time during that reporting period.

(vi) A breakdown of the total duration of the deviations during the reporting period including those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(vii) A summary of the total duration of continuous monitoring system downtime during the reporting period and the total duration of continuous monitoring system downtime as a percent of the total source operating time during the reporting period.

(viii) A brief description of the process units.

(ix) A brief description of the continuous monitoring system.

(x) The date of the latest continuous monitoring system certification or audit.

(xi) A description of any changes in continuous monitoring systems, processes, or controls since the last reporting period.

(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, you must submit an immediate startup, shutdown, and malfunction report according to the requirements in § 63.10(d)(5)(ii).

(d) *Part 70 monitoring report.* If you have obtained a title V operating permit for an affected source pursuant to 40 CFR part 70 or 71, you must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If you submit a compliance report for an affected source along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the compliance report includes all the required information concerning deviations from any emission limitation or operation and maintenance requirement in this subpart, submission of the compliance report satisfies any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report does not otherwise affect any obligation you may have to report deviations from permit requirements for an affected source to your permitting authority.

§ 63.7842 What records must I keep?

(a) You must keep the following records:

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any initial notification or notification of

compliance status that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(3) Records of performance tests, performance evaluations, and opacity observations as required in § 63.10(b)(2)(viii).

(b) For each COMS, you must keep the records specified in paragraphs (b)(1) through (4) of this section.

(1) Records described in § 63.10(b)(2)(vi) through (xi).

(2) Monitoring data for a performance evaluation as required in § 63.6(h)(7)(i) and (ii).

(3) Previous (that is, superceded) versions of the performance evaluation plan as required in § 63.8(d)(3).

(4) Records of the date and time that each deviation started and stopped, and whether the deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(c) You must keep the records required in § 63.6(h)(6) for visual observations.

(d) You must keep the records required in §§ 63.7833 and 63.7834 to show continuous compliance with each emission limitation and operation and maintenance requirement that applies to you.

§ 63.7843 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record according to § 63.10(b)(1). You can keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.7850 What parts of the General Provisions apply to me?

Table 4 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

§ 63.7851 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the United States Environmental Protection Agency (U.S. EPA), or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternative opacity emission limits in Table 1 to this subpart under § 63.6(h)(9).

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90, except for approval of an alternative method for the oil content of the sinter plant feedstock or volatile organic compound measurements for the sinter plant windbox exhaust stream stack as provided in § 63.7824(g).

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.7852 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in § 63.2, and in this section as follows.

Bag leak detection system means a system that is capable of continuously monitoring relative particulate matter (dust) loadings in the exhaust of a baghouse to detect bag leaks and other upset conditions. A bag leak detection system includes, but is not limited to, an instrument that operates on tribroelectric, light scattering, light transmittance, or other effect to continuously monitor relative particulate matter loadings.

Basic oxygen process furnace means any refractory-lined vessel in which high-purity oxygen is blown under pressure through a bath of molten iron, scrap metal, and fluxes to produce steel. This definition includes both top and bottom blown furnaces, but does not include argon oxygen decarburization furnaces.

Basic oxygen process furnace shop means the place where steelmaking operations that begin with the transfer of molten iron (hot metal) from the torpedo car and end prior to casting the molten steel, including hot metal transfer, desulfurization, slag skimming, refining in a basic oxygen process furnace, and ladle metallurgy occur.

Basic oxygen process furnace shop ancillary operations means the processes where hot metal transfer, hot metal desulfurization, slag skimming, and ladle metallurgy occur.

Blast furnace means a furnace used for the production of molten iron from iron ore and other iron bearing materials.

Bottom-blown furnace means any basic oxygen process furnace in which oxygen and other combustion gases are introduced into the bath of molten iron through tuyeres in the bottom of the vessel or through tuyeres in the bottom and sides of the vessel.

Casthouse means the building or structure that encloses the bottom portion of a blast furnace where the hot metal and slag are tapped from the furnace.

Certified observer means a visible emission observer certified to perform EPA Method 9 opacity observations.

Desulfurization means the process in which reagents such as magnesium, soda ash, and lime are injected into the hot metal, usually with dry air or nitrogen, to remove sulfur.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limitation (including operating limits) or operation and maintenance requirement;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Discharge end means the place where those operations conducted within the sinter plant starting at the discharge of the sintering machine's traveling grate including (but not limited to) hot sinter crushing, screening, and transfer operations occur.

Emission limitation means any emission limit, opacity limit, or operating limit.

Hot metal transfer station means the location in a basic oxygen process furnace shop where molten iron (hot

metal) is transferred from a torpedo car or hot metal car used to transport hot metal from the blast furnace casthouse to a holding vessel or ladle in the basic oxygen process furnace shop. This location also is known as the reladling station or ladle transfer station.

Integrated iron and steel manufacturing facility means an establishment engaged in the production of steel from iron ore.

Ladle metallurgy means a secondary steelmaking process that is performed typically in a ladle after initial refining in a basic oxygen process furnace to adjust or amend the chemical and/or mechanical properties of steel.

Primary emissions means particulate matter emissions from the basic oxygen process furnace generated during the steel production cycle which are captured and treated in the furnace's primary emission control system.

Primary emission control system means the combination of equipment used for the capture and collection of primary emissions (*e.g.*, an open hood capture system used in conjunction with an electrostatic precipitator or a closed hood system used in conjunction with a scrubber).

Primary oxygen blow means the period in the steel production cycle of a basic oxygen process furnace during which oxygen is blown through the molten iron bath by means of a lance inserted from the top of the vessel (top-blown) or through tuyeres in the bottom and/or sides of the vessel (bottom-blown).

Responsible official means responsible official as defined in § 63.2.

Secondary emissions means particulate matter emissions that are not controlled by a primary emission control system, including emissions that escape from open and closed hoods, lance hole openings, and gaps or tears in ductwork to the primary emission control system.

Secondary emission control system means the combination of equipment used for the capture and collection of secondary emissions from a basic oxygen process furnace.

Sinter cooler means the apparatus used to cool the hot sinter product that is transferred from the discharge end through contact with large volumes of induced or forced draft air.

Sinter plant means the machine used to produce a fused clinker-like aggregate or sinter of fine iron-bearing materials suited for use in a blast furnace. The machine is composed of a continuous traveling grate that conveys a bed of ore fines and other finely divided iron-bearing material and fuel (typically coke breeze), a burner at the feed end of the grate for ignition, and a series of downdraft windboxes along the length of the strand to support downdraft combustion and heat sufficient to produce a fused sinter product.

Skimming station means the locations inside a basic oxygen process furnace shop where slag is removed from the top of the molten metal bath.

Steel production cycle means the operations conducted within the basic oxygen process furnace shop that are required to produce each batch of steel. The following operations are included: scrap charging, preheating (when done), hot metal charging, primary oxygen blowing, sampling, (vessel turndown and turnup), additional oxygen blowing (when done), tapping, and deslagging. The steel production cycle begins when the scrap is charged to the furnace and ends after the slag is emptied from the vessel into the slag pot.

Top-blown furnace means any basic oxygen process furnace in which oxygen is introduced into the bath of molten iron by means of an oxygen lance inserted from the top of the vessel.

Windboxes means the compartments that provide for a controlled distribution of downdraft combustion air as it is drawn through the sinter bed of a sinter plant to make the fused sinter product.

Tables to Subpart FFFFF of Part 63

TABLE 1 TO SUBPART FFFFF OF PART 63.—EMISSION AND OPACITY LIMITS

[As required in § 63.7790(a), you must comply with each applicable emission and opacity limit in the following table]

For . . .	You must comply with each of the following . . .
1. Each windbox exhaust stream at an existing sinter plant.	You must not cause to be discharged to the atmosphere any gases that contain particulate matter in excess of 0.4 lb/ton of product sinter.
2. Each windbox exhaust stream at a new sinter plant.	You must not cause to be discharged to the atmosphere any gases that contain particulate matter in excess of 0.3 lb/ton of product sinter.
3. Each discharge end at an existing sinter plant	a. You must not cause to be discharged to the atmosphere any gases that exit from one or more control devices that contain, on a flow-weighted basis, particulate matter in excess of 0.02 gr/dscf [1]; and b. You must not cause to be discharged to the atmosphere any secondary emissions that exit any opening in the building or structure housing the discharge end that exhibit opacity greater than 20 percent (6-minute average).
4. Each discharge end at a new sinter plant	a. You must not cause to be discharged to the atmosphere any gases that exit from one or more control devices that contain, on a flow weighted basis, particulate matter in excess of 0.01 gr/dscf; and b. You must not cause to be discharged to the atmosphere any secondary emissions that exit any opening in the building or structure housing the discharge end that exhibit opacity greater than 10 percent (6-minute average).
5. Each sinter cooler stack at an existing sinter plant.	You must not cause to be discharged to the atmosphere any gases that contain particulate matter in excess of 0.03 gr/dscf.
6. Each sinter cooler stack at a new sinter plant ..	You must not cause to be discharged to the atmosphere any gases that contain particulate matter in excess of 0.01 gr/dscf.
7. Each casthouse at an existing blast furnace	a. You must not cause to be discharged to the atmosphere any gases that exit from a control device that contain particulate matter in excess of 0.01 gr/dscf; and b. You must not cause to be discharged to the atmosphere any secondary emissions that exit any opening in the casthouse or structure housing the blast furnace that exhibit opacity greater than 20 percent (6-minute average).
8. Each casthouse at a new blast furnace	a. You must not cause to be discharged to the atmosphere any gases that exit from a control device that contain particulate matter in excess of 0.003 gr/dscf; and b. You must not cause to be discharged to the atmosphere any secondary emissions that exit any opening in the casthouse or structure housing the blast furnace that exhibit opacity greater than 15 percent (6-minute average).

TABLE 1 TO SUBPART FFFFF OF PART 63.—EMISSION AND OPACITY LIMITS—Continued

[As required in § 63.7790(a), you must comply with each applicable emission and opacity limit in the following table]

For . . .	You must comply with each of the following . . .
9. Each BOPF at a new or existing shop	a. You must not cause to be discharged to the atmosphere any gases that exit from a primary emission control system for a BOPF with a closed hood system at a new or existing BOPF shop that contain, on a flow-weighted basis, particulate matter in excess of 0.03 gr/dscf during the primary oxygen blow [2]; b. You must not cause to be discharged to the atmosphere any gases that exit from a primary emission control system for a BOPF with an open hood system that contain, on a flow-weighted basis, particulate matter in excess of 0.02 gr/dscf during the steel production cycle for an existing BOPF shop or 0.01 gr/dscf during the steel production cycle for a new BOPF shop [2]; and c. You must not cause to be discharged to the atmosphere any gases that exit from a control device used solely for the collection of secondary emissions from the BOPF that contain particulate matter in excess of 0.01 gr/dscf for an existing BOPF shop or 0.0052 gr/dscf for a new BOPF shop.
10. Each hot metal transfer, skimming, and desulfurization operation at a new or existing BOPF shop.	You must not cause to be discharged to the atmosphere any gases that exit from a control device that contain particulate matter in excess of 0.01 gr/dscf for an existing BOPF shop or 0.003 gr/dscf for a new BOPF shop.
11. Each ladle metallurgy operation at a new or existing BOPF shop.	You must not cause to be discharged to the atmosphere any gases that exit from a control device that contain particulate matter in excess of 0.01 gr/dscf for an existing BOPF shop or 0.004 gr/dscf for a new BOPF shop.
12. Each roof monitoring at an existing BOPF shop.	You must not cause to be discharged to the atmosphere any secondary emissions that exit any opening in the BOPF shop or any other building housing the BOPF or BOPF shop operation that exhibit opacity greater than 20 percent (3-minute average).
13. Each roof monitor at a new BOPF shop	a. You must not cause to be discharged to the atmosphere any secondary emissions that exit any opening in the BOPF shop or other building housing a bottom-blown BOPF or BOPF shop operations that exhibit opacity (for any set of 6-minute averages) greater than 10 percent, except that one 6-minute period not to exceed 20 percent may occur once per steel production cycle; or b. You must not cause to be discharged to the atmosphere any secondary emissions that exit any opening in the BOPF shop or other building housing a top-blown BOPF or BOPF shop operations that exhibit opacity (for any set of 3-minute averages) greater than 10 percent, except that one 3-minute period greater than 10 percent but less than 20 percent may occur once per steel production cycle.

[1] This limit applies if the cooler is vented to the same control device as the discharge end.
[2] This limit applies to control devices operated in parallel for a single BOPF during the oxygen blow.

TABLE 2 TO SUBPART FFFFF OF PART 63.—INITIAL COMPLIANCE WITH EMISSION AND OPACITY LIMITS

[As required in § 63.7825(a)(1), you must demonstrate initial compliance with the emission and opacity limits according to the following table]

For . . .	You have demonstrated initial compliance if . . .
1. Each windbox exhaust stream at an existing sinter plant.	The process-weighted mass rate of particulate matter from a windbox exhaust stream, measured according to the performance test procedures in § 63.7822(c), did not exceed 0.4 lb/ton of product sinter.
2. Each windbox exhaust stream at a new sinter plant.	The process-weighted mass rate of particulate matter from a windbox exhaust stream, measured according to the performance test procedures in § 63.7822(c), did not exceed 0.3 lb/ton of product sinter.
3. Each discharge end at an existing sinter plant	a. The flow-weighted average concentration of particulate matter from one or more control devices applied to emissions from a discharge end, measured according to the performance test procedures in § 63.7822(d), did not exceed 0.02 gr/dscf; and b. The opacity of secondary emissions from each discharge end, determined according to the performance test procedures in § 63.7823(c), did not exceed 20 percent (6-minute average).
4. Each discharge end at a new sinter plant	a. The flow-weighted average concentration of particulate matter from one or more control devices applied to emissions from a discharge end, measured according to the performance test procedures in § 63.7822(d), did not exceed 0.01 gr/dscf; and b. The opacity of secondary emissions from each discharge end, determined according to the performance test procedures in § 63.7823(c), did not exceed 10 percent (6-minute average).
5. Each sinter cooler stack at an existing sinter plant.	The average concentration of particulate matter from a sinter cooler stack, measured according to the performance test procedures in § 63.7822(b), did not exceed 0.03 gr/dscf.
6. Each sinter cooler stack at a new sinter plant	The average concentration of particulate matter from a sinter cooler stack, measured according to the performance test procedures in § 63.7822(b), did not exceed 0.01 gr/dscf.
7. Each casthouse at an existing blast furnace	a. The average concentration of particulate matter from a control device applied to emissions from a casthouse, measured according to the performance test procedures in § 63.7822(e), did not exceed 0.01 gr/dscf; and b. The opacity of secondary emissions from each casthouse, determined according to the performance test procedures in § 63.7823(c), did not exceed 20 percent (6-minute average).

TABLE 2 TO SUBPART FFFFF OF PART 63.—INITIAL COMPLIANCE WITH EMISSION AND OPACITY LIMITS—Continued

[As required in §63.7825(a)(1), you must demonstrate initial compliance with the emission and opacity limits according to the following table]

For . . .	You have demonstrated initial compliance if . . .
8. Each casthouse at a new blast furnace	a. The average concentration of particulate matter from a control device applied to emissions from a casthouse, measured according to the performance test procedures in §63.7822(e), did not exceed 0.003 gr/dscf; and b. The opacity of secondary emissions from each casthouse, determined according to the performance test procedures in §63.7823(c), did not exceed 15 percent (6-minute average).
9. Each BOPF at a new or existing BOPF shop	a. The average concentration of particulate matter from a primary emission control system applied to emissions from a BOPF with a closed hood system, measured according to the performance test procedures in §63.7822(f), did not exceed 0.03 gr/dscf for a new or existing BOPF shop; b. The average concentration of particulate matter from a primary emission control system applied to emissions from a BOPF with an open hood system, measured according to the performance test procedures in §63.7822(g), did not exceed 0.02 gr/dscf for an existing BOPF shop or 0.01 gr/dscf for a new BOPF shop; and c. The average concentration of particulate matter from a control device applied solely to secondary emissions from a BOPF, measured according to the performance test procedures in §63.7822(g), did not exceed 0.01 gr/dscf for an existing BOPF shop or 0.0052 gr/dscf for a new BOPF shop.
10. Each hot metal transfer skimming, and desulfurization at a new or existing BOPF shop.	The average concentration of particulate matter from a control device applied to emissions from hot metal transfer, skimming, or desulfurization, measured according to the performance test procedures in §63.7822(h), did not exceed 0.01 gr/dscf for an existing BOPF shop or 0.003 gr/dscf for a new BOPF shop.
11. Each ladle metallurgy operation at a new or existing BOPF shop.	The average concentration of particulate matter from a control device applied to emissions from a ladle metallurgy operation, measured according to the performance test procedures in §63.7822(h), did not exceed 0.01 gr/dscf for an existing BOPF shop or 0.004 gr/dscf for a new BOPF shop.
12. Each roof monitor at an existing BOPF shop	The opacity of secondary emissions from each BOPF shop, determined according to the performance test procedures in §63.7823(d), did not exceed 20 percent (3-minute average).
13. Each roof monitor at a new BOPF shop	a. The opacity of the highest set of 6-minute averages from each BOPF shop housing a bottom-blown BOPF, determined according to the performance test procedures in §63.7823(d), did not exceed 20 percent and the second highest set of 6-minute averages did not exceed 10 percent; or b. The opacity of the highest set of 3-minute averages from each BOPF shop housing a top-blown BOPF, determined according to the performance test procedures in §63.7823(d), did not exceed 20 percent and the second highest set of 3-minute averages did not exceed 10 percent.

TABLE 3 TO SUBPART FFFFF OF PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION AND OPACITY LIMITS

[As required in §63.7833(a), you must demonstrate continuous compliance with the emission and opacity limits according to the following table]

For . . .	You must demonstrate continuous compliance by . . .
1. Each windbox exhaust stream at an existing sinter plant.	a. Maintaining emissions of particulate matter at or below 0.4 lb/ton of product sinter; and b. Conducting subsequent performance tests at least twice during each term of your title V operating permit (at midterm and renewal).
2. Each windbox exhaust stream at a new sinter plant.	a. Maintaining emissions of particulate matter at or below 0.3 lb/ton of product sinter; and b. Conducting subsequent performance tests at least twice during each term of your title V operating permit (at midterm and renewal).
3. Each discharge end at an existing sinter plant	a. Maintaining emissions of particulate matter from one or more control devices at or below 0.02 gr/dscf; and b. Maintaining the opacity of secondary emissions that exit any opening in the building or structure housing the discharge end at or below 20 percent (6-minute average); and c. Conducting subsequent performance tests at least twice during each term of your title V operating permit (at midterm and renewal).
4. Each discharge end at a new sinter plant	a. Maintaining emissions of particulate matter from one or more control devices at or below 0.01 gr/dscf; b. Maintaining the opacity of secondary emissions that exit any opening in the building or structure housing the discharge end at or below 10 percent (6-minute average); and c. Conducting subsequent performance tests at least twice during each term of your title V operating permit (at midterm and renewal).
5. Each sinter cooler stack at an existing sinter plant.	a. Maintaining emissions of particulate matter at or below 0.03 gr/dscf; and b. Conducting subsequent performance sinter plant tests at least twice during each term of your title V operating permit (at midterm and renewal).
6. Each sinter cooler stack at a new sinter plant	a. Maintaining emissions of particulate matter at or below 0.01 gr/dscf; and b. Conducting subsequent performance tests at least twice during each term of your title V operating permit (at midterm and renewal).
7. Each casthouse at an existing blast furnace	a. Maintaining emissions of particulate matter from a control device at or below 0.01 gr/dscf;

TABLE 3 TO SUBPART FFFFF OF PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION AND OPACITY LIMITS—Continued

[As required in § 63.7833(a), you must demonstrate continuous compliance with the emission and opacity limits according to the following table]

For . . .	You must demonstrate continuous compliance by . . .
	b. Maintaining the opacity of secondary emissions that exit any opening in the casthouse or structure housing the blast furnace at or below 20 percent (6-minute average); and c. Conducting subsequent performance tests at least twice during each term of your title V operating permit (at midterm and renewal).
8. Each casthouse at a new blast furnace	a. Maintaining emissions of particulate matter from a control device at or below 0.003 gr/dscf; b. Maintaining the opacity of secondary emissions that exit any opening in the casthouse or building housing the casthouse at or below 15 percent (6-minute average); and c. Conducting subsequent performance tests at least twice during each term of your title V operating permit (at midterm and renewal).
9. Each BOPF at a new or existing BOPF shop	a. Maintaining emissions of particulate matter from the primary emission control system for a BOPF with a closed hood system at or below 0.03 gr/dscf; b. Maintaining emissions of particulate matter from the primary emission control system for a BOPF with an open hood system at or below 0.02 gr/dscf for an existing BOPF shop or 0.01 gr/dscf for a new BOPF shop; c. Maintaining emissions of particulate matter from a control device applied solely to secondary emissions from a BOPF at or below 0.01 gr/dscf for an existing BOPF shop or 0.0052 gr/dscf for a new BOPF shop; and d. Conducting subsequent performance tests at least twice during each term of your title V operating permit (at midterm and renewal).
10. Each hot metal transfer, skimming, and desulfurization operation at a new or existing BOPF shop.	a. Maintaining emissions of particulate matter from a control device at or below 0.01 gr/dscf at an existing BOPF or 0.003 gr/dscf for a new BOPF; and b. Conducting subsequent performance tests at least twice during each term of your title V operating permit (at midterm and renewal).
11. Each ladle metallurgy operation at a new or existing BOPF shop.	a. Maintaining emissions of particulate matter from a control device at or below 0.01 gr/dscf at an existing BOPF shop or 0.004 gr/dscf for a new BOPF shop; and b. Conducting subsequent performance tests at least twice during each term of your title V operating permit (at midterm and renewal).
12. Each roof monitor at an existing BOPF shop	a. Maintaining the opacity of secondary emissions that exit any opening in the BOPF shop or other building housing the BOPF or shop operation at or below 20 percent (3-minute average); and b. Conducting subsequent performance tests at least twice during each term of your title V operating permit (at midterm and renewal).
13. Each roof monitor at a new BOPF shop	a. Maintaining the opacity (for any set of 6-minute averages) of secondary emissions that exit any opening in the BOPF shop or other building housing a bottom-blown BOPF or shop operation at or below 10 percent, except that one 6-minute period greater than 10 percent but no more than 20 percent may occur once per steel production cycle; b. Maintaining the opacity (for any set of 3-minute averages) of secondary emissions that exit any opening in the BOPF shop or other building housing a top-blown BOPF or shop operation at or below 10 percent, except that one 3-minute period greater than 10 percent but less than 20 percent may occur once per steel production cycle; and c. Conducting subsequent performance tests at least twice during each term of your title V operating permit (at midterm and renewal).

TABLE 4 TO SUBPART FFFFF OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART FFFFF

[As required in § 63.7850, you must comply with the requirements of the NESHAP General Provisions (40 CFR part 63, subpart A) shown in the following table]

Citation	Subject	Applies to Subpart FFFFF	Explanation
§ 63.1	Applicability	Yes.	
§ 63.2	Definitions	Yes.	
§ 63.3	Units and Abbreviations	Yes.	
§ 63.4	Prohibited Activities	Yes.	
§ 63.5	Construction/Reconstruction	Yes.	
§ 63.6(a), (b), (c), (d), (e), (f), (g), (h)(2)(ii)–(h)(9).	Compliance with Standards and Maintenance Requirements.	Yes.	
§ 63.6(h)(2)(i)	Determining Compliance with Opacity and VE Standards.	No	Subpart FFFFF specifies Method 9 in appendix A to part 60 of this chapter to comply with roof monitor opacity limits.
§ 63.7(a)(1)–(2)	Applicability and Performance Test Dates.	No	Subpart FFFFF and specifies performance test applicability and dates.
§ 63.7(a)(3), (b), (c)–(h)	Performance Testing Requirements	Yes.	
§ 63.8(a)(1)–(a)(3), (b), (c)(1)–(3), (c)(4)(i)–(e), (c)(7)–(8), (f)(1)–(5), (g)(1)–(4).	Monitoring Requirements	Yes	CMS requirements in § 63.8(c)(4) (i)–(ii), (c)(5) and (6), (d), and (e) apply only to COMS for electrostatic precipitators.

TABLE 4 TO SUBPART FFFFF OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART FFFFF—Continued

[As required in § 63.7850, you must comply with the requirements of the NESHAP General Provisions (40 CFR part 63, subpart A) shown in the following table]

Citation	Subject	Applies to Subpart FFFFF	Explanation
§ 63.8(a)(4)	Additional Monitoring Requirements for Control Devices in § 63.11.	No	Subpart FFFFF does not require flares.
§ 63.8(c)(4)	Continuous Monitoring System Requirements.	No	Subpart FFFFF specifies requirements for operation of CMS.
§ 63.8(f)(6)	RATA Alternative	No.	
§ 63.9	Notification Requirements	Yes	Additional notifications for CMS in § 63.9(g) apply to COMS for electrostatic precipitators.
§ 63.9(g)(5)	DATA Reduction	No	Subpart FFFFF specifies data reduction requirements.
§ 63.10(a), (b)(1)–(2)(xii), (b)(2)(xiv), (b)(3), (c)(1)–(6), (c)(9)–(15), (d), (e)(1)–(2), (e)(4), (f).	Recordkeeping and Reporting Requirements.	Yes	Additional records for CMS in § 63.10(c) (1)–(6), (9)–(15), and reports in § 63.10(d)(1)–(2) apply only to COMS for electrostatic precipitators.
§ 63.10(b)(2)(xiii)	CMS Records for RATA Alternative	No.	
§ 63.10(c)(7)–(8)	Records of Excess Emissions and Parameter Monitoring Exceedances for CMS.	No	Subpart FFFFF specifies record requirements.
§ 63.11	Control Device Requirements	No	Subpart FFFFF does not require flares.
§ 63.12	State Authority and Delegations	Yes.	
§ 63.13–§ 63.15	Addresses, Incorporation by Reference, Availability of Information.	Yes.	

[FR Doc. 03–5518 Filed 5–19–03; 8:45 am]

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period allowed for in the proposal. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: May 8, 2003.

Robert W. Varney,

Regional Administrator, EPA New England.

■ 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. 7401–7671q.

Subpart UU—Vermont

■ 2. Subpart UU is amended by adding a new § 62.11485 and a new undesignated center heading to read as follows:

Emission From Existing Municipal Solid Waste Landfills

§ 62.11485 Identification of Plan—negative declaration.

On August 20, 1996, the Vermont Department of Environmental Conservation submitted a letter certifying that there are no existing municipal solid waste landfills in the state subject to the emission guidelines under part 60, subpart B of this chapter.

[FR Doc. 03–12863 Filed 5–21–03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0086, FRL–7461–3]

RIN 2060–AG93

National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for new and existing semiconductor manufacturing operations located at major sources of emissions of hazardous air pollutants (HAP). The final standards implement section 112(d) of the Clean Air Act (CAA), which requires the Administrator to regulate emissions of HAP listed in section 112(b) of the CAA. The intent of the standards is to protect public health and the environment by requiring new and existing major sources to control emissions to the level attainable by implementing the maximum achievable control technology (MACT). The primary HAP that will be controlled with this action include hydrochloric acid (HCl), hydrogen flouride (HF), methanol, glycol ethers, and xylene. Exposure to these substances has been demonstrated to cause adverse health effects such as irritation of the lung, eye, and mucous membranes; effects on the central nervous system; liver and kidney damage; and, possibly cancer. We do not have the type of current detailed data on each of the facilities and the people living around the facilities covered by today's final rule for this source category that would be necessary to conduct an analysis to determine the actual population exposures to the HAP emitted from these facilities and the potential for resultant health effects. Therefore, we do not know the extent to which the adverse health effects described above occur in the populations surrounding these facilities. However, to the extent the adverse effects do occur, and today's final rule reduces emissions, subsequent exposures will be reduced.

EFFECTIVE DATE: May 22, 2003.

ADDRESSES: Docket No. A–97–15 and E-Docket No. OAR–2002–0086 contain supporting information used in developing the standards for the semiconductor manufacturing source category. The docket is located at EPA Docket Center (Air Docket), U.S. EPA, 1301 Constitution Avenue, NW., Room B108, Mail Code: 6102T, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. John Schaefer, U.S. EPA, Office of Air Quality Planning and Standards, Emission Standards Division (C504–05), Research Triangle Park, NC 27711, telephone number (919) 541–0296, electronic mail (e-mail) address: *schaefer.john@epa.gov*.

SUPPLEMENTARY INFORMATION: *Docket.* The docket is an organized and complete file of all the information considered by the EPA in the development of the rule. The docket is a dynamic file because material is added throughout the rule development process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rule development process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to the final rule are available for review in the docket or copies may be mailed on request from the Air and Radiation Docket and Information Center by calling (202) 566–1742. A reasonable fee may be charged for copying docket materials.

Electronic Docket Access. You may access the final rule electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/*. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility in the above paragraph entitled "Docket." Once in the system, select "search," then key in the appropriate docket identification number.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of the final rule will also be available on the WWW through the EPA's Technology Transfer Network (TTN). Following signature by the EPA Administrator, a copy of the final rule will be posted 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. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. Categories and entities potentially regulated by this action include those listed on the following table. This table is not intended to be exhaustive, but is just a guide to entities likely to be regulated by these standards. It lists the types of entities that may be regulated, but you

should examine the applicability criteria in §§ 63.7181 and 63.7182 of the final rule to decide whether your facility is regulated by the standards. If you have any questions about whether your facility is subject to the standards, call the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

CATEGORIES AND ENTITIES POTENTIALLY REGULATED BY THE STANDARDS

Category	NAICS code	SIC code	Examples of regulated entities
Industrial	334413	3674	Semiconductor crystal growing facilities, semiconductor wafer fabrication facilities, semiconductor test and assembly facilities.

Judicial Review. Under section 307(b) of the 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 July 21, 2003. Under section 307(d)(7)(B) of the CAA, only an objection to the rule which 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 this final action may not be challenged separately in any civil or criminal proceeding we bring to enforce these requirements.

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

I. Background
A. What Is the Source of Authority for Development of NESHAP?
B. What Criteria Do We Use in the Development of NESHAP?
II. What Changes and Clarifications Have We Made for the Final Standards?
A. MACT Floors and Emission Limits
B. Compliance Options and Procedures
III. Response to Comments on the Proposed NESHAP for Semiconductor Manufacturing
IV. What Are the Final Standards?
A. What Is the Source Category?
B. What Is the Affected Source?
C. What Are the Emission Standards?
V. When Must I Comply With the Final Rule?
VI. What Are the Testing and Initial Compliance Requirements?
A. Test Methods and Procedures
B. Monitoring Requirements
VII. What Notification, Recordkeeping, and Reporting Requirements Must I Follow?
VIII. What Are the Environmental, Energy, and Economic Impacts of the Final Rule?
A. What Are the Secondary and Energy Impacts?
B. What Are the Cost Impacts?
C. What Are the Economic Impacts?
IX. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer Advancement Act
J. Congressional Review Act

I. Background

A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. On July 16, 1992, major source categories covered by the NESHAP were listed under the Semiconductor Manufacturing industry group (57 FR 31576). Major sources of HAP are those that have the potential to emit considering controls, in the aggregate, 10 tons per year (tpy) or more of any HAP or 25 tpy or more of any combination of HAP.

B. What Criteria Do We Use in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than the standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best performing 12 percent of existing sources in the category or subcategory (or the best performing five sources for categories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on consideration of the cost of achieving the emission reductions, any health and environmental impacts, and energy requirements.

II. What Changes and Clarifications Have We Made for the Final Standards?

In response to public comments received on the proposed standards, we made several changes in developing the final rule. Some of the changes had a direct effect on the MACT floors and emission limits, while other changes clarified the substantive requirements for the final rule. A more comprehensive summary of comments and responses can be found in Docket No. A–97–15 and E–Docket No. OAR–2002–0086.

A. MACT Floors and Emission Limits

Process vents. When we developed the original MACT floors for process vents, we first determined the control efficiency, expressed as percent emission reduction, for each process vent for which we had inlet and outlet HAP concentration data. We then ranked the process vents based on the control efficiency achieved. Based on the best performing five process vents, we determined that thermal oxidation was used for emission control on four of them. Consequently, we selected thermal oxidation as the MACT floor. For the emission limit, we chose 98 percent control as representative of the level of control typically achieved by thermal oxidizers in practice. We decided not to base the emission limit on the reported performance of the thermal oxidizers because, in all cases, the inlet streams were high volume with low concentration of HAP. Under those conditions, measurements of the actual performance of a thermal oxidizer can be unreliable. As such, we believe

choosing 98 percent control efficiency is more representative of what the thermal oxidizers can consistently achieve in practice.

One commenter objected to this procedure, stating that the CAA directs us to consider only the actual performance of the sources used to establish the MACT floor. The commenter believed that we should revise the MACT floor and emission limits based on the reported performance of the five best performing sources. While we agree that the CAA directs us to base the MACT floors on actual performance, we believe that the test data do not accurately represent actual performance because of the high-volume, low-concentration nature of the emission streams.

In response to this comment, we decided to reevaluate the process vent MACT floor by considering organic and inorganic streams separately, as suggested by another commenter. By doing so, we can more accurately assess the performance of the different control devices used for these two types of emission streams.

Organic emission streams are almost always controlled by some type of thermal oxidation. As discussed above, measurements of thermal oxidizer performance can be unreliable for high-volume, low-concentration streams. Thus, we continue to believe that the test data for organic HAP emission control we obtained for thermal oxidizers controlling semiconductor manufacturing process vents may not accurately portray actual performance. Thus, our original selection of a known achievable emission reduction percentage, as used for MACT in rules such as the Hazardous Organic NESHAP or HON (57 FR 19402), better represents actual performance as directed by the CAA. For the final rule, we retained 98 percent control as the emission limit for organic emission streams from process vents. We also retained the alternative emission limit of 20 parts per million by volume (ppmv) for organic emission streams.

For inorganic emissions from process vents, all the data we obtained showed that scrubbers were used to control those emissions. Unlike thermal oxidizers, scrubbers experience less erratic performance characteristics with high-volume, low-concentration emission streams. Accordingly, we were able to use the actual performance data to establish the MACT floor for the control of inorganic emissions from process vents. Again, using the top five best performing process vents, we established the MACT floor as 95 percent control. Based on the actual outlet emissions of those five process vents, we established the alternative emission limit as 0.42 ppmv.

Storage tanks. We received comments on whether all of the tanks we included in the MACT floor analysis were the type of tank we intended to regulate through the rulemaking. The comments provided additional clarifying information on a number of the tanks we used to develop the MACT floor. Specifically, the comments questioned whether storage tanks for wastewater with very low concentration of HAP, waste storage tanks already covered under the Resource Conservation and Recovery Act (RCRA), and wastewater treatment tanks should have been included in the MACT floor analysis.

With the exception of wastewater treatment tanks, it was our intent to include all of these types of tanks in the affected source. However, based on the additional information provided by the industry, we have concluded that it was not appropriate to develop one MACT floor for all types of tanks due to the wide range of emissions from the each type of tank. Therefore, we developed separate MACT floors for chemical storage tanks (including waste storage tanks regulated under RCRA) and wastewater storage tanks.

We found that the level of control, based on the top five best performing sources in each data set, is the same for each type of tank. The level of control is to reduce emissions through the use of a scrubber and is identical to the level of control used to establish the MACT floor that was the basis of the emission limits in the proposed rule. However, based on other comments we received, we have decided not to use the same MACT floor procedure for the final rule.

Since the semiconductor industry storage tank emission streams will have similar characteristics to those of process vents (*i.e.*, low pollutant concentration), rather than hydrochloric acid production industry storage tanks, we now believe the most representative similar sources for evaluating the MACT floor for storage tanks are the semiconductor industry process vents. Therefore, in response to the comments concerning our use of hydrochloric acid production industry storage tanks as the most representative similar source, we are adopting the process vent inorganic HAP emission limits for all storage tanks required to control emissions in the final rule.

The comments we received clarified that the reported wastewater treatment tanks were not actually storage tanks but flow-through tanks used for certain continuous treatment processes such as pH adjustment. The tank volume merely allows for a buffer so that the treatment can be adequately carried out. All of the flow-through tanks in the data supplied by the industry are controlled by scrubbers. However, the industry also provided information that the purpose of all of these scrubbers was primarily to control ammonia odors. We do not believe that requiring scrubbers on flow-through tanks would result in significant reductions of HAP emissions, nor was it our intent in the proposed rule to regulate such tanks. Therefore, the definition of storage tank that we added to the final rule clarifies that flow-through tanks are not considered storage tanks for the purposes of the final rule.

We made an additional change for the final rule based on our revised storage tank MACT floor analysis. Because we eliminated several tanks from the data set used in the MACT floor analysis, the cutoff for the smallest size tank for which the final rule applies increased from 800 gallons to 1,500 gallons. We also revised our analysis of alternatives more stringent than the MACT floor to reflect the increased tank size. We found that the cost per ton of additional emission reduction (approximately $300,000/ton) is still too great to warrant a more stringent level of control. We have also included a definition for "storage tank" to 40 CFR 63.7195 to clarify which tanks we intended to be subject to the final rule.

B. Compliance Options and Procedures

As part of our reevaluation of the MACT floors for process vents as described above, we also considered other compliance options to reflect our position on the performance of control devices. While we believe the performance of scrubbers controlling high-volume, low-concentration emission streams can be measured, we also recognize that control efficiency cannot always be reliably predicted for such streams. Also, facilities may choose to use a control device other than a scrubber which may be more difficult to measure performance. For these situations, we have included a compliance option to the final rule (see 40 CFR 63.7187(i)) that allows a source to perform a design evaluation of the add-on control device. If the inlet concentration of inorganic HAP is less than or equal to 20 ppmv, then the facility may choose to perform a design evaluation of the control device that demonstrates the device is capable of achieving the required control efficiency.

We chose 20 ppmv as the cutoff for allowing a design evaluation because the data we obtained showed erratic

performance measurement values below this level. The test results show control device performance decreasing as the inlet concentration decreases. However, the last entry shows that even at very low inlet concentrations, control device performance can sometimes be high. These data show the difficulty of measuring control device performance with high-volume, low-concentration inlet streams, and why we believe a design evaluation procedure is necessary. In the final rule, we have adopted the design evaluation procedure alternative from the Pharmaceuticals Production NESHAP (40 CFR part 63, subpart GGG).

During our review of the proposed rule, we realized that we inadvertently omitted Method 26A of 40 CFR part 60, appendix A, for analysis of emission streams for inorganic HAP. The final rule includes this test method.

III. Response to Comments on the Proposed NESHAP for Semiconductor Manufacturing

Comment: One commenter requested that EPA consider providing exemptions that would exclude insignificant sources from regulation. The commenter argued that the administrative burdens associated with the proposed rule are unwarranted for such sources. The commenter further argued that if additional add-on control devices would be required, it would result in insignificant HAP reductions. Another commenter suggested that storage tanks are insignificant HAP emission sources and should be excluded from the final rule.

Response: While we understand the commenters' concern with the burden imposed by regulation of sources with low annual emissions, the CAA does not provide a mechanism by which we can exempt such emission sources from the affected source solely on the basis of emissions. Additionally, some facilities in the semiconductor industry are characterized by multiple point sources of emissions, many of which have low annual emissions. If we exempted all such sources, there is a possibility that a large portion of the emissions from the facility could escape regulation. For these reasons, we are not exempting sources with low HAP emissions from the final rule.

Comment: One commenter contended that EPA's exemption of sources during periods of startup, shutdown, and malfunction is a violation of the requirement for continuous compliance. The commenter argued that EPA may only allow unavoidable deviations from emissions standards and must require that sources use best air pollution control practices during those periods.

Response: We disagree with the commenter's interpretation of the proposed rule. The General Provisions at 40 CFR 63.6(e)(1)(i) require that sources must at all times, including periods of startup, shutdown, and malfunction, maintain the affected source in a manner such that emissions are minimized to the level required by the relevant standard. That section further clarifies that this means to "meet the emission standards or comply with the startup, shutdown, and malfunction plan." The purpose of the startup, shutdown, and malfunction plan (SSMP), as described in 40 CFR 63.6(e)(3)(i)(A), is to:

> [e]nsure that, at all times, the owner or operator operate and maintain affected sources, including associated air pollution control and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions to at least the levels required by the relevant standards.

A properly written SSMP does not allow the source to emit at whatever levels they want merely because they comply with what they have written in the SSMP. Under the SSMP, the source must detail the procedures that will be used to maintain emissions within the limits set by the rule during periods of startup, shutdown, and malfunction. In this case, the SSMP is analogous to parameter monitoring for evaluating continuous compliance of add-on control devices. Just as maintaining the temperature of a thermal oxidizer at the proper operating temperature as determined during the initial compliance demonstration is deemed to be compliance with the emission limits, following the SSMP is deemed to be compliance with emission limits during periods of startup, shutdown, and malfunction.

Comment: One commenter was concerned with the burden of compliance as proposed at facilities that are classified as major sources of HAP due to processes other than semiconductor manufacturing and that only conduct minimal production of semiconductors for research and development purposes. The commenter requested that EPA add a *de minimis* threshold for rule applicability.

Response: Through our data gathering efforts, we found that research and development activities are often integrated into the production activities at semiconductor manufacturing facilities. Such research and development activities are often used in actual production because the technology upon which the manufacturing process is based undergoes substantial change every few years. This extremely short technology life cycle results in constant research and development efforts geared toward developing and implementing new manufacturing technologies. The continual research and development efforts result in an ongoing integration of new technologies into mainstream production operations. New manufacturing operations are typically not developed apart from existing manufacturing operations, but rather side-by-side with them. The new operations are gradually integrated into mainstream production. As such, the majority of research and development work is done in a manner nearly indistinguishable from the existing manufacturing process.

Given the manner in which research and development activities are integrated into production, there is no bright line distinction between research and development and production. They are located in the same clean rooms and, more importantly, share the same exhaust plenums and emission control devices. For these reasons, the research and development activities are considered part of the production process and are within the affected source.

We note, however, that the research and development operations have to be located at a semiconductor manufacturing facility to be considered a semiconductor manufacturing process unit. Therefore, research and development activities that are not used to produce semiconductors for commerce, or produce them only for captive use, would not be semiconductor manufacturing process units and would not be subject to the final rule. Nor would research and development operations that are stand alone activities (that is, not integrated into the production process) be subject to the final rule. We modified 40 CFR 63.7182(b) of the final rule to clarify this point.

Comment: One commenter argued that EPA must regulate all major sources and believed the proposed rule fails to do this because it does not apply to sources that installed add-on control devices after the facility was designed and commenced operation. The commenter interpreted the court's ruling in *Alabama Power* (*Alabama Power Co.* v. *U.S. EPA*, 636 F.2d 323 (DC Cir. 1979)) as specifying that controls must be incorporated into the original design of the facility in order to be considered when calculating the facility's potential to emit.

Response: We believe the commenter incorrectly interpreted the court's decision in *Alabama Power*. That case addressed, in part, the interpretation of "potential to emit" in the definition of major source in the prevention of significant deterioration (PSD) regulations (also part of the CAA, but unrelated to hazardous air pollutant regulations). The court found that EPA "must look to the facility's 'design capacity' a concept which not only includes a facility's maximum productive capacity * * * but also takes into account the anticipated functioning of the air pollution control equipment designed into the facility." (*Alabama Power*, 636 F.2d at 353). The commenter has interpreted this statement to mean that only controls that were part of the original design of the facility can be taken into account when calculating potential to emit. Nowhere does the court state or even imply such a result in its decision. The commenter failed to take into account that the PSD regulations define a *preconstruction* permitting process. Because the air emission sources under consideration in the PSD process have yet to be constructed, the permitting process must necessarily deal with only designs of future air emission sources. We believe the court's language reflects only this aspect of the PSD review process, not the interpretation given by the commenter.

The NESHAP program, on the other hand, is concerned with air emission sources already in existence, as well as new sources. If we were to apply the wording of *Alabama Power* to the NESHAP program, our interpretation would be that the phrase "designed into the facility" means any air emission control equipment in use at the facility at the time a major source determination must be made, not the interpretation given by the commenter. This is reflected in our memorandum [1] on the interim policy on federal enforceability of limitations on potential to emit. In this memorandum, we stated:

[T]he EPA regulations provide that "controls" (*i.e.*, both pollution control equipment and operational restrictions) that limit a source's maximum capacity to emit a pollutant may be considered in determining its potential to emit. Historically, large numbers of new or modified sources that otherwise would be subject to PSD and NSR permitting requirements have limited their PTE in order to obtain "synthetic minor" status and thereby avoid major source requirements. With the advent of operating permit programs under Title V and the MACT program under section 112, many sources that otherwise would be subject to these new requirements under the Clean Air Act Amendments of 1990 also have obtained, or plan to obtain, PTE limits to avoid coverage.

The phrase "have obtained, or plan to obtain" implies that these sources will be adding controls to limit emissions. Since these controls would be added to an existing facility, they could not have been designed into the facility before it was ever constructed. Thus, the commenter's interpretation is incorrect, and we have made no changes for the final rule in response to this comment.

Comment: One commenter requested that a definition for "process vent" be added to the final rule. Additionally, the commenter further argued that if EPA cannot exclude research and development vents from the definition of process vents, then the final rule must provide an exemption for research and development activities consistent with section 112(c)(7) of the CAA.

A second commenter was also concerned with the absence of a definition for process vent. The commenter pointed out that the absence of a definition results in ambiguity regarding compliance obligations. The commenter also suggested that a process vent definition would allow EPA to exclude categories of emission points with negligible emissions potential.

Response: We agree that a definition of "process vent" would be beneficial in determining which emission points at a semiconductor manufacturing facility are subject to the emission limitations in 40 CFR 63.7184 of the final rule. Because the affected source is defined in terms of semiconductor manufacturing process units (see 40 CFR 63.7182), the process vents subject to regulation necessarily must originate from these process units. Therefore, we have included the following definition to 40 CFR 63.7195: *Process vent* means the point at which HAP emissions are released to the atmosphere from a semiconductor manufacturing process unit or storage tank by means of a stack, chimney, vent, or other functionally equivalent opening. The HAP emission points originating from wastewater treatment equipment, other than storage tanks, are not considered to be a process vent, unless the wastewater treatment equipment emission points are connected to a common vent or exhaust plenum with other process vents.

We do not believe any of the other process vent exemptions requested by these commenters are appropriate. Research and development operations are considered to be part of the overall semiconductor manufacturing process unless they are stand alone operations. We believe that relief valve discharge points, process analyzers, and conservation vents can be adequately connected to process vent exhaust ducts, if this is not already the case. Emergency electrical generators are not included in the definition of semiconductor manufacturing process unit, so there is no need to exclude them from the definition of process vent.

Comment: One commenter was concerned about the broad definition of "control device" in 40 CFR 63.981(a). According to the commenter, this paragraph could be interpreted to mean that certain devices that are part of the process (not an add-on control device) would be subject to the rule.

Response: We agree that there are certain devices used by the semiconductor industry that could be construed as control devices but are in fact an inherent part of the process, and that clarification is necessary in the final rule. In response, we have included the following definition to 40 CFR 63.7195: *Control device* means a combustion device, recovery device, recapture device, or any combination of these devices used for the primary purpose of reducing emissions to comply with this subpart. Devices that are inherent to a process or are integral to the operation of a process are not considered control devices for the purposes of this subpart, even though these devices may have the secondary effect of reducing emissions.

Comment: One commenter objected to the EPA's approach of using area source information to establish the MACT floor as being inconsistent with section 112(d)(3) of the CAA. The commenter believed that area sources are not part of the semiconductor manufacturing category for major sources and should not be relied on for establishing the MACT floor.

Response: Section 112(a)(1) of the CAA defines major source as "any stationary source or group of stationary sources * * * that emits or has the potential to emit considering controls, in the aggregate, 10 tpy or more of any hazardous air pollutant or 25 tpy or more of any combination of hazardous air pollutants." An area source is then defined in section 112(a)(2) as any stationary source that is not a major source. The facilities which we used to establish the MACT floor were "synthetic minor" sources, meaning that they reduced their potential to emit below the major source threshold (here, through the use of add-on control devices and material substitution). Without these controls, these facilities

[1] "Release of Interim Policy on Federal Enforceability of Limitations on Potential to Emit" (January 22, 1996) (available at *http://www.epa.gov/ttn/oarpg/t5/memoranda/pte122.pdf*).

would have the potential to emit at major source levels.

We disagree that the MACT floors must be based solely on major sources of HAP emissions. Section 112(d)(1) of the CAA directs us to promulgate rules for categories of major and area sources of HAP emissions. Then, section 112(d)(2) mandates that these standards "shall require the maximum degree of reduction in emissions * * * achievable for new or existing sources." Section 112(d)(3) specifies how we are to determine the maximum degree of emission reduction and describes it as "not less stringent than the emission control that is achieved in practice by the best controlled similar source" for new sources, and for existing sources describes it as "the average emission limitation achieved by the best performing 12 percent of the existing sources * * *" Even though Congress saw fit to distinguish between major and area sources in many other places in section 112 of the CAA, they specifically did not require that the floor be based on major sources. Throughout section 112(d), Congress simply used the term "source." We interpret this to mean that Congress left it to our discretion to determine the most appropriate sources on which to base the MACT floors. Accordingly, for the proposed rule we used both major sources and synthetic minor sources as the basis of the MACT floors. We believe our interpretation of section 112(d) of the CAA is correct, and no changes were made for the final rule as a result of these comments.

Comment: One commenter contended that EPA may not set floors for process vents based on the technology of thermal oxidizers, but must identify the best performing process vents, determine their actual performance, and calculate floors based on the average of that performance. Another commenter questioned the validity of establishing a single concentration for total HAP emissions from process vents and requested that different control and concentration limits be set for the organic HAP and inorganic HAP emissions.

Response: After reviewing the procedure we used to establish the MACT floors in light of these comments, we agree that we should first establish a MACT floor for both organic and inorganic HAP emissions from process vents (other than storage tanks) and then evaluate the appropriate emission limits for each. Based on a revised analysis, we calculated the MACT floor for organic process vents to be 98 percent control, or an organic HAP emission limit of 20 ppmv, which were the emission limits in the proposed rule. For inorganic HAP, we calculated the MACT floor to be 95 percent control or an inorganic emission limit of 0.42 ppmv. We have written 40 CFR 63.7184 of the final rule to reflect these revised MACT floors.

Comment: One commenter had several concerns with the approach used to establish the MACT floor for storage tanks. The commenter believed that area source semiconductor manufacturing facilities and HCl production sources are not part of the major source semiconductor manufacturing category and should not have been relied on to set the storage tank MACT floor. Two commenters requested that any storage tank limits should be limited specifically to tanks storing HCl or hydrofluoric acid (HF).

Another commenter argued that EPA improperly based floors for storage tanks over 800 gallons on the performance of scrubbers. The commenter stated that EPA must identify the relevant best performing storage tanks, determine their actual performance, and recalculate floors for storage tanks over 800 gallons based on the average of that performance. The commenter also contended that EPA must conduct beyond-the-floor analysis for storage tanks under 800 gallons to determine the maximum degree of emissions reductions achievable.

One commenter argued that any final rule should exclude hazardous waste storage tanks and vessels storing wastewater. The commenter contended that EPA has not made the required MACT finding for hazardous waste storage tanks and vessels storing wastewater. The commenter further argued that hazardous waste storage vessels and vessels storing wastewater have low HAP concentrations and do not warrant regulation beyond RCRA requirements.

Response: We agree that the procedure outlined by these commenters is the best procedure for determining the MACT floors, assuming that the appropriate data are available. In the case of storage tanks, we had no such data. The only data the industry could provide to us were the size of the tank, contents of the tank, and whether emissions from the tank were controlled. No performance data were available for the tank emission controls used by the semiconductor industry. For these reasons, we used data on the performance of the most representative similar source for which data were available, which were for scrubbers on HCl storage tanks obtained from the HCl manufacturing industry. Based on these comments, we now believe it is more appropriate to develop separate MACT floors for the different types of storage tanks in the semiconductor industry, and that it was inappropriate to use storage tanks from the HCl production industry as the most representative similar source.

It was always our intent to include all storage and wastewater tanks containing HAP in the affected source. However, based on the additional information provided by the industry, we have concluded that it was not appropriate to develop one MACT floor for all types of tanks due to the wide range of emissions from the each type of tank. While we cannot exempt an emission source solely due to the low annual emissions from that source, we thought that the MACT floor level of control could be influenced by the level of emissions from each type of tank and the existing regulations (*i.e.*, RCRA) to which some tanks may be subject. Therefore, we developed separate MACT floors for chemical storage tanks (including waste storage tanks regulated under RCRA), wastewater storage tanks, and wastewater treatment tanks.

We found that the MACT floor level of control for both chemical storage tanks and wastewater storage tanks, based on the top five best performing sources in each data set, is the same for each type of tank. The level of control is to reduce emissions through the use of a scrubber and is identical to the level of control used to establish the emission limits as proposed. However, based on other comments we received, we decided not to use the same procedure to establish the emission limits for the final rule. For wastewater treatment tanks, we determined the MACT floor level of control to be no emissions reduction.

The data set we used to establish the original MACT floor for storage tank emissions included the type of control (*e.g.*, scrubbers), but no information on the performance of the control devices or pollutant concentration in the outlet streams. In order to establish emission limits, we previously relied on the performance of controls used by the HCl production industry on HCl storage tanks. We used these data because the majority of tanks reported by the semiconductor industry contained HCl as well. We considered the HCl production industry data to be the most representative similar source for which we had data.

The comments we received questioned whether these storage tanks were representative, similar sources. In response to these comments, we further investigated the similarities and differences of the semiconductor manufacturing industry storage tanks

and the HCl production industry tanks. We first determined that there is a large size differential between the tanks used by the semiconductor industry and those used by the HCl production industry. The largest reported semiconductor industry storage tank was 16,000 gallons, and most were less than 10,000 gallons. In contrast, most of the storage tanks reported by the HCl production industry ranged from 200,000 gallons to over 2 million gallons. We then determined that the HCl stored by the semiconductor industry was often diluted, while the HCl production industry almost exclusively stored concentrated HCl. Based on the larger tank size and the higher concentration of material stored, the emission streams from the HCl production industry storage tanks will have a considerably higher pollutant concentration than from the semiconductor industry storage tanks. We believe this is a more important consideration when establishing emission limits than simply looking at the similarity of the material stored. Thus, we expect that the emissions streams from the semiconductor manufacturing industry storage tanks will have a very low concentration of pollutants.

Since the semiconductor industry storage tank emission streams will have similar characteristics to those of process vents (*i.e.*, low pollutant concentration), we now believe the most representative similar sources for evaluating the MACT floor for storage tanks are the semiconductor industry process vents. Therefore, in response to the comments concerning our use of HCl production industry storage tanks as the most representative similar source, we are adopting the process vent inorganic HAP emission limits for storage tanks in the final rule.

We also agree that we should have given further consideration to controls more stringent than the MACT floor for storage tanks less than 800 gallons (now 1,500 gallons in the final rule as discussed below) and wastewater treatment tanks. The MACT floor for both of these types of tanks was determined to be no control. However, controls more stringent than the MACT floor (*i.e.*, scrubbers) are technically feasible as demonstrated by the data provided by the industry on tanks greater than 1,500 gallons.

In order to include emission limits more stringent than the MACT floor level of control in the final rule, they must be feasible on both a technical and cost basis. Technical feasibility is assumed based on similar control on larger tanks as reported by the industry. To evaluate cost feasibility, we estimated the HAP emissions from a 1,500 gallon tank containing concentrated HCl, assuming one complete turnover per day. These parameters will result in the maximum amount of HAP emissions from the tank that we would expect for the semiconductor manufacturing industry. We then estimated the cost of a scrubber to control these emissions by 99 percent. Finally, we calculated the cost per ton of additional HAP emission reduction achieved above the MACT floor level of control, which was more than $285,000 per ton. Based on this result, we considered this level of control to be infeasible on a cost basis and did not require emission control more stringent than the MACT floor for storage tanks less than 1,500 gallons or wastewater treatment tanks in the final rule.

We made an additional change for the final rule based on our revised storage tank MACT floor analysis. Because we eliminated several tanks from the data set used in the MACT floor analysis, the cutoff for the smallest size tank for which the final rule applies increased from 800 gallons to 1,500 gallons.

While the storage tanks that were used to establish the MACT floor level of control stored either HCl or HF, we believe this level of control is applicable to any material stored by a semiconductor manufacturing facility. Therefore, we do not believe that the emission limits must necessarily be limited to these two chemicals, as suggested by one of the commenters.

In our final analysis, we determined that the level of control already existing on waste storage tanks regulated under RCRA is equivalent to the storage tank MACT floor level of control. We also determined that the MACT floor for wastewater treatment tanks was no emissions reduction. Accordingly, we excluded both types of tanks from any requirements in the final rule. We added the following definition (based on the definition of "tank" in 40 CFR 63.901, (subpart OO—National Emission Standards for Tanks-Level 1) and 40 CFR 63.1101 (subpart YY—National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards)) for "storage tank" to 40 CFR 63.7195 that clarifies which tanks we intended to be covered under the final rule: *Storage* tank means a stationary unit that is constructed primarily from nonearthen materials (such as wood, concrete, steel, fiberglass, or plastic) which provides structural support and is designed to hold an accumulation of liquids or other materials used in or generated by a semiconductor manufacturing process unit. The following are not storage tanks for the purposes of the final rule:

- Tanks permanently attached to motor vehicles such as trucks, railcars, barges, or ships;
- Flow-through tanks where wastewater undergoes treatment (such as pH adjustment) before discharge, and are not used to accumulate wastewater;
- Bottoms receiver tanks; and
- Surge control tanks.

Comment: One commenter reiterated a previous request for EPA to delist the Semiconductor Manufacturing source category and provided information to support their request. The commenter claimed that this information shows that there will be no stand alone semiconductor manufacturing facilities. Therefore, since EPA listed this category on the MACT source category list at a time when there were stand alone facilities that were major sources, the basis for listing the category no longer exists. The commenter cited the preamble language from the initial source category listing notice (57 FR 31576, July 16, 1992) and the first notice revising the list (61 FR 28200, June 4, 1996) to support their interpretation of when a category should be included on the source category list. The commenter stated that if a stand alone major source did come into existence in the future, EPA could promulgate a MACT standard at that time. Additionally, the commenter pointed out that case-by-case MACT determinations under section 112(g) of the CAA could also be used to control emissions from such a source.

The commenter also pointed to other EPA actions to support their position. The commenter noted that EPA guidance issued after the National Mining Association court case (*National Mining Association* v. *U.S. EPA*, 59 F.3d 1351 (D.C. Cir. 1995)) states that section 112(d) standards should be applied to source categories that contain stand alone major sources or that have sources "commonly located" at major source facilities. The commenter also noted that EPA, in promulgating MACT standards for industrial process cooling towers (IPCT), had found that co-location of an IPCT on a major source site is not sufficient to trigger applicability of the rule, rather, the IPCT must be co-located and an integral part of the facility.

The commenter disagreed with EPA's interpretation that a source category delisting can proceed only under section 112(c)(9) of the CAA. The commenter believed that EPA has a non-discretionary duty under section

112(c)(1) to periodically revise the list in response to new information. Under the provisions specified in section 112(c)(1), which the commenter believes are wholly separate from the delisting procedure in section 112(c)(9), EPA has the authority and the latitude to remove a previously listed source category from the MACT standard source category list.

Response: In the preamble to the proposed rule for semiconductor manufacturing, we acknowledged receipt of the pre-proposal request to remove the Semiconductor Manufacturing source category from the list of source categories and indicated we would respond in the final rulemaking (67 FR 30852, May 8, 2002).

Section 112(d)(1) of the CAA directs EPA to promulgate regulations for categories of major sources of HAP emissions. We interpret section 112(a) as requiring consideration of all emissions sources in determining major source status. Thus, if a source emits 10 tons or more per year of any single HAP or 25 tons or more per year of any combination of HAP, it is a major source. Similarly, if a source is co-located with sources in other categories and the aggregate emissions of the combined sources is 10 or more tons per year of a single HAP or 25 tons or more per year of any combination of HAP, that group of co-located sources is a major source. This interpretation is consistent with the legislative history on the definition of "major source," which indicates clearly that all portions of a major source are subject to MACT even if, standing alone, individual portions of that source would not qualify as major. [136 Cong. Rec. S. 16927 (October 27, 1990)].

The definition of major source also includes provisions to assure that stationary sources which would otherwise be subject to the emissions standards are not excluded from control requirements as the result of arbitrary subdivision or description of the source. A stationary source potentially subject to an emissions standard because it emits a listed air pollutant is to be defined to include all emission points and units of such source located within a contiguous area and under common control.

Because the statute instructs EPA to consider co-located sources as major sources, we believe we must list and promulgate standards for source categories that are major sources as a result of co-location. Accordingly, when we published the initial list of source categories, we "includ[ed] categories of major sources where there was reasonable certainty that at least one stationary source is a major source or where sources in the category [were] commonly located on the premises of major sources." (57 FR 31576, July 16,1992). The EPA continues to believe that major source determinations must be based on facility-wide emissions and that a major source can be either a stand alone major source or co-located with other sources that in combination emit or have the potential to emit over the major source threshold.

We disagree with the commenter's reading of the preamble to the IPCT MACT standard. In promulgating the MACT standard, we said that even though no individual source in the IPCT source category is itself a major source, we promulgated a MACT standard in light of IPCT being co-located with other major sources of HAP (59 FR 46339, September 8, 1994). The IPCT MACT provides clear precedent both for promulgating a semiconductor MACT standard and to not remove the Semiconductor Manufacturing source category from the list of source categories.

Accordingly, because section 112(d) requires EPA to promulgate MACT standards for all major sources, and since the Semiconductor Manufacturing source category is a category of major sources, albeit, because existing sources are co-located with other sources that in combination emit or have the potential to emit over the major source thresholds, EPA will not revise the list of source categories to remove the Semiconductor Manufacturing source category.

Finally, we also believe this source category is not static and that changes (either economic or process) may trigger operational changes that could result in increased HAP emissions. Thus, it is not entirely clear whether those sources that are currently "synthetic area sources" will continue to be "synthetic area sources." And accordingly, it is not inconceivable that the MACT standards promulgated today will eventually be applicable to more than the one currently co-located facility. In addition, there is always the possibility of new major sources being constructed in the future.

Comment: One commenter requested that EPA reconsider delisting this source category using *de minimis* principles under section 112(c)(1) of the CAA. The commenter proposed exemption of all nonmajor semiconductor process units from regulation in a manner consistent with the approach to applicability in section 112(g) of the CAA.

Response: The commenter's suggested *de minimis* cutoff levels are inconsistent with the CAA's prescribed method for determining the MACT floor. We do not believe that the CAA authorizes exempting an emission source solely due to the low annual emissions from that source. The outlet concentration limits for both inorganic and organic emissions serve as the minimum applicable limits for the affected sources. If the outlet concentration is below the applicable emission limit, no controls are required to demonstrate compliance.

IV. What Are the Final Standards?

A. What Is the Source Category?

The Semiconductor Manufacturing source category includes operations used to manufacture p-type and n-type semiconductors and active solid-state devices from a wafer substrate. Research and development activities located at a site manufacturing p-type and n-type semiconductors and active solid-state devices are integrated into the manufacturing process (that is, they are not stand alone operations), and these are included in the definition of semiconductor manufacturing. Examples of semiconductor or related solid-state devices include semiconductor diodes, semiconductor stacks, rectifiers, integrated circuits, and transistors. The source category includes all manufacturing from crystal growth through wafer fabrication, and test and assembly.

The crystal growing stage is where crystalline wafers of silicon or other specific semiconducting materials are manufactured for use as the substrate in the wafer fabrication process. Crystal growing begins with storage of the raw materials (usually trichlorosilane, which is refined from ordinary sand) and ends with the final polishing of a wafer.

The wafer fabrication process is where a group of integrated circuits are created on the wafer through a series of pattern-forming processes. Wafer fabrication begins at the point where the wafer receives its first protective oxidative layer and ends when a functional integrated circuit or circuits have been created on a wafer.

The test and assembly process is the final step in the integrated circuit manufacturing process and begins when a wafer is cut into individual chips. The chips are then mounted onto a metal frame, connected to the leads, and enclosed in a protective housing. The process endpoint is the last test performed at an assembly facility to verify proper function of a completed integrated circuit housing.

B. What Is the Affected Source?

We define an affected source as a stationary source, group of stationary sources, or part of a stationary source to which specific NESHAP apply. Within a source category, we select the specific emission sources (emission points or groupings of emission points) that will make up the affected source for that category. To select these emission sources, we mainly consider the constituent HAP and quantity emitted from individual or groups of emission points.

For the Semiconductor Manufacturing source category, the affected source includes the collection of all semiconductor manufacturing units used to manufacture p-type and n-type semiconductors and active solid-state devices from a wafer substrate, research and development activities integrated into the manufacturing process at a semiconductor manufacturing site, and storage tanks located at a major source.

A semiconductor manufacturing process unit is the equipment assembled and connected by duct work or hard piping including: Furnaces and associated unit operations; associated wet and dry work benches; associated recovery devices; feed, intermediate, and product storage tanks; product transfer racks and connected ducts and piping; pumps, compressors, agitators, pressure-relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems; and control devices. We have identified three distinct processes used in the manufacture of these semiconductors and devices: Crystal growing, wafer fabrication, and assembly and test. A semiconductor manufacturing unit is typically engaged in one of these processes.

C. What Are the Emission Standards?

Emission limits. We are promulgating standards that regulate HAP emissions from process vents and storage tank vents at semiconductor manufacturing facilities. The standards are the same for existing and new sources. All major sources must reduce process vent organic HAP outlet concentrations by 98 percent from their uncontrolled levels and reduce uncontrolled inorganic HAP outlet concentrations by 95 percent. As an alternative, process vents may be controlled to a level below 20 ppmv organic HAP and 0.42 ppmv inorganic HAP. In addition, all major sources must reduce storage tank vent HAP outlet inorganic HAP concentrations by 95 percent from their uncontrolled levels. As an alternative, storage tank vents may be controlled to a level below 0.42 ppmv inorganic HAP.

General Provisions. The General Provisions (40 CFR part 63, subpart A) also apply to you as outlined in the final rule. The General Provisions codify certain procedures and criteria for all 40 CFR part 63 NESHAP. The General Provisions contain administrative procedures, preconstruction review procedures for new sources, and procedures for conducting compliance-related activities such as notifications, reporting, and recordkeeping, performance testing, and monitoring. The final rule refers to individual sections of the General Provisions to emphasize key sections that you should be aware of. However, unless otherwise specifically excluded in the final rule, all of the relevant General Provisions requirements apply to you.

V. When Must I Comply With the Final Rule?

Existing semiconductor manufacturing affected sources must comply with the final rule no later than 3 years after May 22, 2003. The effective date is May 22, 2003. New or reconstructed affected sources must comply upon start-up or May 22, 2003, whichever is later. Details of the compliance requirements can be found in the General Provisions, as outlined in Table 2 to the subpart.

VI. What Are the Testing and Initial Continuous Compliance Requirements?

In addition to the specific testing and monitoring requirements specified below for the affected source, the final rule adopts the testing requirements specified in 40 CFR 63.7.

We are promulgating testing and initial and continuous compliance requirements that are, where appropriate, based on procedures and methods that we have previously developed and used for sources similar to those for which standards are being promulgated today. For example, we are promulgating compliance determination procedures, performance tests, and test methods to determine what level of control a process vent needs to achieve to demonstrate compliance with the standards. We are promulgating compliance procedures to determine process vent and storage tank vent flow rates and HAP concentrations. The promulgated test methods parallel what we have used for process vents in previous organic HAP emissions standards (*e.g.*, the HON) and inorganic HAP emission standards. For measuring vent stream flow rate, you must use Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A. For measuring total vent stream organic HAP concentration to determine whether it is below a specified level, you must use Method 18 of 40 CFR part 60, appendix A. For measuring the total HAP concentration of emission streams with inorganic HAP to determine if it is below a specified level, you must use Method 320 of 40 CFR part 60, appendix A. For measuring inorganic HAP that are hydrogen halides, such as HCl or HF, you must use Method 26A of 40 CFR part 60, appendix A.

Additionally, we are requiring initial performance tests for all process vent and storage tank vent HAP emission control devices other than flares and certain boilers and process heaters. For vents controlled using flares, we are not requiring performance tests because we have developed design specifications that ensure these devices will achieve 98 percent destruction efficiency. As with the HON, we are not promulgating a requirement to perform an initial performance test for boilers and process heaters larger than 44 megawatts (MW) because they operate at high temperatures and residence times. In general, the higher the temperature and residence time, the greater the level of HAP destruction that is achieved by a control device. Therefore, boilers and process heaters larger than 44 MW easily achieve the required 98 percent destruction efficiency or the alternative requirement to reduce outlet concentrations below 20 ppmv.

For all other types of control devices, the final rule requires you to conduct a performance test to demonstrate that the control device can achieve the required control level and to establish operating parameters to be maintained to demonstrate continuous compliance. The testing requirements for semiconductor manufacturing list the parameters that can be monitored for the common types of combustion devices. For other control devices, we require that you establish site-specific parameter ranges for monitoring purposes through the Notification of Compliance Status report and through the facility's operating permit. Parameters selected are required to be good indicators of continuous control device performance.

VII. What Notification, Recordkeeping, and Reporting Requirements Must I Follow?

We are promulgating notification, recordkeeping, and reporting requirements in accordance with 40 CFR part 63, subpart A and other previously promulgated NESHAP for similar source categories.

We are requiring that owners or operators of semiconductor manufacturing affected sources submit the following four types of reports: An Initial Notification report, a Notification of Compliance Status report, periodic compliance reports, reports of changes and other specified events. Records of reported information and other information necessary to document compliance with the promulgated standards are required to be kept for 5 years. Equipment design records would be required to be kept for the life of the equipment.

For the Initial Notification report, we are requiring that you list the semiconductor manufacturing operations at your facility, and the provisions of the final rule that may apply. The Initial Notification report must also state whether your facility can achieve compliance by the specified compliance date. You must submit this notification by May 21, 2004, for existing sources, and within 180 days before commencement of construction or reconstruction of an affected source.

For the Notification of Compliance Status report, we are requiring that you submit the information necessary to demonstrate that compliance has been achieved, such as the results of performance tests and design analyses. For each test method that you use for a particular kind of emission point (*e.g.*, process vent), you must submit one complete test report. This notification must also include the specific range established for each monitored parameter for each emission point for demonstrating continuous compliance, and the rationale for why this range indicates proper operation of the control device.

We are requiring that you submit semiannual compliance reports. These reports must include a statement that no deviations from the emission limitations occurred during the reporting period, and that no continuous monitoring system (CMS) was inoperative, inactive, malfunctioning, out-of-control, repaired, or adjusted. Additionally, a statement must be included if you had a startup, shutdown, or malfunction during the reporting period, and you took actions consistent with your SSMP. For process and storage tank vents, records of continuously monitored parameters must be kept. Records that such inspections or measurements were performed must be kept, but results are included in your periodic report only if there is a deviation from the operating limit. For each deviation from an emission limit, the semiannual compliance reports must document the time periods of each deviation; its cause; whether it occurred during a period of startup, shutdown, or malfunction; and whether and what time periods the CMS was inoperative or out of control.

We are requiring that you submit an immediate startup, shutdown, and malfunction report if you had a startup, shutdown, or malfunction that is not consistent with your SSMP.

Other reporting requirements include reports to notify the regulatory authority before or after a specific event (*e.g.*, if a process change is made, requests for extension of repair period).

VIII. What Are the Environmental, Energy, and Economic Impacts of the Final Rule?

This section presents projected impacts for existing sources only. We did not calculate impacts for new sources because we do not project any new major sources will commence construction in the foreseeable future. We expect that any new sources will have HAP emissions below major source thresholds. The industry trend over the past several years has been that HAP emissions have decreased while semiconductor production has increased. As a result, only one source in the industry is still a major source of HAP, and only because it is collocated at a facility with other HAP-emitting operations. We do not project that any other new semiconductor sources will be built on the site of another major HAP emitting operation. We also project that the types of technologies that have evolved (*e.g.*, producing larger wafers), which are in general emit fewer HAP per chip manufactured, will continue.

A. What Are the Secondary and Energy Impacts?

We do not anticipate any significant increase in national annual energy usage as a result of the final rule. Energy impacts include changes in energy use, typically increases, and secondary air impacts associated with increased energy use. Increases in energy use are associated with the operation of control equipment—in this case, the use of thermal oxidizers and scrubbers—to control process vents. Secondary air impacts associated with increased energy use are the emission of particulates, sulfur oxides (SO_X), and nitrogen oxides (NO_X). These secondary impacts are associated with power plants that would supply the increased energy demand. Since we project the final rule will apply to only one existing major source, no significant new control equipment requirements are expected. Therefore, secondary and energy impacts will be negligible.

B. What Are the Cost Impacts?

Although we estimate there are approximately 127 facilities engaged in semiconductor production, we estimate that the source category contains only one existing major source subject to the regulatory provisions specified under the final rule. The remaining facilities are either area sources or synthetic minor sources, which are sources that have the potential to emit above major source thresholds but have taken enforceable permit conditions limiting their HAP emissions to below these major source thresholds.

We estimate the annualized cost for the one major source affected by this final rule to be $2,300, solely to comply with monitoring, inspecting, reporting and recordkeeping requirements. (**Note:** This source meets the CAA section 112 definition of "major source" not because it emits 10 tons or more of any one HAP or 25 tons or more of HAP in aggregate, but because it is collocated at a plant site that is a major source subject to other NESHAP. We estimate this semiconductor manufacturing source emits less than one ton of HAP per year.) We project there will be no capital or operating costs for control equipment. Further, we estimate a one-time total cost of $33,000 for the approximately 126 non-major sources to read the rule. We estimate that there will be no impacts on new sources because we do not project that any new major sources will be built over the next 3 years.

C. What Are the Economic Impacts?

The final rule applies to only one major existing source, and no significant new control equipment requirements are expected. We estimate the MIRR costs for this facility to be only $6,956 over a 3-year period. Therefore, no economic impact on the industry is expected.

IX. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy,

productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

The information collection requirements in the final rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 2042.01) and a copy may be obtained from Susan Auby by mail at the Collection Strategies Division (2822), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded off the internet at *http://www.epa.gov/icr*. The information requirements are not *enforceable* until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. 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 Agency policies set forth in 40 CFR part 2, subpart B.

The annual monitoring, reporting, and recordkeeping burden for this collection, as averaged over the first 3 years after the effective date of the rule, is estimated to be 41 labor hours per year at a total annual cost of $2,319. This estimate includes a one-time plan for demonstrating compliance, annual compliance certification reports, notifications, and recordkeeping. Total labor burden associated with the monitoring requirements over the 3-year period of the ICR are estimated at $6,956.

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 are listed in 40 CFR part 9 and 48 CFR, chapter 15. The OMB control number for the information collection requirements in this rule will be listed in an amendment to 40 CFR part 9 in a subsequent **Federal Register** document after OMB approves the ICR.

C. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final rule. The EPA has also determined that this final rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impacts of this final rule on small entities, small entity is defined as: (1) A small business according to Small Business Administration (SBA) size standards for NAICS code 334413 (*i.e.*, semiconductor crystal growing facilities, semiconductor wafer fabrication facilities, semiconductor test and assembly facilities) whose parent company has 500 or fewer employees; (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, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. Based on the above definition of small entities, the EPA has determined that there are no small businesses within this source category that would be subject to the 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 rule 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 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.

The EPA has determined that the final rule does not contain a Federal mandate that may result in expenditures of $100 million or more to State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annual cost of the final rule for any year has been estimated to be about $35,800. Thus, the final rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that the standards 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 the 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."

The 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. Thus, Executive Order 13132 does not apply to the rule. Although section 6 of Executive Order 13132 does not apply to the rule, EPA did consult with State and local officials to enable them to provide timely input in the development of the final 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 the 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 rule does not have tribal implications, as specified in Executive Order 13175. No tribal governments own or operate semiconductor manufacturing facilities. Thus, Executive Order 13175 does not apply to the final rule.

G. Executive Order 13045: Protection of Children From Environmental Health & 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 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 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.

The 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. The final rule is not subject to Executive Order 13045 because it is based on technology performance and not on an assessment of health or safety risks. Furthermore, the final rule has been determined not to be "economically significant" as defined under Executive Order 12866.

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

The final rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. No. 104–113; 15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in their regulatory and procurement 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, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to the Office of Management and Budget (OMB), with explanations when an agency does not use available and applicable voluntary consensus standards.

The final rule involves technical standards. The EPA cites the following standards in this rule: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 18, 25, 25A, 26, 26A, and 320. Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards in addition to these EPA method. No applicable voluntary consensus standards were identified for EPA Methods 1A, 2A, 2D, 2F, 2G. The search and review results have been documented and are placed in the docket A–97–15 for the final rule.

The voluntary consensus standard ASTM D6420–99, "Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry (GC/MS)," is appropriate in the cases described below for inclusion in this rule in addition to EPA Method 18 codified at 40 CFR Part 60 Appendix A for the measurement of toluene and total 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 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.

In addition to the voluntary consensus standard EPA cites in this rule, the search for emissions measurement procedures identified 14 other voluntary consensus standards. The EPA determined that 11 of these 14 standards identified for measuring emissions of the HAPs 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 this

determination for the 11 methods are discussed in the docket.

Two of the 14 voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of the final rule because they are under development by a voluntary consensus body: ASME/BSR MFC 13M, "Flow Measurement by Velocity Traverse," for EPA Method 2 (and possibly 1); and ASME/BSR MFC 12M, "Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters," for EPA Method 2.

The voluntary consensus standard ASTM D6348–98, "Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform (FTIR) Spectroscopy," has been reviewed by the EPA as a potential alternative to EPA Method 320. Suggested revisions to ASTM D6348–98 were sent to ASTM by the EPA that would allow the EPA to accept ASTM D6348–98 as an acceptable alternative. The ASTM Subcommittee D22–03 is currently undertaking a revision of ASTM D6348–98. Because of this, we are not citing this standard as a acceptable alternative for EPA Method 320 in the final rule today. However, upon successful ASTM balloting and demonstration of technical equivalency with the EPA FTIR methods, the revised ASTM standard could be incorporated by reference for EPA regulatory applicability. In the interim, facilities have the option to request ASTM D6348–98 as an alternative test method under 40 CFR 63.7(f) and 63.8(f) on a case-by-case basis.

Table 1 to subpart BBBBB lists the EPA testing methods included in the final rule. Under 40 CFR 63.7(f) and 63.8(f) of subpart A, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any of the EPA testing methods, performance specifications, or procedures.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the 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 United States. The EPA will submit a report containing the 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**. 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). The rule will be effective May 22, 2003.

List of Subjects in 40 CFR Part 63

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

Dated: February 28, 2003.

Christine T. Whitman,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of the 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.*

■ 2. Part 63 is amended by adding subpart BBBBB to read as follows:

Subpart BBBBB—National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing

Sec.

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What This Subpart Covers

§ 63.7180 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for semiconductor manufacturing facilities. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission standards.

§ 63.7181 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a semiconductor manufacturing process unit that is a major source of hazardous air pollutants (HAP) emissions or that is located at, or is part of, a major source of HAP emissions.

(b) A major source of HAP emissions is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, any single HAP at a rate of 10 tons per year (tpy) or more or any combination of HAP at a rate of 25 tpy or more.

§ 63.7182 What parts of my facility does this subpart cover?

(a) This subpart applies to each new, reconstructed, or existing affected source that you own or operate that manufactures semiconductors.

(b) An affected source subject to this subpart is the collection of all semiconductor manufacturing process units used to manufacture p-type and n-type semiconductors and active solid-state devices from a wafer substrate, including research and development activities integrated into a semiconductor manufacturing process unit. A semiconductor manufacturing process unit includes the equipment assembled and connected by ductwork or hard-piping including furnaces and associated unit operations; associated wet and dry work benches; associated recovery devices; feed, intermediate, and product storage tanks; product transfer racks and connected ducts and piping; pumps, compressors, agitators, pressure-relief devices, sampling connecting systems, open-ended valves

or lines, valves, connectors, and instrumentation systems; and control devices.

(c) Your affected source is a new affected source if you commence construction of the affected source after May 8, 2002, and you meet the applicability criteria in § 63.7181 at the time you commence construction.

(d) Your affected source is a reconstructed affected source if you meet the criteria for "reconstruction," as defined in § 63.2.

(e) Your source is an existing affected source if it is not a new or reconstructed affected source.

§ 63.7183 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, you must comply with this subpart according to paragraphs (a)(1) and (2) of this section.

(1) If you start up your affected source before May 22, 2003, then you must comply with the emission standards for new and reconstructed sources in this subpart no later than May 22, 2003.

(2) If you start up your affected source after May 22, 2003, then you must comply with the emission standards for new and reconstructed sources in this subpart upon startup of your affected source.

(b) If you have an existing affected source, you must comply with the emission standards for existing sources no later than 3 years from May 22, 2003.

(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 and an affected source subject to this subpart, paragraphs (c)(1) and (2) of this section apply.

(1) Any portion of your existing facility that is a new affected source as specified at § 63.7182(c), or a reconstructed affected source as specified at § 63.7182(d), must be in compliance with this subpart upon startup.

(2) Any portion of your facility that is an existing affected source, as specified at § 63.7182(e), must be in compliance with this subpart by not later than 3 years after it becomes a major source.

(d) You must meet the notification requirements in § 63.7189 and in subpart A of this part. You must submit some of the notifications (*e.g.*, Initial Notification) before the date you are required to comply with the emission limitations in this subpart.

Emission Standards

§ 63.7184 What emission limitations, operating limits, and work practice standards must I meet?

(a) If you have a new, reconstructed, or existing affected source, as defined in § 63.7182(b), you must comply with all applicable emission limitations in this section on and after the compliance dates specified in § 63.7183.

(b) *Process vents—organic HAP emissions.* For each process vent that emits organic HAP, other than process vents from storage tanks, you must limit organic HAP emissions to the level specified in paragraph (b)(1) or (2) of this section. These limitations can be met by venting emissions from your process vent through a closed vent system to any combination of control devices meeting the requirements of § 63.982(a)(2).

(1) Reduce the emissions of organic HAP from the process vent stream by 98 percent by weight.

(2) Reduce or maintain the concentration of emitted organic HAP from the process vent to less than or equal to 20 parts per million by volume (ppmv).

(c) *Process vents—inorganic HAP emissions.* For each process vent that emits inorganic HAP, other than process vents from storage tanks, you must limit inorganic HAP emissions to the level specified in paragraph (c)(1) or (2) of this section. These limitations can be met by venting emissions from your process vent through a closed vent system to a halogen scrubber meeting the requirements of §§ 63.983 (closed vent system requirements) and 63.994 (halogen scrubber requirements); the applicable general monitoring requirements of § 63.996; the applicable performance test requirements; and the monitoring, recordkeeping and reporting requirements referenced therein.

(1) Reduce the emissions of inorganic HAP from the process vent stream by 95 percent by weight.

(2) Reduce or maintain the concentration of emitted inorganic HAP from the process vent to less than or equal to 0.42 ppmv.

(d) *Storage tanks.* For each storage tank, 1,500 gallons or larger, you must limit total HAP emissions to the level specified in paragraph (d)(1) or (2) of this section if the emissions from the storage tank vent contains greater than 0.42 ppmv inorganic HAP. These limitations can be met by venting emissions from your storage tank through a closed vent system to a halogen scrubber meeting the requirements of §§ 63.983 (closed vent system requirements) and 63.994 (halogen scrubber requirements); the applicable general monitoring requirements of § 63.996; the applicable performance test requirements; and the monitoring, recordkeeping and reporting requirements referenced therein.

(1) Reduce the emissions of inorganic HAP from each storage tank by 95 percent by weight.

(2) Reduce or maintain the concentration of emitted inorganic HAP from the process vent to less than or equal to 0.42 ppmv.

(e) You must comply with the applicable work practice standards and operating limits contained in § 63.982(a)(1) and (2). The closed vent system inspection requirements of § 63.983(c), as referenced by § 63.982(a)(1) and (2), do not apply.

Compliance Requirements

§ 63.7185 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the requirements of § 63.7184 at all times, except during periods of startup, shutdown, or malfunction.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) You must develop and implement a written startup, shutdown, and malfunction plan (SSMP). Your SSMP must be prepared in accordance with the provisions in § 63.6(e)(3).

(d) You must perform all the items listed in paragraphs (d)(1) through (3) of this section:

(1) Submit the necessary notifications in accordance with § 63.7189.

(2) Submit the necessary reports in accordance with § 63.7190.

(3) Maintain all necessary records you have used to demonstrate compliance with this subpart in accordance with § 63.7191.

§ 63.7186 By what date must I conduct performance tests or other initial compliance demonstrations?

For each process vent or storage tank vent emission limitation in § 63.7184 for which initial compliance is demonstrated by meeting a percent by weight HAP emissions reduction, or a HAP concentration limitation, you must conduct performance tests or an initial compliance demonstration within 180 days after the compliance date that is specified for your source in § 63.7183 and according to the provisions in § 63.7(a)(2).

§ 63.7187 What performance tests and other compliance procedures must I use?

(a) You must conduct each performance test in Table 1 to this subpart that applies to you as specified for process vents in § 63.982(a)(2) and storage tanks in § 63.982(a)(1). Performance tests must be conducted under maximum operating conditions or HAP emissions potential. Section 63.982(a)(1) and (2) only includes methods to measure the total organic regulated material or total organic carbon (TOC) concentration. The EPA Methods 26 and 26A are included in Table 1 to this subpart in addition to the test methods contained within § 63.982(a)(1) and (2). The EPA Method 26 or 26A must be used for testing regulated material containing inorganic HAP. Method 320 of 40 CFR part 63, appendix A, must be used to measure total vapor phase organic and inorganic HAP concentrations.

(b) If, without the use of a control device, your process vent stream has an organic HAP concentration of 20 ppmv or less or an inorganic HAP concentration of 0.42 ppmv or less, or your storage tank vent stream has an inorganic HAP concentration of 0.42 ppmv or less, you may demonstrate that the vent stream is compliant by engineering assessments and calculations or by conducting the applicable performance test requirements specified in Table 1 to this subpart. Your engineering assessments and calculations, as with performance tests (as specified in § 63.982(a)(1) and (2)), must represent your maximum operating conditions or HAP emissions potential and must be approved by the Administrator. You must demonstrate continuous compliance by certifying that your operations will not exceed the maximum operating conditions or HAP emissions potential represented by your engineering assessments, calculations, or performance test.

(c) If you are using a control device to comply with the emission limitations in § 63.7184 and the inlet concentration of HAP to the control device is 20 ppmv or less, then you may demonstrate that the control device meets the percent by weight HAP emission reduction limitation in § 63.7184(c)(1) or (d)(1) by conducting a design evaluation as specified in paragraph (i) of this section. Your design evaluation must represent your maximum operating conditions or HAP emissions potential and must be approved by the Administrator. You must demonstrate continuous compliance by certifying that your operations will not exceed the maximum operating conditions or HAP emissions potential represented by your design evaluation.

(d) During periods of startup, shutdown, and malfunction, you must operate in accordance with your SSMP.

(e) For each monitoring system required in this section, you must develop and submit for approval a site-specific monitoring plan that addresses the criteria specified in paragraphs (e)(1) through (3) of this section.

(1) Installation of the continuous monitoring system (CMS) sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (*e.g.*, on or downstream of the last control device);

(2) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system; and

(3) Performance evaluation procedures and acceptance criteria (*e.g.*, calibrations).

(f) In your site-specific monitoring plan, you must also address the procedural processes in paragraphs (f)(1) through (3) of this section.

(1) Ongoing operation and maintenance procedures in accordance with the general requirements of § 63.8(c)(1), (3), (4)(ii), (7), and (8);

(2) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d); and

(3) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c), (e)(1), and (e)(2)(i).

(g) You must conduct a performance evaluation of each CMS in accordance with your site-specific monitoring plan.

(h) You must operate and maintain the CMS in continuous operation according to the site-specific monitoring plan.

(i) *Design evaluation.* To demonstrate that a control device meets the required percent by weight inorganic HAP emission reduction limitation in § 63.7184(c)(1) or (d)(1), a design evaluation must address the composition of the inorganic HAP concentration of the vent stream entering the control device. A design evaluation also must address other vent stream characteristics and control device operating parameters as specified in any one of paragraphs (i)(1) through (5) of this section, depending on the type of control device that is used. If the vent stream is not the only inlet to the control device, the efficiency demonstration must also consider all other vapors, gases, and liquids, other than fuels, received by the control device.

(1) For a condenser, the design evaluation shall consider the vent stream flow rate, relative humidity, and temperature and shall establish the design outlet organic HAP compound concentration level, design average temperature of the condenser exhaust vent stream, and the design average temperatures of the coolant fluid at the condenser inlet and outlet. The temperature of the gas stream exiting the condenser must be measured and used to establish the outlet organic HAP concentration.

(2) For a carbon adsorption system that regenerates the carbon bed directly onsite in the control device such as a fixed-bed adsorber, the design evaluation shall consider the vent stream flow rate, relative humidity, and temperature and shall establish the design exhaust vent stream organic compound concentration level, adsorption cycle time, number and capacity of carbon beds, type and working capacity of activated carbon used for carbon beds, design total regeneration stream mass or volumetric flow over the period of each complete carbon bed regeneration cycle, design carbon bed temperature after regeneration, design carbon bed regeneration time, and design service life of carbon. For vacuum desorption, the pressure drop shall be included.

(3) For a carbon adsorption system that does not regenerate the carbon bed directly onsite in the control device such as a carbon canister, the design evaluation shall consider the vent stream mass or volumetric flow rate, relative humidity, and temperature and shall establish the design exhaust vent stream organic compound concentration level, capacity of carbon bed, type and working capacity of activated carbon used for carbon bed, and design carbon replacement interval based on the total carbon working capacity of the control device and source operating schedule.

(4) For a scrubber, the design evaluation shall consider the vent stream composition, constituent concentrations, liquid-to-vapor ratio, scrubbing liquid flow rate and concentration, temperature, and the reaction kinetics of the constituents with the scrubbing liquid. The design evaluation shall establish the design exhaust vent stream organic compound concentration level and will include the additional information in paragraphs (i)(5)(i) and (ii) of this section for trays and a packed column scrubber.

(i) Type and total number of theoretical and actual trays;

(ii) Type and total surface area of packing for entire column, and for individual packed sections if column contains more than one packed section.

§ 63.7188 What are my monitoring installation, operation, and maintenance requirements?

If you comply with the emission limitations of § 63.7184 by venting the emissions of your semiconductor process vent through a closed vent system to a control device, you must comply with the requirements of paragraphs (a) and (b) of this section.

(a) You must meet the applicable general monitoring, installation, operation, and maintenance requirements specified in § 63.996.

(b) You must meet the monitoring, installation, operation, and maintenance requirements specified for closed vent systems and applicable control devices in §§ 63.983 through 63.995. If you used the design evaluation procedure in § 63.7187(i) to demonstrate compliance, you must use the information from the design evaluation to establish the operating parameter level for monitoring of the control device.

Applications, Notifications, Reports, and Records

§ 63.7189 What applications and notifications must I submit and when?

(a) You must submit all of the applications and notifications in §§ 63.7(b) and (c); 63.8(e), (f)(4) and (f)(6); and 63.9(b) through (e), (g) and (h) that apply to you by the dates specified.

(b) As specified in § 63.9(b)(2), if you start up your affected source before May 22, 2003, you must submit an Initial Notification not later than 120 calendar days after May 22, 2003.

(c) As specified in § 63.9(b)(3), if you start up your new or reconstructed affected source on or after May 22, 2003. you must submit an Initial Notification not later than 120 calendar days after you become subject to this subpart.

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

(e) If you are required to conduct a performance test or other initial compliance demonstration, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii) and according to paragraphs (e)(1) and (2) of this section.

(1) For each initial compliance demonstration that does not include a performance test, you must submit the Notification of Compliance Status before the close of business on the 30th calendar day following the completion of the initial compliance demonstration. If you used the design evaluation procedure in § 63.7187(i) to demonstrate compliance, you must include the results of the design evaluation in the Notification of Compliance Status.

(2) For each initial compliance demonstration required that includes a performance test conducted according to the requirements in Table 1 to this subpart, you must submit a notification of the date of the performance evaluation at least 60 days prior to the date the performance evaluation is scheduled to begin as required in § 63.8(e)(2).

§ 63.7190 What reports must I submit and when?

(a) You must submit each of the following reports that apply to you.

(1) *Periodic compliance reports.* You must submit a periodic compliance report that contains the information required under paragraphs (c) through (e) of this section, and any requirements specified to be reported for process vents in § 63.982(a)(2) and storage tanks in § 63.982(a)(1).

(2) *Immediate startup, shutdown, and malfunction report.* You must submit an Immediate Startup, Shutdown, and Malfunction Report if you had a startup, shutdown, or malfunction during the reporting period that is not consistent with your SSMP. Your report must contain actions taken during the event. You must submit this report by fax or telephone within 2 working days after starting actions inconsistent with you SSMP. You are required to follow up this report with a report specifying the information in § 63.10(d)(5)(ii) by letter within 7 working days after the end of the event unless you have made alternative arrangements with your permitting authority.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report by the date according to paragraphs (b)(1) through (5) of this section.

(1) The first periodic compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.7183 and ending on June 30 or December 31, whichever date is the first date following the end of the first 12 calendar months after the compliance date that is specified for your source in § 63.7183.

(2) The first periodic compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first 12 calendar months after the compliance date that is specified for your affected source in § 63.7183.

(3) Each subsequent periodic compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent periodic compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent periodic compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section.

(c) The periodic compliance report must contain the information specified in paragraphs (c)(1) through (5) of this section.

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If there are no deviations from any emission limitations that apply to you, a statement that there were no deviations from the emission limitations during the reporting period and that no CMS was inoperative, inactive, malfunctioning, out-of-control, repaired, or adjusted.

(5) If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your SSMP, your periodic compliance report must include the information in § 63.10(d)(5) for each startup, shutdown, and malfunction.

(d) For each deviation from an emission limitation that occurs at an affected source where you are not using a CMS to comply with the emission limitations, the periodic compliance report must contain the information in

paragraphs (d)(1) through (2) of this section.

(1) The total operating time of each affected source during the reporting period.

(2) Information on the number, duration, and cause of deviations (including unknown cause), if applicable.

(e) For each deviation from an emission limitation occurring at an affected source where you are using a CMS to demonstrate compliance with the emission limitation, you must include the information in paragraphs (e)(1) through (8) of this section.

(1) The date and time that each malfunction started and stopped, and the reason it was inoperative.

(2) The date and time that each CMS was inoperative, except for calibration checks.

(3) The date and time that each CMS was out-of-control, including the information in § 63.8(c)(8).

(4) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period, and the cause of the deviation.

(5) A summary of the total duration of the deviation during the reporting period, and the total duration as a percent of the total source operating time during that reporting period.

(6) A summary of the total duration of CMS downtime during the reporting period, and the total duration of CMS downtime as a percent of the total source operating time during the reporting period.

(7) An identification of each HAP that was monitored at the affected source.

(8) The date of the latest CMS certification or audit.

§ 63.7191 What records must I keep?

(a) You must keep the records listed in paragraphs (a)(1) through (3) of this section.

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Notification of Compliance Status and periodic report of compliance that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunctions.

(3) Records of performance tests and performance evaluations as required in § 63.10(b)(2)(viii).

(b) For each CMS, you must keep the records listed in paragraphs (b)(1) through (5) of this section.

(1) Records described in § 63.10(b)(2)(vi) through (xi).

(2) All required measurements needed to demonstrate compliance with a relevant standard (*e.g.*, 30-minute averages of CMS data, raw performance testing measurements, raw performance evaluation measurements).

(3) All required CMS measurements (including monitoring data recorded during unavoidable CMS breakdowns and out-of-control periods).

(4) Records of the date and time that each deviation started and stopped, and whether the deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(5) Records for process vents according to the requirements specified in § 63.982(a)(2) and storage tank vents according to the requirements specified in § 63.982(a)(1).

§ 63.7192 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.7193 What parts of the General Provisions apply to me?

Table 2 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.13 apply to you.

§ 63.7194 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. Environmental Protection Agency (EPA), or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the U.S. EPA Administrator and are not transferred to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are as listed in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the non-opacity emission limitations in § 63.7184 under § 63.6(g).

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.7195 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in §§ 63.2 and 63.981, the General Provisions of this part (40 CFR part 63, subpart A), and in this section as follows:

Control device means a combustion device, recovery device, recapture device, or any combination of these devices used for the primary purpose of reducing emissions to comply with this subpart. Devices that are inherent to a process or are integral to the operation of a process are not considered control devices for the purposes of this subpart, even though these devices may have the secondary effect of reducing emissions.

Process vent means the point at which HAP emissions are released to the atmosphere from a semiconductor manufacturing process unit or storage tank by means of a stack, chimney, vent, or other functionally equivalent opening. The HAP emission points originating from wastewater treatment equipment, other than storage tanks, are not considered to be a process vent, unless the wastewater treatment equipment emission points are connected to a common vent or exhaust plenum with other process vents.

Semiconductor manufacturing means the collection of semiconductor manufacturing process units used to manufacture p-type and n-type semiconductors or active solid state devices from a wafer substrate, including processing from crystal growth through wafer fabrication, and testing and assembly. Examples of semiconductor or related solid state devices include semiconductor diodes, semiconductor stacks, rectifiers, integrated circuits, and transistors.

Semiconductor manufacturing process unit means the collection of equipment used to carry out a discrete operation in the semiconductor manufacturing process. These

operations include, but are not limited to, crystal growing; solvent stations used to prepare and clean materials for subsequent processing or for parts cleaning; wet chemical stations used for cleaning (other than solvent cleaning); photoresist application, developing, and stripping; etching; gaseous operation stations used for stripping, cleaning, doping, etching, and layering; separation; encapsulation; and testing. Research and development operations associated with semiconductor manufacturing and conducted at a semiconductor manufacturing facility are considered to be semiconductor manufacturing process units.

Storage tank means a stationary unit that is constructed primarily from nonearthen materials (such as wood, concrete, steel, fiberglass, or plastic) which provides structural support and is designed to hold an accumulation of liquids or other materials used in or generated by a semiconductor manufacturing process unit. The following are not storage tanks for the purposes of this subpart:

(1) Tanks permanently attached to motor vehicles such as trucks, railcars, barges, or ships;

(2) Flow-through tanks where wastewater undergoes treatment (such as pH adjustment) before discharge, and are not used to accumulate wastewater;

(3) Bottoms receiver tanks; and

(4) Surge control tanks.

Tables to Subpart BBBBB of Part 63

As stated in § 63.7187, you must comply with the requirements for performance tests in the following table:

TABLE 1 TO SUBPART BBBBB OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS

For . . .	You must . . .	Using . . .	According to the following requirements . . .
1. Process or storage tank vent streams.	a. Select sampling port's location and the number of traverse ports.	Method 1 or 1A of 40 CFR part 60, appendix A.	Sampling sites must be located at the inlet (if emission reduction or destruction efficiency testing is required) and outlet of the control device and prior to any releases to the atmosphere.
	b. Determine velocity and volumetric flow rate.	Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A.	For HAP reduction efficiency testing only; not necessary for determining compliance with a ppmv concentration limit.
	c. Conduct gas molecular weight analysis.	i. Method 3, 3A, or 3B of 40 CFR part 60, appendix A.	For flow rate determination only.
		ii. ASME PTC 19.10–1981–Part 10.	You may use ASME PTC 19.10–1981–Part 10 (available for purchase from Three Park Avenue, New York, NY 10016–5990) as an alternative to EPA Method 3B.
	d. Measure moisture content of the stack gas.	Method 4 of 40 CFR part 60, appendix A.	For flow rate determination and correction to dry basis, if necessary.
2. Process vent stream	a. Measure organic and inorganic HAP concentration (two method option).	i. Method 18, 25, or 25A of 40 CFR part 60, appendix A, AND ii. Method 26 or 26A of 40 CFR part 60, appendix A.	(1) To determine compliance with the percent by weight emission reduction limit, conduct simultaneous sampling at inlet and outlet of control device and analyze for same organic and inorganic HAP at both inlet and outlet; and (2) If you use Method 25A to determine the TOC concentration for compliance with the 20 ppmv emission limitation, the instrument must be calibrated on methane or the predominant HAP. If you calibrate on the predominant HAP, you must comply with each of the following: —The organic HAP used as the calibration gas must be the single organic HAP representing the largest percent of emissions by volume. —The results are acceptable if the response from the high level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on its most sensitive scale. —The span value of the analyzer must be less than 100 ppmv. To determine compliance with 98 percent reduction limit, conduct simultaneous sampling at inlet and outlet of control device and analyze for same organic and inorganic HAP at both inlet and outlet.
	c. Measure organic and inorganic HAP simultaneously (one method option).	Method 320 of 40 CFR part 63, appendix A.	To determine compliance with the percent by weight emission reduction limit, conduct simultaneous sampling at inlet and outlet of control device and analyze for same organic and inorganic HAP at both inlet and outlet.
3. Storage tank vent stream	Measure inorganic HAP concentration.	Method 26 or 26A of 40 CFR part 60, appendix A, or Method 320 of 40 CFR part 63, appendix A.	To determine compliance with percent by weight emission reduction limit, conduct simultaneous sampling at inlet and outlet of control device and analyze for same inorganic HAP at both inlet and outlet.

As stated in § 63.7193, you must comply with the applicable General Provisions requirements according to the following table:

TABLE 2 TO SUBPART BBBBB OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART BBBBB

Citation	Subject	Applicable to Subpart BBBBB?
§63.1	Applicability	Yes.
§63.2	Definitions	Yes.
§63.3	Units and Abbreviations	Yes.
§63.4	Prohibited Activities and Circumvention	Yes.
§63.5	Construction and Reconstruction	Yes.
§63.6	Compliance with Standards and Maintenance	Yes.
§63.7	Performance Testing Requirements	Yes, with the exception of §63.7(e)(1). The requirements of §63.7(e)(1) do not apply. Performance testing requirements that apply are specified in this subpart, and in §63.982(a)(1) and (2).
§63.8	Monitoring Requirements	Monitoring requirements are specified in this subpart and in §63.982(a)(1) and (2). The closed vent system inspection requirements of §63.983(c), as referenced by §63.982(a)(1) and (2), do not apply.
§63.9	Notification Requirements	Yes.
§63.10	Recordkeeping and Reporting Requirements	Yes, with the exception of §63.10(e). The requirements of §63.10(e) do not apply. In addition, the recordkeeping and reporting requirements specified in this subpart apply.
§63.11	Flares	Yes.
§63.12	Delegation	Yes.
§63.13	Addresses	Yes.
§63.14	Incorporation by Reference	Yes.
§63.15	Availability of Information	Yes.

[FR Doc. 03–5519 Filed 5–21–03; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7500–8]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct Final Notice of Deletion of the Rose Park Sludge Pit Superfund Site From the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 8 is publishing a Direct Final Notice of Deletion of the Rose Park Sludge Pit Superfund Site (Site), located in Salt Lake City, Utah, from the National Priorities List (NPL).

The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B to 40 CFR part 300, the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Utah, through the Utah Department of Environmental Quality (UDEQ), based on EPA's determination that all appropriate response actions under CERCLA, other than five-year reviews and operation & maintenance, have been completed at the Site and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective June 30, 2003, unless EPA receives adverse comments by June 23, 2003. If EPA receives significant adverse comment(s), EPA will withdraw the Direct Final Notice of Deletion and it will not take effect.

ADDRESSES: Comments should be mailed to: Armando Saenz, Remedial Project Manager (RPM), Mail Code: 8EPR–SR, U.S. EPA Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202–2466.

Information Repositories: Comprehensive information is available for viewing and copying at the following information repositories for the Site: (1) U.S. EPA Region 8 Superfund Records Center, 999 18th Street, Fifth Floor, Denver, Colorado 80202–2466, Monday through Friday, 8 a.m.—4:30 p.m.; and, (2) Utah Department of Environmental Quality, Division of Environmental Response & Remediation, 168 North 1950 West, Salt Lake City, Utah 84116.

FOR FURTHER INFORMATION CONTACT: Armando Saenz, 303–312–6559, Remedial Project Manager (RPM), Mail Code: 8EPR–SR, U.S. EPA Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202–2466.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
V. Deletion Action

I. Introduction

EPA Region 8 is publishing this Direct Final Notice of the Deletion of the Rose Park Sludge Pit Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action, pursuant to EPA's authority under CERCLA and the NCP.

Because EPA considers this action to be noncontroversial, this action is being taken without prior publication of a notice of intent to delete. This action will be effective June 30, 2003 unless EPA receives adverse comments by June 23, 2003 on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of this Notice and the comments already received. There will be no additional opportunity to comment on this deletion process.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section

Federal Register

Friday,
May 23, 2003

Part III

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0048—FRL–7462–1]

RIN 2060–AG55

National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for new and existing metal furniture surface coating operations located at major sources of hazardous air pollutant (HAP) emissions. The final standards implement section 112(d) of the Clean Air Act (CAA) which requires the Administrator to regulate emissions of HAP listed in section 112(b) of the CAA. The intent of the standards is to protect public health and the environment by requiring new and existing major sources to control emissions to the level attainable by implementing the maximum achievable control technology (MACT). The final standards will eliminate approximately 73 percent of nationwide HAP emissions from major sources that coat metal furniture. Metal furniture surface coating operations emit HAP such as xylene, toluene, ethylene glycol monobutyl ether and other glycol ethers, ethylbenzene, and methyl ethyl ketone. Health effects associated with these pollutants include eye, nose, throat, and skin irritation; nausea, vomiting, headache, and dizziness; and liver and kidney damage. We do not have the type of current detailed data on each of the facilities covered by the final rule and the people living around the facilities that would be necessary to conduct an analysis to determine the actual population exposures to the HAP emitted from these facilities and potential for resultant health effects. Therefore, we do not know the extent to which the adverse health effects described above occur in the populations surrounding these facilities. However, to the extent the adverse effects do occur, the final rule will reduce emissions and subsequent exposures.

EFFECTIVE DATE: May 23, 2003. The incorporation by reference of certain publications listed in today's final rule is approved by the Director of the Federal Register as of May 23, 2003.

ADDRESSES: *Docket.* Docket ID No. OAR–2002–0048 (formerly Docket No. A–97–40) is located at the EPA Docket Center, EPA West, U.S. EPA (6102T), 1301 Constitution Avenue, NW, Room B–102, Washington, DC 20460.

Background Information Document. A background information document (BID) for the promulgated NESHAP may be obtained from the docket; the U.S. EPA Library (C267–01), Research Triangle Park, NC 27711, telephone (919) 541–2777; or from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, telephone (703) 487–4650. Refer to "National Emission Standards for Hazardous Air Pollutants (NESHAP): Surface Coating of Metal Furniture-Summary of Public Comments and Responses on Proposed Rule" (EPA–453/R–03–002). The promulgation BID contains a summary of changes made to the standards since proposal, public comments made on the proposed standards, and EPA responses to the comments.

FOR FURTHER INFORMATION CONTACT: Dr. Mohamed Serageldin, Coating and Consumer Products Group (C539–03), Emission Standards Division, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–2379, facsimile number (919) 541–5689, electronic mail (e-mail) address: *serageldin.mohamed@epa.gov.*

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Categories and entities potentially regulated by this action include those listed on the following table. This table is not intended to be exhaustive, but is just a guide to entities likely to be regulated by the standards. It lists the types of entities that may be regulated, but you should examine the applicability criteria in §§ 63.4881 and 63.4882 of the rule to decide whether your facility is regulated by the standards.

CATEGORIES AND ENTITIES POTENTIALLY REGULATED BY THE STANDARDS

Product description	NAICS code(s)	NAICS Product Description
Metal Household Furniture	337124	Metal Household Furniture Manufacturing.
Office Furniture, Except Wood	337214	Nonwood Office Furniture Manufacturing.
Public Building and Related Furniture	337127	Institutional Furniture Manufacturing.
Office and Store Fixtures, Partitions, Shelving, and Lockers, Except Wood.	337215	Showcase, Partition, Shelving, and Locker Manufacturing.
Furniture and Fixtures, Not Classified Elsehwere	337127	Institutional Furniture Manufacturing.
Hardware, Not Classified Elsewhere	332951	Hardware Manufacturing.
Metal Stampings, Not Classified Elsewhere (Except Kitchen Utensils, Pots and Pans for Cooking, and Coins).	332116	Metal Stamping.
Wire Springs	332612	Wire Spring Manufacturing.
Fabricated Metal Products, Not Classified Elsewhere	337215	Showcase, Partition, Shelving, and Locker Manufacturing.
Residential Electric Lighting Fixtures	335121	Residential Electric Lighting Fixture Manufacturing.
Commercial, Industrial, and Institutional Electric Lighting Fixtures	335122	Commercial, Industrial, and Institutional Electric Lighting Fixture Manufacturing.
Laboratory Apparatus and Furniture	339111	Laboratory Furniture Manufacturing.
Dental Equipment and Supplies	339114	Dental Equipment Manufacturing.
Manufacturing Industries, Not Classified Elsewhere	337127	Institutional Furniture Manufacturing.
Reupholstery and Furniture Repair	81142	Reupholstery and Furniture Repair.
State/Federal Governmental Agencies	.....	State/Federal correctional institutions that apply coatings to metal furniture.

Docket. The EPA has established an official public docket for this action under Docket ID No. OAR–2002–0048 (formerly Docket No. A–97–40). The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the

official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, EPA West, Room B–102, 1301 Constitution Avenue, NW., Washington, DC 20460. The Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Docket is (202) 566–1742. A reasonable fee may be charged for copying docket materials.

Electronic Access. You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified above. Once in the system, select "search," then key in the appropriate docket identification number.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's final rule will also be available on the WWW through EPA's Technology Transfer Network (TTN). Following signature by the EPA Administrator, a copy of the rule will be posted 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. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Judicial Review. Under section 307(b) of the 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 July 22, 2003. Under section 307(d)(7)(B) of the CAA, only an objection to the rule which 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 today's final action may not be challenged separately in any civil or criminal proceeding we bring to enforce these requirements.

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

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J. Congressional Review Act

I. Background

A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. The category of major sources covered by the final NESHAP was listed on July 16, 1992 (57 FR 31576) under the Surface Coating Processes industry group. Major sources of HAP are those that emit or have the potential to emit considering controls, in the aggregate, 9.07 megagrams per year (Mg/yr) (10 tons per year (tpy)) or more of any HAP or 22.68 Mg/yr (25 tpy) or more of any combination of HAP.

B. What Criteria Do We Use in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the emission limitation is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than the standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best performing 12 percent of existing sources in the category or subcategory (or the best performing five sources for categories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on consideration of the cost of achieving the emission reductions, any health and environmental impacts, and energy requirements.

II. What Changes and Clarifications Have We Made to the Proposed Standards?

In response to public comments received on the proposed standards, we made several changes in developing the final rule. While some of the changes were designed to make our intentions clearer, other changes resulted in revisions to the MACT floors and emission limits. The substantive comments and our responses and rule

changes are summarized in the following sections. A more detailed summary of these comments as well as other comments received along with our responses can be found in the BID for the final rule which is available from several sources (see **ADDRESSES**).

A. Overlap with Other NESHAP Source Categories

Two commenters requested that the final rule provide compliance flexibility for facilities that coat a variety of items in addition to metal furniture and metal furniture components. Such facilities may be affected by several surface coating NESHAP, such as the existing standards for wood furniture, the proposed standards for miscellaneous metal parts and products (67 FR 52780, August 13, 2002), and the proposed standards for plastic parts and products (67 FR 72276, December 4, 2002). The commenters sought a regulatory approach that would allow facilities to opt specific coating operations or product lines that are collocated with metal furniture surface coating operations out of the rule and into one of the other surface coating NESHAP.

Another commenter believed that the proposed rule did not adequately address all the possible overlap issues between the metal furniture and wood furniture surface coating NESHAP, particularly when a furniture item consists of both metal and wood components.

We understand that it could be beneficial to consolidate regulatory requirements at facilities where coating operations belonging to different source categories (such as metal furniture, miscellaneous metal parts and products, and plastic parts and products) are collocated. Consolidation may reduce the amount of records, reports, or compliance calculations that the facility would have to maintain. Some commenters suggested that the final rule include a compliance option that would allow this consolidation of different regulatory requirements within a facility. Section 112(d)(2) of the CAA states that all major sources within a regulated source category must meet the maximum degree of emission reduction that we determine to be achievable. We do not believe that the commenters' recommendation of allowing a facility to choose which coating operations to opt into, or out of, a particular NESHAP would ensure that the MACT level of control was met for all HAP emission points within each source category. Therefore, to comply with these CAA requirements, we have not included the compliance option suggested by the commenters in the final rule.

We recognize that there is not always a clear dividing line between the affected sources of the surface coating rules. This is evident in the furniture manufacturing industry, where both metal and wood furniture may be produced in the same facility, and many pieces of furniture contain substantial portions of metal and wood. For those commenters concerned with lack of clarity between the applicability of the metal furniture rule and other surface coating rules, in particular the wood furniture surface coating rule (40 CFR part 63, subpart JJ), we are providing clarification through the following examples.

Example 1. Coating operations at facilities currently subject to the wood furniture rule (40 CFR part 63, subpart JJ) would continue to be subject to that rule. This would be the case even if the items coated contained metal components, as long as the items meet the definition of wood furniture or wood furniture component in § 63.801(a) of 40 CFR part 63, subpart JJ.

Example 2. Coating operations at facilities that coat metal furniture (as defined in § 63.4881(a)(2) of the final rule) constructed either entirely or partially from metal (but not qualifying as wood furniture components under subpart JJ) would be subject to the metal furniture rule.

Example 3. Facilities that coat only metal furniture components such as knobs, hinges, and screws (that is, components that are of a more generic nature and could have broader uses in products other than metal furniture) and provide these components exclusively to metal furniture manufacturing facilities would be subject to the metal furniture rule.

Example 4. The applicability of the surface coating rules when the item coated is composed of both metal and wood components in approximately equivalent percentages will depend primarily on the functionality of the entire unit. A common example of such an item is a commercial shelving unit constructed of a metal base and wood backing. For reasons related to structural rigidity or overall stability, the functionality of this particular shelving unit depends more on the metal components than the wood components. The surface coating of this shelving unit would be regulated under the metal furniture rule. Thus, the surface coating of all components of this shelving unit, regardless of whether they are made of metal or wood, would be regulated under the metal furniture rule, so long as the facility is a metal furniture manufacturing facility. This would be true even if the metal furniture manufacturing facility dedicated a coating line exclusively to the coating of the wood components.

Example 5. Coating operations such as those presented in Example 4 may not involve items that can be readily classified according to functionality. For these situations, the applicability determination would be made on a case-by-case basis taking into account functionality and other relevant factors. These factors may include the primary North American Industrial Classification System (NAICS) code for the facility, amount of surface area coated for each type of substrate, and how the coating operations have been classified for other surface coating rules (such as new source performance standards (NSPS) and State rules).

The examples we have provided here are necessarily simplistic in nature compared to many of the situations encountered in the metal furniture manufacturing industry and are intended only to provide guidance. Even so, the examples demonstrate the complex applicability issues related to this rule and why precisely defining applicability among the surface coating rules has proved to be a challenge. While we realize that many of the situations encountered in the metal furniture manufacturing industry can be far more complicated than presented here, discussion of these more complex situations is beyond the scope of this preamble. For these reasons, we intend to provide additional guidance documents in the future that will specifically address some of the more complex applicability issues. In order to address the specific concerns raised by the metal furniture industry, we are planning to involve all interested stakeholders in the development of these guidance documents. We will announce at a future date how stakeholders may become involved in this effort.

B. MACT Floors and Emission Limits

The database we used to determine the MACT floors for new and existing sources consisted of 49 facilities that responded to our questionnaires. Of these 49 facilities, 22 provided complete data such that we could calculate an emission rate for all of the metal furniture surface coating operations in terms of kilograms (kg) organic HAP per liter coating solids used. Of the 27 remaining facilities, we believed we had enough data to estimate that, had all of the requested data been provided, their emission rates would have fallen within the range represented by the facilities for which we had complete data. Therefore, we based the existing source

MACT floor on the best performing 12 percent of 49 facilities rather than 12 percent of 22 facilities.

One commenter stated that section 112(d)(3)(A) of the CAA requires us to use only those facilities "for which the Administrator has emissions information." The commenter believed that this language limited us to considering only the 22 facilities, not the entire group of 49 facilities.

In response to these comments, we reviewed the information that was submitted by the 27 facilities with incomplete data. We also attempted to obtain additional information from some of the facilities. As a result of these efforts, we could not confirm the accuracy of our original assumption that the emission rates for these 27 facilities would fall within the range represented by the facilities with complete data. As a result, we agree with the commenter that a more appropriate basis for the floor determination is the data set for the 22 facilities that submitted complete data. Using information from only those facilities, we recalculated the existing source MACT floor based on the average of the best performing 12 percent of 22 facilities. This calculation reduced the MACT floor from 0.12 kg organic HAP per liter (1.0 lb/gallon (gal)) coating solids used to 0.10 kg organic HAP per liter (0.83 lb/gal) coating solids. In the final rule, the existing source emission limit in § 63.4890 corresponds to the new MACT floor value.

Two commenters also questioned our rejection of above-the-floor options for existing sources. We continue to believe that rejecting above-the-floor options was appropriate for existing sources. However, during our analysis of these comments, we began to further consider how the state-of-the-art for new sources has changed since our initial data gathering efforts. We have always recognized that there are certain coating technologies that may emit no organic HAP (as calculated according to § 63.4941(a)) such as powder coatings and liquid coatings that contain no organic HAP. The industry questionnaire responses that we reviewed in 1998 (representing 1997 data) showed that six facilities used powder coatings exclusively, and they were not used for the MACT floor calculations because they were true area sources. These powder coating facilities produced metal furniture items such as office chairs, dental chairs, commercial and residential lighting fixtures, and indoor and outdoor lighting fixtures. Of these six powder coating facilities, three had coating solids usages within the range represented by the facilities we used to determine the MACT floor (in other words, had these three facilities used conventional liquid coatings instead of powder coatings, we would expect them to be major sources of HAP emissions and they would have been included in the determination of the MACT floor). We believe these data demonstrate the industry's current ability to exclusively use powder coatings in many situations.

Based on the 1998 questionnaire responses of the 22 facilities that provided complete data, information was provided for 188 individual liquid coatings. Eight of these coatings were reported as containing no organic HAP. In addition, another 48 individual coatings were reported as containing less than 1 percent by mass of organic HAP (typically as a small component of a solvent blend such as aromatic naphtha). We believe that this high percentage of non-HAP (or essentially non-HAP) coatings used by these 22 facilities indicates the coating suppliers' ability to produce and market non-HAP coatings and demonstrates that they are currently in use by the industry.

Over the past 5 years since we sent questionnaires to the metal furniture manufacturing industry, non-HAP coating technologies have undergone continual development. The availability of powder coatings in a wide range of colors has increased, as has the ability to produce various surface finishes and control film thickness. Coating manufacturers have also made significant strides in formulating non-HAP coatings, driven in large part by the requirements of surface coating NESHAP for a wide variety of industries. In addition, we are aware of other coating technologies, such as electrocoating, that have the potential to emit no HAP. Although we are not currently aware of these coating technologies being used in the metal furniture industry, we believe they can be used in certain circumstances and represent viable alternatives for new sources.

We believe the continual development of these non-HAP coating technologies over the past several years has allowed them to gain wider acceptance and use within the metal furniture surface coating industry, such that we now believe they represent in the aggregate the MACT floor for new sources. Considering that new sources have much greater latitude than existing sources to design manufacturing operations and the metal furniture items themselves to accommodate these coating technologies, new sources can more readily take advantage of these coating technologies. Accordingly, we have revised the new source MACT floor to be no emissions of organic HAP from metal furniture surface coating operations. The emission limit for new sources in § 63.4890 of the final rule reflects this new MACT floor determination.

We also recognize that there may be specialized appearance or functional characteristics that can be produced only with coating technologies employing organic HAP, even for new sources. To accommodate these situations, we added a provision in the final rule that allows a new affected source to demonstrate on a case-by-case basis that organic HAP-free coating technologies cannot be used for their specific products. If we approve such a request, then the source would be required to meet an emission limit of 0.094 kg organic HAP per liter (0.78 lb/gal) coating solids used. This emission limit is the same as the emission limit originally proposed for new sources and would apply only to the specific products for which the determination was made, not all of the metal furniture surface coating operations at the new source.

C. Military Coatings

One commenter expressed concern about metal furniture used in battlefield situations. Such furniture may be coated with chemical agent resistant coatings and other coatings unique to the military. The commenter believed that the emission limits developed for the metal furniture rule did not take into account the needs of the military to sustain metal furniture and other battlefield support equipment and requested that all such coatings be regulated under the proposed NESHAP for miscellaneous metal parts and products, once those standards become final. Upon further analysis, we agree that military coatings used for refurbishment of military equipment may be unique from those used to develop the emission limits as in the proposed metal furniture surface coating rule and require special consideration. However, because so many different products are involved (metal furniture, large appliances, wood furniture, miscellaneous metal parts, fabric coating, and plastic parts), we believe the more appropriate approach is to group all of the products coated with specialized military coatings into their own source category. Thus, we are creating a new source category for the surface coating of refurbished military equipment for this purpose. The final rule for metal furniture includes an exemption for military coatings (see § 63.4881(c)(6) of the final rule) that will

be included in the newly created source category.

D. Compliance During Periods of Startup, Shutdown, and Malfunction

One commenter believed that the statement in § 63.4900(a)(2) of the proposed rule that affected sources do not have to comply with the emission limitations during periods of startup, shutdown, and malfunction does not comply with the CAA. This provision is often found in NESHAP in which compliance with the standards is based on the results of a short-term initial performance test and short-term averaging of continuous monitoring results thereafter. In consideration of this comment, we realized that this provision is not appropriate for the surface coating NESHAP when these short-term tests and monitoring results are only one component of a compliance determination that determines emissions over a long period of time, which in this case is a month. For the metal furniture surface coating NESHAP, the source owner or operator will use the performance test and continuous monitoring results in combination with data on coatings and other materials used over a month's period of time. These components will be combined to calculate a monthly organic HAP emission rate. Since there may be many startups and shutdowns of a coating operation over the course of a month as part of normal operation, it is not appropriate to exempt such periods from compliance with the standards. We believe that a month-long compliance period will accommodate potential short-term higher emission rates that might occur due to startup, shutdown, or malfunction, and that the proposed exemption is not necessary or appropriate. Thus, we revised and simplified the general compliance requirements in § 63.4900; we removed the statement that sources must be in compliance except during periods of startup, shutdown, and malfunction. We state in § 63.4900(a) of the final rule that all affected sources must be in compliance with the emission limitations in § 63.4890 at all times. We left in place the requirement for sources using an emission capture system and add-on control device to develop and implement a written startup, shutdown, and malfunction plan according to § 63.6(e)(3).

E. Monitoring

One commenter believed we inappropriately used the terms "sensitivity" and "tolerance" interchangeably in § 63.4968 of the proposed rule (now § 63.4967 in the final rule). We agree with the commenter and replaced both terms with the term "accuracy." We also made numerous changes throughout this section to simplify monitoring requirements and maintain consistency with the monitoring requirements in other surface coating NESHAP under development.

F. Title V Operating Permits

Several commenters had concerns about possible conflicts between reporting requirements under this rule and their approved title V programs. It is important to emphasize that a permitting authority does not have the authority to change the reporting requirements of this rule (such as type of report, content of report, and/or frequency of submission). Reporting requirements under this rule are applicable requirements, and sources must comply with them.

The final rule, consistent with the proposed rule, does however allow an affected source to submit its semiannual compliance report along with, or as part of, its 6-month monitoring report required by 40 CFR part 70 or 40 CFR part 71. See § 63.4920(a)(1)(iv) and (a)(2) of the final rule. As a result of comments, § 63.4920(a)(1)(iv) and (a)(2) of the final rule have been modified to clarify when monitoring reports are required by 40 CFR part 70 or 40 CFR part 71 (every 6 months) and when a 6-month monitoring report must cross-reference a semiannual compliance report. Language was also added to § 63.4920(a)(1)(iv) of the final rule to ensure that a semiannual compliance report is submitted within a reasonable time (30 days) after the end of the semiannual reporting period.

At the request of commenters, §§ 63.4910(c)(2) and 63.4920(a)(3)(ii) of the final rule have been revised to ensure that certifications of truth, accuracy, and completeness for the notifications of compliance status and semiannual compliance reports under this rule are consistent with the certification requirements under 40 CFR part 70 or 40 CFR part 71. Additionally, "of the content" was deleted from both of these paragraphs as a responsible official needs to certify that the entire submittal is complete, not just the content of the report.

It is also important to correct in this final preamble a statement made in subsection B of Section II of the preamble to the proposed rule (67 FR 20206, 20208). In this subsection—"What is the relationship to other rules?"—the following is stated: "Overlapping reporting, recordkeeping, and monitoring requirements may be resolved through the title V permit process." This statement is overly broad as 40 CFR part 70 and 40 CFR part 71 only address situations where more than one monitoring (including recordkeeping designed to serve as monitoring) or testing requirement applies. Specifically, 40 CFR 70.6(a)(3)(i)(A) and 40 CFR 71.6(a)(3)(i)(A) state in part that "If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions provided the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements that are not included in the permit as a result of such streamlining; * * *." There are no provisions in 40 CFR part 70 or 40 CFR part 71, however, which allow for the streamlining of overlapping recordkeeping or reporting requirements, unless the recordkeeping is designed to serve as monitoring as described in 40 CFR 70.6(a)(3)(i)(B) or 40 CFR 71.6(a)(3)(i)(B).

G. Other Changes and Clarifications

In addition to the changes described above, we note several areas of the proposed rule that warrant rewriting for the final rule, even though commenters did not object to them. They are necessary so that the provisions properly reflect our intent and are consistent with other surface coating NESHAP under development.

The proposed rule allowed the volume fraction of coating solids to be determined by means of a test method or from information provided by the supplier or manufacturer. We realize that there may be certain situations where neither of these options is adequate and added a calculation at § 63.4941(b)(3) for volume fraction of coating solids when the mass fraction and average density of the volatile components of the coating are known.

Section 63.4962 of the proposed rule contained detailed procedures for determining compliance when a source operates under different sets of representative operating conditions. Upon further review of this section, we believe this option is overly complicated and would be difficult to implement in actual practice. Rather than including these detailed compliance procedures in the final rule, we decided on a general statement allowing such a compliance demonstration if you believe a workable and enforceable procedure can be maintained to demonstrate compliance under different sets of representative operating conditions (see § 63.4891(d)(2)

of the final rule). You would be required to develop your own detailed compliance procedure tailored to your specific situation and submit the procedure to the Administrator for approval. We also took this action to maintain consistency with other surface coating NESHAP under development that do not contain this option.

We added an alternative to Method 3B at § 63.4965(a)(3) of the final rule. This alternative test method, ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], was inadvertently omitted from the proposed rule. We also added § 63.4966(g) to provide guidance for monitoring when a bioreactor system is used as an add-on control device to comply with the emission limits.

In addition to the actions described above, we have clarified our intent to promote consistency with other surface coating NESHAP currently under development.

III. What Are the Final Standards?

A. What Is the Source Category?

The rule applies to you if you own or operate a metal furniture surface coating facility that is a major source, is located at a major source, or is part of a major source of HAP emissions. We have defined a metal furniture surface coating facility as one that applies coatings to metal furniture or components of metal furniture. Metal furniture means furniture or components that are constructed either entirely or partially from metal.

You would not be subject to the rule if your metal furniture surface coating facility is located at an area source. An area source of HAP is any facility that emits or has the potential to emit HAP but is not a major source. You may establish area source status by limiting the source's potential to emit HAP through appropriate mechanisms available through the permitting authority. You would not be subject to the rule if you use only coatings, thinners, and cleaning materials that contain no organic HAP. The source category does not include surface coating that occurs at research or laboratory facilities or that is part of janitorial, building, and facility maintenance operations. It also does not include coating applications using handheld nonrefillable aerosol containers.

B. What Is the Affected Source?

We define an affected source as a stationary source, group of stationary sources, or part of a stationary source to which specific NESHAP apply. Within a source category, we select the specific emission sources (emission points or groupings of emission points) that will make up the affected source for that category. To select these emission sources, we mainly consider the constituent HAP and quantity emitted from individual or groups of emission points.

For the metal furniture surface coating NESHAP, the affected source is the collection of all operations associated with the surface coating of metal furniture or components of metal furniture that are performed at a contiguous area under common control. These operations include preparation of a coating for application (for example, mixing with thinners); surface preparation of the metal furniture or component; coating application and flash-off; drying and/or curing of applied coatings; cleaning of equipment used in surface coating; storage of coatings, thinners, and cleaning materials; and handling and conveyance of waste materials from the surface coating operations. Coatings include such materials as adhesives and protective or decorative coatings.

C. What Are the Emission Standards?

We are promulgating standards that limit HAP emissions from the surface coating of metal furniture. The standards include emission limits and operating limits. The emission limits are different for new and existing sources and have changed since proposal.

Emission limits. We are limiting each new and reconstructed affected source to no organic HAP emissions. The limit for each existing affected source is 0.10 kg organic HAP/liter (0.83 lb/gal) coating solids used. These limits apply to the total of all coatings, thinners, and cleaning materials used in coating operations at the affected source.

There are three compliance options available for meeting the emission limits. The compliant material option requires that each coating used in the coating operation meet the limit, and each thinner and cleaning material must contain no organic HAP. Under the emission rate without add-on controls option, you may average all of the coatings, thinners, and cleaning materials used together and demonstrate that the overall emission rate is in compliance with the applicable limit. The emission rate with add-on controls option applies to coating operations for which add-on controls are used to meet the limit. Under this option, you must meet certain operating limits for the capture systems and control devices and follow a work practice plan for your material storage, mixing, conveying, and spills.

Operating limits. If you reduce emissions by using a capture system and add-on control device (other than a solvent recovery system for which you conduct a monthly liquid-liquid material balance), the rule's operating limits would apply to you. These limits are site-specific parameter limits you determine during the initial performance test of the system. For capture systems, you would establish average volumetric flow rate limits for each capture device (or enclosure) in each capture system. You would also establish limits on average pressure drop across openings in the capture system.

For thermal and catalytic oxidizers, you would monitor temperature. For solvent recovery systems for which you do not conduct a monthly liquid-liquid material balance, you would monitor the carbon bed temperature and the amount of steam or nitrogen used to desorb the bed. For condensers, you would monitor the temperature of the outlet gas temperature from the condenser.

All operating limits must reflect operation of the capture system and control devices during a performance test that demonstrates achievement of the emission limit during representative operating conditions.

General Provisions. The General Provisions (40 CFR part 63, subpart A) also apply to you as outlined in Table 2 of the final rule. The General Provisions codify certain procedures and criteria for all 40 CFR part 63 NESHAP. The General Provisions contain administrative procedures, preconstruction review procedures for new sources, and procedures for conducting compliance-related activities such as notifications, reporting, and recordkeeping, performance testing, and monitoring. The rule refers to individual sections of the General Provisions to emphasize key sections that you should be aware of. However, unless specifically overridden in the rule, all of the applicable General Provisions requirements apply to you.

D. Interaction With Other Regulations

Affected sources subject to the rule may also be subject to other rules. The relationship between this rule and other rules is discussed below.

New source performance standards—40 CFR part 60, subpart EE. The metal furniture NSPS apply to facilities that apply organic coatings to metal furniture and that began construction, reconstruction, or modification after November 28, 1980. The pollutants

regulated are volatile organic compounds (VOC). Emissions of VOC are limited to 0.09 kg per liter of coating solids applied, and the affected source is each individual coating operation.

The rule differs from the NSPS in three ways. First, the affected source for the rule is defined broadly as the collection of all coating operations and related activities and equipment at the facility, whereas the affected facility for the NSPS is defined narrowly as each individual coating operation. The broader definition of affected source allows a facility's emissions to be combined for compliance purposes. Second, the NESHAP regulate organic HAP. While most organic HAP emitted from metal furniture surface coating operations are VOC, some VOC are not listed as HAP and, therefore, the NSPS regulate a broader range of pollutants than would the NESHAP. Third, the emission limitations in the NESHAP would be based on the amount of solids used at the affected source. The NSPS limitations are based on the amount of solids actually applied to the metal furniture which necessitates estimates of transfer efficiency in the compliance calculations.

Because of the differences between the NESHAP and the NSPS, compliance with either one cannot be deemed compliance with the other. A metal furniture surface coating facility that meets the applicability requirements of both rules must comply with both.

National emission standards for wood furniture manufacturing operations—40 CFR part 63, subpart JJ. There may be situations where a manufacturer of wood furniture also coats metal components of that wood furniture. Coating lines that are currently subject to subpart JJ will remain subject to only that rule so long as they continue to coat products that meet the definition of "wood furniture" or "wood furniture component" in § 63.801. This will be the case even if there are metal parts on the wood furniture or wood furniture components when they are coated.

Future national emission standards for the surface coating of miscellaneous metal parts. Metal furniture often contains components, such as metal knobs, hinges, and screws, that have a wider use beyond metal furniture. As stated previously, the coating of such parts would be subject to the metal furniture rule if the coating takes place at a facility that is coating metal furniture, or a facility whose entire production is dedicated to coating parts to be used exclusively in, or on, metal furniture. If the coating of such parts takes place at a facility that coats these parts for multiple types of products (*e.g.*, not exclusively metal furniture), the coating operations would be subject to the proposed NESHAP for the surface coating of miscellaneous metal parts and products (August 13, 2002, 67 FR 52780).

Future national emission standards for the surface coating of plastic parts and products. Plastic parts and products may be components (*e.g.*, plastic handles) of metal furniture. The coating of such plastic parts would be subject to the metal furniture rule if the coating takes place at a metal furniture surface coating facility; or if it takes place at a facility whose entire production is dedicated to coating plastic parts for metal furniture. If the coating takes place at a facility that coats these plastic parts for multiple types of products (*e.g.*, not exclusively metal furniture), the coating operations would be subject to the proposed NESHAP for the surface coating of plastic parts and products (December 4, 2002, 67 FR 72276).

IV. When Do I Show Initial Compliance With the Rule?

Existing affected sources must comply with the rule no later than 3 years after May 23, 2003. The effective date is May 23, 2003. New or reconstructed affected sources must comply upon start-up or May 23, 2003, whichever is later. Details of the compliance requirements can be found in the General Provisions, as outlined in Table 2 of today's rule.

Before your initial compliance demonstration, you must choose which of the several compliance options you will use for your affected source. In your initial compliance certification, you must notify the Administrator of your choice and after that, you must monitor and report compliance results accordingly. If you decide to change to other emission limit options, you are also required to notify the Administrator, as with other changes at the facility, as discussed later in this preamble.

V. What Testing and Monitoring Must I Do?

In addition to the specific testing and monitoring requirements specified below for the affected source, the rule adopts the testing requirements specified in 40 CFR 63.7.

A. Test Methods and Procedures

Emission limit(s). There are several options for complying with the emission limit(s), and the testing and initial compliance requirements vary accordingly.

If you demonstrate compliance based on the materials used in the affected source, you must determine the mass of organic HAP and the volume of solids in all materials used during the initial compliance period.

To determine the mass of organic HAP in coatings, thinners, and cleaning materials and the volume coating solids, you could either rely on manufacturer's data or on results from the test methods listed below. Under § 63.4941 of the rule, you would be required to determine the mass of organic HAP in coatings, thinners, and cleaning materials used. To do this, you must count HAP that are present at 1 percent by mass or more if they are not carcinogens identified by the Occupational Safety and Health Administration (OSHA) at 29 CFR 1910.1200(d)(4), and count HAP that are present at 0.1 percent by mass or more if they are OSHA-identified carcinogens. Coating and solvent manufacturers are accustomed to providing a breakdown of material components according to this distinction and routinely report the values on Material Safety Data Sheets for the materials, as required by OSHA. We could have selected some other way to count HAP components of materials but concluded that allowing this long-standing approach to be used for compliance with the rule would provide the information needed for compliance assurance and would not impose any additional burden on the industry.

You may use alternative test methods provided you get EPA approval in accordance with the NESHAP General Provisions, § 63.7(f). If there is any inconsistency between the test method results (either EPA's or an approved alternative) and manufacturer's data, the test method results would prevail for compliance and enforcement purposes.

- For organic HAP content, use Method 311 of 40 CFR part 63, appendix A;
- The rule allows you to use nonaqueous volatile matter as a surrogate for organic HAP, which would include all organic HAP plus all other organic compounds. If you choose this option, then use Method 24 of 40 CFR part 60, appendix A; and
- For volume fraction of coating solids, use either manufacturer's data or ASTM Method D2697–86 (1998), Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings, or ASTM Method D6093–97, Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer. If you are not able to use these procedures, then you may calculate the volume fraction of coating solids based on the density and mass fraction of the volatile components.

To demonstrate initial compliance based on the materials used, you are required to either ensure that the organic HAP content of each coating meets the emission limit and that you use no organic HAP-containing thinners or cleaning materials; or ensure that the total mass of organic HAP in all coatings, thinners, and cleaning materials divided by the total volume of coating solids meets the emission limit. For the latter option, you are required to:

- For the initial compliance period, determine the quantity of each coating, thinner, and cleaning material used in the affected source.
- Determine the mass of organic HAP in each coating, thinner, and cleaning material.
- Determine the volume fraction coating solids for each coating.
- Calculate the total mass of organic HAP for materials and total volume of coating solids used in the affected source for the compliance period. You may subtract from the total mass of organic HAP the amount of organic HAP contained in waste materials you send, during that compliance period, to a hazardous waste treatment, storage, and disposal facility regulated under 40 CFR part 262, 264, 265, or 266. The calculation equation (Equation 1 in § 63.4951) adds together all the organic HAP in the coatings, thinners, and cleaning materials and allows you to subtract organic HAP in waste materials as indicated above. The calculated mass of organic HAP is, therefore, not based on actual measurement of emissions to the atmosphere but rather assumes that all organic HAP used (less those in waste materials as appropriate) are emitted. This means of determining organic HAP emissions for compliance is consistent with the means by which we calculated emission rates from industry data on which the emission limits are based. We believe that Equation 1 in § 63.4951 is a simple mass-balance relationship which adequately quantifies the organic HAP emissions without imposing an excessive burden on respondents.
- Calculate the ratio of the total mass of organic HAP for the materials used to the total volume of coating solids used.
- Record the calculations and results and include them in your notification of compliance status.

If you use a capture system and control device other than a solvent recovery system for which you conduct a monthly liquid-liquid material balance, you must:

- Conduct an initial performance test to determine the capture and control efficiencies of the equipment (described below) and to establish operating limits to be achieved on a continuous basis (also described below). The performance test must be completed no later than the compliance date for existing sources and 180 days after the compliance date for new and reconstructed sources (§ 63.4960). You must schedule it in time to obtain the results for use in completing your compliance determination for the initial compliance period.
- Determine the mass of organic HAP in each material and the volume fraction coating solids for each coating used during the initial compliance period.
- Calculate the organic HAP emissions from all the controlled coating operations using the capture and control efficiencies determined during the performance test and the total mass of organic HAP in materials used in controlled coating operations.
- Calculate the total mass of organic HAP emissions from uncontrolled coating operations.
- Calculate the ratio of the total mass of HAP emissions from both controlled and uncontrolled coating operations to the total volume of coating solids used during the initial compliance period.
- Record the calculations and results and include them in your Notification of Compliance Status.

The capture and control efficiency for a capture and control system other than a solvent recovery system for which you conduct monthly liquid-liquid material balances must be demonstrated based on emission capture and reduction efficiency. To determine the capture efficiency, you must either verify the presence of a permanent total enclosure (PTE) using EPA Method 204 of 40 CFR part 51, appendix M, (all materials must be applied and dried within the enclosure) or use one of three protocols in § 63.4964 to measure capture efficiency. If you have a PTE and all materials are applied and dried within the enclosure and you route all exhaust gases from the enclosure to a control device, then you would assume 100 percent capture.

To determine the emission reduction efficiency of the control device, you must conduct measurements of the inlet and outlet gas streams. The test must consist of three runs, each run lasting 1 hour, using the following EPA Methods in 40 CFR part 60, appendix A:

- Method 1 or 1A for selection of the sampling sites.
- Method 2, 2A, 2C, 2D, 2F, or 2G to determine the gas volumetric flow rate.
- Method 3, 3A, or 3B for gas analysis to determine dry molecular weight. As an alternative to Method 3B, you may use ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Analyses].
- Method 4 to determine stack moisture.
- Method 25 or 25A to determine organic volatile matter concentration. In lieu of Method 25 or 25A, you may use Method 18 if you know the HAP constituents in the inlet and outlet gas streams and you quantify at least 90 percent of the organic compounds in the gas stream. Alternatively, any other test method or data that have been validated according to the applicable procedures in Method 301 of 40 CFR part 63, appendix A, and approved by the Administrator, could be used.

If you use a solvent recovery system and wish to calculate the mass of organic HAP emission reduction, you could determine the overall control efficiency using a liquid-liquid material balance instead of conducting an initial performance test. If you use the material balance alternative, you must measure the amount of all materials used in the affected source during the initial compliance period and determine the total mass of volatile matter contained in these materials. You must also measure the amount of volatile matter recovered by the solvent recovery system during the compliance period. Then you must compare the amount recovered to the amount used to determine the overall control efficiency, and apply this efficiency to the total amount of organic HAP for the materials used. You must record the calculations and results and include them in your Notification of Compliance Status when you present your calculations of the organic HAP emission rate.

Operating limits. In accordance with section 114(a) of the CAA, the operating limits would require the use of continuous parameter monitoring systems (CPMS) to ensure that sources are in compliance. The monitoring must be capable of detecting deviations with sufficient representativeness, accuracy, precision, reliability, frequency, and timeliness to determine if compliance is continuous during a reporting period.

As mentioned above, you must establish operating limits as part of the initial performance test of a capture system and control device, other than a solvent recovery system for which you conduct liquid-liquid material balances. The operating limits are the minimum or maximum (as applicable) values achieved for capture systems and control devices during the most recent performance test that demonstrated compliance with the emission limit.

B. Monitoring Requirements

According to paragraph (a)(3) of section 114 of the CAA, monitoring of stationary sources is required to determine the compliance status of the sources, and whether compliance is continuous or intermittent. For affected sources complying with the standards by using capture and control systems, initial compliance is determined through an initial performance test and ongoing compliance through continuous monitoring. We specify the operating parameters that need to be monitored for certain control devices used in the metal furniture surface coating industry. You must set the values of these parameters, which demonstrate compliance with the standards, during your initial performance test. These values are your operating limits. If future monitoring shows that capture and control equipment is operating outside the range of values established during the initial performance test, then you are deviating from the operating limits.

The rule specifies the parameters to monitor for the types of emission control systems commonly used in the industry. You are required to install, calibrate, maintain, and continuously operate all monitoring equipment according to manufacturer's specifications and ensure that the CPMS meet the requirements in § 63.4967 of the rule. If you use control devices other than those identified in the rule, you must submit the operating parameters to be monitored to the Administrator for approval. The authority to approve the parameters to be monitored is retained by EPA and is not delegated to States.

If you use a thermal or catalytic oxidizer, you must continuously monitor temperature and record it at least every 15 minutes. For thermal oxidizers, the temperature monitor is placed in the firebox or in the duct immediately downstream of the firebox before any substantial heat exchange occurs. The operating limit is the average temperature measured during the performance test, and during each 3-hour period the average temperature must be at or above this limit. For catalytic oxidizers, temperature monitors are placed immediately before and after the catalyst bed. The operating limits are the average combustion temperature just before the catalyst bed and the average temperature difference across the catalyst bed during the performance test, and for each 3-hour period the average combustion temperature and the average temperature difference must be at or above these limits. As an alternative for catalytic oxidizers, you may establish the temperature just before the catalyst bed as an operating parameter as described above and also develop and implement a site-specific inspection and maintenance plan for the oxidizer.

If you use a solvent recovery system, and do not conduct liquid-liquid material balances to demonstrate compliance, then you must monitor the carbon bed temperature after each regeneration and the total amount of steam or nitrogen used to desorb the bed for each regeneration. The operating limits are the minimum carbon bed temperature after the cooling cycle and the minimum amount of steam or nitrogen used for desorption.

If you use a condenser, you must monitor the outlet gas temperature to ensure that the air stream is being cooled to a low enough temperature. The operating limit is the average condenser outlet gas temperature measured during the performance test, and for each 3-hour period the average temperature must be at or below this limit.

For each capture system, you must establish operating limits for gas volumetric flow rate and pressure drop across an opening in each enclosure or capture device. The operating limits are the average volumetric flow rate and average pressure drop across the opening during the performance test, to be met as a minimum.

VI. What Notification, Recordkeeping, and Reporting Requirements Must I Follow?

The rule requires you to comply with notification, recordkeeping, and reporting requirements, generally as described in the General Provisions (see Table 2 of the rule) and specifically as designed to support demonstration of compliance with the rule. We believe that these requirements are necessary and sufficient to ensure that you comply with the requirements in the rule.

A. Initial Notification

If the rule applies to you, you must send an initial notification to the EPA Regional Office in the region where your facility is located and to your State agency. If you have an existing affected source, you must submit the initial notification no later than 1 year before the compliance date, which is May 23, 2006. If you have a new or reconstructed affected source, you must submit the notification no later than 120 days after either the date of initial start-up or May 23, 2006, whichever is later.

The initial notification notifies us and your State agency that you have an existing affected source that is subject to the standards or that you have constructed a new affected source. Thus, it allows you and the Federal or State enforcement agency to plan for compliance activities. The General Provisions specify the information you must include in the initial notification and other reporting requirements for both existing affected sources and new or reconstructed affected sources.

B. Notification of Performance Tests

If the rule applies to you, you have several options for demonstrating compliance. If you demonstrate compliance by using a capture and control system for which you do not conduct a monthly liquid-liquid material balance, you must conduct a performance test as described in the rule. Prior to conducting the performance test, you must notify us or the delegated State or local agency at least 60 calendar days before the performance test is scheduled to begin, as indicated in the General Provisions.

C. Notification of Compliance Status

Your compliance procedures depend on which compliance option you choose. For each compliance option, you must send us a Notification of Compliance Status within 30 days after the end of the initial compliance period. In the notification, you must certify whether the affected source has complied with the standards, identify the option you used to demonstrate initial compliance, summarize the data and calculations supporting the compliance demonstration, and describe how you will determine continuous compliance.

If you elect to comply by using a capture system and control device for which you conduct performance tests, you must provide the results of the tests. Your notification must also include the measured range of each monitored parameter and the operating limits established during the performance test, and information showing whether the source has achieved its operating limits during the initial compliance period.

D. Recordkeeping Requirements

You are required to keep records of reported information and all other information necessary to document compliance with the rule for 5 years. As required under § 63.10(b)(1) of the General Provisions, records for the 2 most recent years must be kept on-site; the other 3 years' records may be kept off-site. Records pertaining to the design and manufacturer's specifications for the operation of the add-on control equipment must be kept on-site for the life of the equipment. We corrected this

oversight in the final rule. See § 63.4930(b) and § 63.4931(c).

Depending on the compliance option that you choose, you could need to keep records of the following:

- Organic HAP content, volatile matter content, coating solids content, and quantity of the coatings, thinners, and cleaning materials used during each compliance period;
- All documentation supporting initial notifications and notifications of compliance status.

If you demonstrate compliance by using a capture system and control device, you must keep records of the following:

- The occurrence and duration of each startup, shutdown, or malfunction of the emission capture system and control device;
- All maintenance performed on the capture system and control device;
- Actions taken during startup, shutdown, and malfunction that are different from the procedures specified in the affected source's startup, shutdown, and malfunction plan (SSMP);
- All information necessary to demonstrate conformance with the affected source's SSMP when the plan procedures are followed;
- All information necessary to demonstrate conformance with the affected source's plan for minimizing emissions from mixing, storage, and waste handling operations;
- Each period during which a CPMS is malfunctioning or inoperative (including out-of-control periods);
- All required measurements needed to demonstrate compliance with the standards; and
- All results of performance tests.

The rule requires you to collect and keep records according to certain minimum data requirements for the CPMS. Failure to collect and keep the specified minimum data is a deviation that is separate from any emission limit, operating limit, or work practice standard. A complete definition of what constitutes a deviation is provided in § 63.4981 of the final rule.

If you use a capture system and control device to reduce HAP emissions, you must make your SSMP available for inspection if the Administrator requests to see it. The plan must stay in your records for the life of the affected source or until the source is no longer subject to the standards. If you revise the plan, you must keep the previous superceded versions on record for 5 years following the revision.

E. Semiannual Reports

Each reporting year is divided into two semiannual reporting periods. You must submit a semiannual report after the end of each semiannual period. If no deviations occur during a semiannual reporting period, your semiannual compliance report must state that the affected source has been in compliance. A deviation, as defined in § 63.4891 of the final rule, is any instance in which you fail to meet any requirement or obligation of the standards or any term or condition adopted to meet the standards. The following information is required in semiannual compliance reports when deviations occur:

- If you are complying by using capture systems and add-on control devices, report all deviations from the operating parameter values established for the capture system and the control device operating parameters.
- If you are complying by using solvent recovery systems and liquid-liquid material balances, report material balance calculations for all months when the material balance deviated from the emission limit.
- If you are complying by using low-HAP coating materials, report all deviations from the emission limit.
- If you are complying by using a combination of capture and control systems with low-HAP coating materials, report all deviations from the emission limit and all deviations from operating parameters described above.

If any of the following events occur, you must report that event in the next semiannual report following the event:

- A change occurs at your facility or within your process that might affect its compliance status.
- A change from what was reported in the initial notice occurs at your facility or within your process.
- You decide to change to another emission limitation option.
- You had a startup, shutdown, or malfunction of an emission control device during the semiannual period and the actions taken were consistent with your SSMP.

VII. What Are the Environmental, Energy, and Economic Impacts of the Rule?

We developed model plants to aid in the estimation of the impacts the MACT floor level of control would have on the metal furniture industry. Three model plants distinguished by size, as measured by the total volume of coating solids used, were developed. We then estimated impacts for each model plant and scaled these individual impacts to nationwide levels based on the number of facilities corresponding to each model plant size. We used the model plant approach because we did not have adequate data to determine impacts for each actual facility.

A variety of compliance methods are available to the industry to meet the standards. We analyzed the information obtained from the industry questionnaire responses, industry site visits, trade groups, and industry representatives to determine which compliance methods would most likely be used by existing and new sources. We expect that the most widely used method would be low-HAP content liquid coatings (coatings with HAP contents at or below the emission limits) and lower-HAP cleaning materials. Powder coatings and add-on capture and control systems would likely be used to a lesser extent. Various combinations of these methods may be used. For the purpose of assessing impacts, we assumed that all existing sources would convert to lower-HAP content liquid coatings, thinners, and cleaning materials.

We first estimated the impacts of the emission limits on the three model plants. To scale up the model plant impacts to nationwide levels, we multiplied the individual model plant impacts by the estimated number of major sources in the United States corresponding to each model plant size. We used United States Census Bureau data as the basis for this estimate, which was a total of 655 facilities. For more information on how impacts were estimated, see Chapters 7 and 8 of the BID to the proposed standards, EPA–453/R–01–010, October 2001.

A. What Are the Air Impacts?

For existing major sources, we estimated that compliance with the emission limits would result in a reduction of nationwide organic HAP emissions of 14,800 Mg/yr (16,300 tpy). This represents a reduction of approximately 73 percent from the baseline organic HAP emissions of 20,300 Mg/yr (22,308 tpy).

We anticipate that all new sources will take steps to reduce their actual and potential HAP emissions to below the major source threshold and avoid becoming subject to the NESHAP. Therefore, we are not attributing any HAP emission reduction for new sources to the rule.

B. What Are the Cost Impacts?

An affected source may incur three types of costs to comply with the standards: Capital, direct, and indirect. Capital costs represent the one-time purchase of equipment. We have included coatings, thinners, and cleaning materials as direct costs incurred on a continuing basis for

materials consumed in the manufacturing process. The cost of utilities, where applicable, is also included in the direct costs. Indirect costs typically include overhead, taxes, insurance, and administrative costs, as well as capital recovery costs.

Existing sources. To comply with the emission limits, we estimated that existing facilities would likely use reformulated coatings, thinners, and cleaning materials. No capital costs have been attributed to these compliance methods. We estimated full costs for 517 of the estimated 655 metal furniture surface coating facilities. Of the remaining 138 facilities, approximately 59 facilities would have only recordkeeping and reporting costs because these facilities would already be in compliance with the standards (based on questionnaire responses). We estimated that 79 facilities would achieve area source status before the compliance date of the final standards and will not incur compliance costs directly attributable to the rule.

We estimated no incremental costs associated with the use of lower-HAP coatings and thinners. Only the incremental cost of organic HAP-free cleaning materials over organic HAP cleaning materials was counted. The average annual cost for each facility incurring full costs is approximately $26,000. This value includes monitoring, recordkeeping, and reporting costs.

We estimated total nationwide annual costs in the 5th year to comply with the emission limits to be $14.8 million for existing sources. These costs include $4.66 million direct costs associated with material usage and $10.1 million for recordkeeping and reporting.

New sources. As previously stated in this preamble, we anticipate that all new sources will reduce potential HAP emissions to less than the major source threshold. All of these new sources will be areas sources not subject to the rule and will incur no costs directly attributable to the rule.

C. What Are the Economic Impacts?

We performed an economic impact analysis (EIA) to provide an estimate of the facility and market impacts of the standards as well as its social costs. In general, we expect the economic impacts of the standards to be minimal, with price increases and production decreases of less than 0.1 percent. Given the negligible market impacts of this rule, the social costs are expected to be roughly the same as the estimated engineering compliance costs of $14.8 million for existing sources.

For affected facilities, the distribution of costs is slanted toward the lower impact levels with many facilities incurring only those related to recordkeeping and reporting. The EIA indicates that these regulatory costs are expected to represent only 0.1 percent of the value of product shipments, which should not cause producers to cease or alter their current operations. Hence, no firms or facilities are expected to become at risk of closure because of the standards. International trade impacts would only occur for the metal household furniture segment of the industry, but the small price increase (that is, 0.04 percent) on this segment indicates negligible impacts, if any. Based on the projected characteristics and costs for new sources, we do not expect any differential impacts on these sources. For more information, refer to the "Economic Impact Analysis of the Proposed NESHAP: Surface Coating of Metal Furniture" (Docket ID No OAR–2002–0048, formerly Docket No. A–97–40).

D. What Are the Nonair Health, Environmental, and Energy Impacts?

Based on information from the industry questionnaire responses, there was no indication that the use of low-organic-HAP content coatings, thinners, and cleaning materials would result in any increase or decrease in nonair health, environmental, and energy impacts. There would be no change in the utility requirements associated with the use of these materials, so there would be no change in the amount of energy consumed as a result of the material conversion. Also, we estimate that there would be no significant change in the amount of materials used or the amount of waste produced and there would be no additional energy requirements for affected sources.

VIII. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

The information collection requirements in the rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1952.02) and a copy may be obtained from Susan Auby by mail at the Collection Strategies Division (2822T), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded off the Internet at *http://www.epa.gov/icr*. The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. 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 Agency policies set forth in 40 CFR part 2, subpart B.

The rule would require maintaining records of all coatings, thinners, and cleaning materials data and calculations used to determine compliance. This information includes the volume used during each monthly compliance period, mass fraction organic HAP, density, and, for coatings only, volume fraction solids.

If an add-on control device is used, records must be kept of the capture efficiency of the capture system,

destruction or removal efficiency of the add-on control device, and the monitored operating parameters. In addition, records must be kept of each calculation of the affected sourcewide emissions for each monthly compliance period and all data, calculations, test results, and other supporting information used to determine this value.

The monitoring, recordkeeping, and reporting burden in the 5th year after the effective date of the promulgated rule is estimated to be approximately 159,000 labor hours at a cost of approximately $10 million for existing sources. We estimate that no cost will be incurred by new sources (other than the labor costs associated with initially reading the rule) because we anticipate that all new sources will reduce their potential HAP emissions to less than the major source threshold. Thus, as area sources, these new sources will not be subject to the rule.

Although we estimated no cost will be incurred by new sources, they may incur some level of cost to achieve area source status. Typically these costs would be associated with the differential in cost between conventional liquid coatings and the coating technology they use to reduce organic HAP emissions. For example, we have limited data indicating that the cost of powder coatings in terms of dollars per liter coating solids is higher than most liquid coatings. New sources would also incur some costs to initially read the rule to determine whether it applies to them (we estimated this cost to be about $300 per facility). A cost savings will be realized by new sources because they will not have the recordkeeping, reporting, and monitoring burden as described above for existing sources. While all of these potential costs and savings are difficult to quantify, we believe that in the balance there will be essentially no cost to new facilities.

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 are listed in 40 CFR part 9 and 48 CFR, chapter 15. The OMB control number for the information collection requirements in this rule will be listed in an amendment to 40 CFR part 9 in a subsequent **Federal Register** document after OMB approves the ICR.

C. Regulatory Flexibility Act (RFA)

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final rule. The EPA has also determined that the rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business ranging from 100 to 1,000 employees, according to Small Business Administration size standards established under the NAICS for the industries affected by today's rule; (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, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities.

In accordance with the RFA and SBREFA, EPA conducted an assessment of the standards on small businesses within the metal furniture surface coating industry. Based on Small Business Administration size definitions and reported sales and employment data, EPA's survey identified 10 of the 24 companies owning metal furniture surface coating facilities as small businesses. Although small businesses represent almost 42 percent of the companies within the source category, they are expected to incur 12 percent of the total industry compliance costs. Under the standards, the average annual compliance cost share of sales for small businesses is 0.18 percent, with two of the ten small businesses not expected to incur any additional costs because they are permitted as synthetic minor HAP emission sources. In addition, small businesses in this industry typically have 5 percent profit margins. For more information, consult the docket for this project.

Although the 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 solicited input from small entities during the data-gathering phase of the proposed rulemaking.

We have included compliance options in the rule which give small entities flexibility in choosing the most cost effective and least burdensome alternative for their operation. For example, a facility could purchase and use low-HAP coatings (*i.e.*, pollution prevention) that meet the standards instead of using add-on capture and control systems. This method of compliance can be demonstrated with minimum burden by using purchase and usage records. No testing of materials would be required, as the facility owner could show that their coatings meet the emission limits by providing formulation data supplied by the manufacturer.

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 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 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.

The EPA has determined that the rule does not contain a Federal mandate that may result in expenditures of $100 million or more to State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annual cost of the rule for any year has been estimated to be about $15 million. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that the standards 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. This rule contains requirements that may apply to State government correctional institutions that manufacture or repair metal furniture. However, these requirements do not uniquely or significantly affect those institutions. Therefore, today's rule 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" 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."

The 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. Thus, Executive Order 13132 does not apply to the rule. Although section 6 of Executive Order 13132 does not apply to the rule, EPA did consult with State and local officials to enable them to provide timely input in the development of the 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." The final rule does not have tribal implications, as specified in Executive Order 13175. No tribal governments own or operate metal furniture surface coating facilities. 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, "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.

The 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 rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks. Furthermore, the rule has been determined not to be "economically significant" as defined under Executive Order 12866.

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

The final rule 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 it is not a significant regulatory action under Executive Order 12866.

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, Public Law No. 104–113, (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 decides not to use available and applicable VCS.

This rulemaking involves technical standards. The EPA cites the following standards in this rule: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 24, 25, 25A, 204, 204A–F, and 311; and Performance Specifications (PS) 6, 8, and 9. Consistent with the NTTAA, EPA conducted searches to identify VCS in addition to these EPA methods/performance specifications. No applicable VCS were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 204, 204A through 204F, and 311, and PS 6, 8, and 9. The search and review results have been documented and are placed in the docket (Docket ID No OAR–2002–0048, formerly Docket No. A–97–40) for the rule.

The three VCS were identified as acceptable alternatives to EPA test methods for the purposes of the rule.

The VCS ANSI/ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]," is cited in this rule for its manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas. This part of ANSI/ASME PTC 19.10–1981, Part 10, is an acceptable alternative to Method 3B.

The two VCS, ASTM D2697–86 (Reapproved 1998), "Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings," and ASTM D6093–97, "Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer," are cited in this rule as acceptable alternatives to EPA Method 24 for measuring volume of solids in coatings. Currently, Method 24 does not have a procedure for determining the volume of solids in coatings. These standards

augment the procedures in EPA Method 24, which states that volume solids content be calculated from the coating manufacturer's formulation.

Six VCS: ASTM D1475–90, ASTM D2369–95, ASTM D3792–91, ASTM D4017–96a, ASTM D4457–85 (Reapproved 1991), and ASTM D5403–93 are already incorporated by reference (IBR) in EPA Method 24. Five VCS: ASTM D1979–91, ASTM D3432–89, ASTM D4747–87, ASTM D4827–93, and ASTM PS9–94 are IBR in EPA Method 311.

In addition to the VCS EPA uses in the rule, the search for emissions measurement procedures identified 14 other VCS. The EPA determined that 11 of these 14 standards identified for measuring emissions of the HAP or surrogates subject to emission standards in the 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 this determination for the 11 methods are discussed in the docket.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. § 801, *et seq.*, as added by the SBREFA 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. The EPA will submit a report containing the 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.** 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). The rule will be effective May 23, 2003.

List of Subjects in 40 CFR Part 63

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

Dated: February 28, 2003.

Christine T. Whitman,

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.*

■ 2. Part 63 is amended by revising paragraphs (b)(24) and (25) and paragraph (i)(3) to § 63.14 of subpart A. The revisions read as follows:

§ 63.14 Incorporations by Reference

* * * * *

(b) * * *

(24) ASTM D2697–86 (Reapproved 1998), "Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings," IBR approved for §§ 63.4141(b)(1), 63.4941(b)(1), and 63.5160(c).

(25) ASTM D6093–97, "Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer," IBR approved for §§ 63.4141(b)(1), 63.4941(b)(1), and 63.5160(c).

* * * * *

(i) * * *

(3) ANSI/ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]," IBR approved for §§ 63.865(b), 63.3360(e)(1)(iii), 63.4166(a)(3), 63.4965(a)(3), and 63.5160(d)(1)(iii).

* * * * *

■ 3. Part 63 is amended by adding subpart RRRR to read as follows:

Subpart RRRR—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture

Sec.

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63.4963 What are the general requirements for performance tests?
63.4964 How do I determine the emission capture system efficiency?
63.4965 How do I determine the add-on control device emission destruction or removal efficiency?
63.4966 How do I establish the emission capture system and add-on control device operating limits during the performance test?
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Other Requirements and Information

63.4980 Who implements and enforces this subpart?
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Tables to Subpart RRRR of Part 63

Table 1 to Subpart RRRR of Part 63. Operating Limits if Using the Emission Rate with Add-on Controls Option
Table 2 to Subpart RRRR of Part 63. Applicability of General Provisions to Subpart RRRR
Table 3 to Subpart RRRR of Part 63. Default Organic HAP Mass Fraction for Solvents and Solvent Blends
Table 4 to Subpart RRRR of Part 63. Default Organic HAP Mass Fraction for Petroleum Solvent Groups

Subpart RRRR—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture

What This Subpart Covers

§ 63.4880 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for metal furniture surface coating facilities. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations.

§ 63.4881 Am I subject to this subpart?

(a) Except as provided in paragraph (c) of this section, the source category to which this subpart applies is surface coating of metal furniture.

(1) Surface coating is the application of coatings to a substrate using, for example, spray guns or dip tanks.

(2) Metal furniture means furniture or components of furniture constructed either entirely or partially from metal. Metal furniture includes, but is not limited to, components of the following types of products as well as the products themselves: household, office, institutional, laboratory, hospital, public building, restaurant, barber and beauty shop, and dental furniture; office and store fixtures; partitions; shelving; lockers; lamps and lighting fixtures; and wastebaskets.

(b) You are subject to this subpart if you own or operate a new, reconstructed, or existing affected source as defined in § 63.4882, in the source category defined in paragraph (a) of this section, and that is a major source, is located at a major source, or is part of a major source of emissions of hazardous air pollutants (HAP). A major source of HAP emissions is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (Mg) (10 tons) or more per year or any combination of HAP at a rate of 22.68 Mg (25 tons) or more per year.

(c) This subpart does not apply to surface coating that meets any of the criteria of paragraphs (c)(1) through (6) of this section.

(1) Surface coating conducted at an affected source that uses only coatings, thinners, and cleaning materials that contain no organic HAP.

(2) Surface coating of metal components of wood furniture conducted in an operation that is subject to the wood furniture manufacturing NESHAP in subpart JJ of this part.

(3) Surface coating that occurs at research or laboratory facilities or that is part of janitorial, building, and facility maintenance operations.

(4) Surface coating of only small items such as knobs, hinges, or screws that have a wider use beyond metal furniture are not subject to this subpart unless the surface coating occurs at an affected metal furniture source.

(5) Surface coating of metal furniture conducted for the purpose of repairing or maintaining metal furniture used by a major source and not for commerce is not subject to this subpart, unless organic HAP emissions from the surface coating itself are as high as the rates specified in paragraph (b) of this section.

(6) Surface coating of metal furniture performed on-site at installations owned or operated by the Armed Forces of the United States (including the Coast Guard and the National Guard of any State).

§ 63.4882 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, and existing affected source.

(b) The affected source is the collection of all of the items listed in paragraphs (b)(1) through (4) of this section that are used for surface coating of metal furniture:

(1) All coating operations as defined in § 63.4981;

(2) All storage containers and mixing vessels in which coatings, thinners, and cleaning materials are stored or mixed;

(3) All manual and automated equipment and containers and all pumps and piping within the affected source used for conveying coatings, thinners, and cleaning materials; and

(4) All storage containers, all pumps and piping, and all manual and automated equipment and containers within the affected source used for conveying waste materials generated by a coating operation.

(c) An affected source is a new affected source if you commenced its construction after April 24, 2002, and the construction is of a completely new metal furniture surface coating facility where previously no metal furniture surface coating facility had existed.

(d) An affected source is reconstructed if you meet the criteria as defined in § 63.2.

(e) An affected source is existing if it is not new or reconstructed.

§ 63.4883 When do I have to comply with this subpart?

The date by which you must comply with this subpart is called the compliance date. The compliance date for each type of affected source is specified in paragraphs (a) through (c) of this section. The compliance date begins the initial compliance period during which you conduct the initial compliance demonstration described in §§ 63.4940, 63.4950, and 63.4960.

(a) For a new or reconstructed affected source, the compliance date is the applicable date in paragraph (a)(1) or (2) of this section:

(1) If the initial startup of your new or reconstructed affected source is before May 23, 2003, the compliance date is May 23, 2003.

(2) If the initial startup of your new or reconstructed affected source occurs after May 23, 2003, the compliance date is the date of initial startup of your affected source.

(b) For an existing affected source, the compliance date is the date 3 years after May 23, 2003.

(c) For an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP emissions, the compliance date is specified in paragraphs (c)(1) and (2) of this section.

(1) For any portion of the source that becomes a new or reconstructed affected source subject to this subpart, the compliance date is the date of initial startup of the affected source or May 23, 2003, whichever is later.

(2) For any portion of the source that becomes an existing affected source subject to this subpart, the compliance date is the date 1 year after the area source becomes a major source or 3 years after May 23, 2003, whichever is later.

(d) You must meet the notification requirements in § 63.4910 according to the dates specified in that section and in subpart A of this part. Some of the notifications must be submitted before the compliance dates described in paragraphs (a) through (c) of this section.

Emission Limitations

§ 63.4890 What emission limits must I meet?

(a) For a new or reconstructed affected source, you must emit no organic HAP during each compliance period, determined according to the procedures in § 63.4941.

(b) *Alternative emission limit.* You may request approval from the Administrator to use an alternative new source emission limit for specific metal

furniture components or type of components for which you believe the emission limit in paragraph (a) of this section cannot be achieved.

(1) Any request to use an alternative emission limit under paragraph (b) of this section must contain specific information demonstrating why no organic HAP-free coating technology can be used on the metal furniture components. The request must be based on objective criteria related to the performance or appearance requirements of the finished coating, which may include but is not limited to the criteria listed in paragraphs (b)(1)(i) through (viii) of this section.

(i) Low dried film thickness requirements (*e.g.*, less than 0.0254 millimeters (0.001 inch)).

(ii) Flexibility requirements for parts subject to repeated bending.

(iii) Chemical resistance to withstand chemical exposure in environments such as laboratories.

(iv) Resistance to the effects of exposure to ultraviolet light.

(v) Adhesion characteristics related to the condition of the substrate.

(vi) High gloss requirements.

(vii) Custom colors such as matching the color of a corporate logo.

(viii) Non-uniform surface finishes such as an antique appearance that requires visible cracking of the dried film.

(2) If the request to use an alternative emission limit under paragraph (b) of this section is approved, the new source must meet an emission limit of 0.094 kilogram (kg) organic HAP per liter (kg/liter) (0.78 pounds per gallon (lb/gal)) coating solids used for only those components subject to the approval. All other metal furniture surface coating operations at the new source must meet the emission limit specified in paragraph (a) of this section. Until approval to use the alternative emission limit has been granted by the Administrator under this paragraph (b)(2), you must meet the emission limit specified in paragraph (a) of this section and all other applicable requirements in this subpart.

(c) For an existing affected source, you must limit organic HAP emissions to the atmosphere to no more than 0.10 kg organic HAP per liter (0.83 lb/gal) of coating solids used during each compliance period, determined according to the procedures in § 63.4941, § 63.4951, or § 63.4961.

§ 63.4891 What are my options for demonstrating compliance with the emission limits?

You must include all coatings, thinners, and cleaning materials used in the affected source when determining whether the organic HAP emission rate is equal to or less than the applicable emission limit in § 63.4890. To make this determination, you must use at least one of the three compliance options listed in paragraphs (a) through (c) of this section. You may apply any of the compliance options to an individual coating operation or to multiple coating operations as a group or to the entire affected source. You may use different compliance options for different coating operations or at different times on the same coating operation. However, you may not use different compliance options at the same time on the same coating operation. If you switch between compliance options for any coating operation or group of coating operations, you must document this switch as required by § 63.4930(c), and you must report it in the next semiannual (6-month period) compliance report required in § 63.4920.

(a) *Compliant material option.* Demonstrate that the organic HAP content of each coating used in the coating operation or group of coating operations is less than or equal to the applicable emission rate limit in § 63.4890 and that each thinner and each cleaning material used contains no organic HAP. You must meet all the requirements of §§ 63.4940, 63.4941, and 63.4942 to demonstrate compliance with the emission limit using this option.

(b) *Emission rate without add-on controls option.* Demonstrate that, based on the coatings, thinners, and cleaning materials used in the coating operation or group of coating operations, the organic HAP emission rate for the coating operation or group of coating operations is less than or equal to the applicable emission rate limit in § 63.4890, calculated as a monthly emission rate. You must meet all the requirements of §§ 63.4950, 63.4951, and 63.4952 to demonstrate compliance with the emission rate limit using this option.

(c) *Emission rate with add-on controls option.* Demonstrate that, based on the coatings, thinners, and cleaning materials used in the coating operation or group of coating operations, and the emission reductions achieved by emission capture and add-on control systems, the organic HAP emission rate is less than or equal to the applicable emission rate limit in § 63.4890, calculated as a monthly emission rate. If you use this compliance option, you must also demonstrate that all capture systems and add-on control devices for the coating operation or group of coating operations meet the operating limits required in § 63.4892, except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4961(j); and that you meet the work practice standards required in § 63.4893. You must meet all the requirements of §§ 63.4960 through 63.4967 to demonstrate compliance with the emission limits, operating limits, and work practice standards using this option.

(d) If you choose to use the emission rate with add-on controls compliance option in paragraph (c) of this section and operate the coating operation, its emission capture system, or its add-on control device at multiple sets of representative operating conditions that result in different capture system or add-on control device efficiencies during a compliance period, you must follow one of the procedures in paragraph (d)(1) or (2) of this section.

(1) Determine the operating conditions that result in the lowest emission capture system and add-on control device efficiencies through performance testing conducted according to §§ 63.4963, 63.4964, and 63.4965. Use these emission capture system and add-on control device efficiencies for all representative operating conditions during the compliance period.

(2) Develop a compliance calculation procedure for determining the organic HAP emission rate for the compliance period that takes into account all of the representative operating conditions the source was operated under during the compliance period and submit the procedure to the Administrator for approval. Until you receive approval from the Administrator, you must determine compliance according to paragraph (c) of this section.

§ 63.4892 What operating limits must I meet?

(a) For any coating operation or group of coating operations for which you use the compliant material option or the emission rate without add-on controls option to demonstrate compliance, you are not required to meet any operating limits.

(b) For any coating operation or group of coating operations for which you use the emission rate with add-on controls option to demonstrate compliance, except those for which you use a solvent recovery system and conduct a liquid-liquid material balance according to § 63.4961(j), you must meet the operating limits specified in Table 1 to this subpart. These operating limits apply to the emission capture and control systems on the coating operation or group of coating operations for which

you use emission capture and add-on controls to demonstrate compliance. You must establish the operating limits during the performance test according to the requirements in § 63.4966. You must meet the operating limits at all times after you establish them.

(c) If you use an add-on control device other than those listed in Table 1 to this subpart, or wish to monitor an alternative parameter and comply with a different operating limit, you must apply to the Administrator for approval of alternative monitoring under § 63.8(f).

§ 63.4893 What work practice standards must I meet?

(a) For any coating operation or group of coating operations for which you use the compliant material option or the emission rate without add-on controls option to demonstrate compliance, you are not required to meet any work practice standards.

(b) For any coating operation or group of coating operations for which you use the emission rate with add-on controls option to demonstrate compliance, you must develop and implement a work practice plan to minimize organic HAP emissions from the storage, mixing, and conveying of coatings, thinners, and cleaning materials used in, and waste materials generated by, the coating operation or group of coating operations for which you use this option; or you must meet an alternative standard as provided in paragraph (c) of this section. The plan must specify practices and procedures to ensure that, at a minimum, the elements specified in paragraphs (b)(1) through (5) of this section are implemented.

(1) All organic-HAP-containing coatings, thinners, cleaning materials, and waste materials must be stored in closed containers. You must ensure that these containers are kept closed at all times except when depositing or removing these materials from the container.

(2) Spills of organic-HAP-containing coatings, thinners, cleaning materials, and waste materials must be minimized.

(3) Organic-HAP-containing coatings, thinners, cleaning materials, and waste materials must be conveyed from one location to another in closed containers or pipes.

(4) Mixing vessels which contain organic-HAP-containing coatings and other materials must be closed except when adding to, removing, or mixing the contents.

(5) Emissions of organic HAP must be minimized during cleaning of storage, mixing, and conveying equipment.

(c) As provided in § 63.6(g), the Administrator may choose to grant you permission to use an alternative to the work practice standards in this section.

General Compliance Requirements

§ 63.4900 What are my general requirements for complying with this subpart?

(a) The affected source must be in compliance at all times with the emission limitations specified in § 63.4890.

(b) You must always operate and maintain your affected source, including all air pollution control and monitoring equipment you use for purposes of complying with this subpart, according to the provisions in § 63.6(e)(1)(i).

(c) If your affected source uses an emission capture system and add-on control device to comply with the emission limitations in § 63.4890, you must develop and implement a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3). The SSMP must address the startup, shutdown, and corrective actions in the event of a malfunction of the emission capture system or the add-on control device. The SSMP must also address any coating operation equipment that may cause increased emissions or that would affect capture efficiency if the process equipment malfunctions, such as conveyors that move parts among enclosures.

§ 63.4901 What parts of the General Provisions apply to me?

Table 2 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

Notifications, Reports, and Records

§ 63.4910 What notifications must I submit?

(a) *General.* You must submit the notifications in §§ 63.7(b) and (c), 63.8(f)(4), and 63.9(b) through (e), (h), and (j) that apply to you by the dates specified in those sections, except as provided in paragraphs (b) and (c) of this section.

(b) *Initial Notification.* You must submit the Initial Notification required by § 63.9(b) for a new or reconstructed affected source no later than 120 days after initial startup or 120 days after May 23, 2003, whichever is later. For an existing affected source, you must submit the Initial Notification no later than 1 year after May 23, 2003.

(c) *Notification of Compliance Status.* You must submit the Notification of Compliance Status required by § 63.9(h) no later than 30 calendar days following the end of the initial compliance period described in § 63.4940, § 63.4950, or § 63.4960 that applies to your affected source. The Notification of Compliance Status must contain the information specified in paragraphs (c)(1) through (9) of this section and the applicable information specified in § 63.9(h).

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the report. Such certifications must also comply with the requirements of 40 CFR 70.5(d) or 40 CFR 71.5(d).

(3) Date of the report and beginning and ending dates of the reporting period. The reporting period is the initial compliance period described in § 63.4940, § 63.4950, or § 63.4960 that applies to your affected source.

(4) Identification of the compliance option or options specified in § 63.4891 that you used on each coating operation in the affected source during the initial compliance period and that you will use for demonstrating continuous compliance.

(5) Statement of whether or not the affected source achieved the emission limitations for the initial compliance period.

(6) If you had a deviation, include the information in paragraphs (c)(6)(i) and (ii) of this section.

(i) A description and statement of the cause of the deviation.

(ii) If you failed to meet the applicable emission limit in § 63.4890, include all the calculations you used to determine compliance. You do not need to submit information provided by material suppliers or manufacturers or test reports.

(7) For each of the data items listed in paragraphs (c)(7)(i) through (iv) of this section that is required by the compliance option(s) you used to demonstrate compliance with the emission limit, include an example of how you determined the value, including calculations and supporting data. Supporting data can include a copy of the information provided by the supplier or manufacturer of the example coating or material or a summary of the results of testing conducted according to § 63.4941(a), (b), or (c). You do not need to submit copies of any test reports.

(i) Mass fraction of organic HAP for one coating, for one thinner, and for one cleaning material.

(ii) Volume fraction of coating solids for one coating.

(iii) Density for one coating, one thinner, and one cleaning material, except that if you use the compliant material option, only the example coating density is required.

(iv) The amount of waste materials and the mass of organic HAP contained in the waste materials for which you are

claiming an allowance in Equation 1 of § 63.4951.

(8) The calculation of the organic HAP emission rate for the compliance option(s) you used, as specified in paragraphs (c)(8)(i) through (iii) of this section.

(i) For the compliant materials option, provide an example calculation of the organic HAP content for one coating, using Equation 2 of § 63.4941.

(ii) For the emission rate without add-on controls option, provide the information specified in paragraphs (c)(8)(ii)(A) through (C) of this section.

(A) The calculation of the total mass of organic HAP emissions during the initial compliance period, using Equation 1 of § 63.4951.

(B) The calculation of the total volume of coating solids used during the initial compliance period, using Equation 2 of § 63.4951.

(C) The calculation of the organic HAP emission rate for the initial compliance period, using Equation 3 of § 63.4951.

(iii) For the emission rate with add-on controls option, provide the information specified in paragraphs (c)(8)(iii)(A) through (D) of this section.

(A) The calculation of the total mass of organic HAP emissions for the coatings, thinners, and cleaning materials used during the initial compliance period, using Equation 1 of § 63.4951.

(B) The calculation of the total volume of coating solids used during the initial compliance period, using Equation 2 of § 63.4951.

(C) The calculation of the mass of organic HAP emission reduction during the initial compliance period by emission capture systems and add-on control devices, using Equation 1 of § 63.4961, and the calculation of the mass of organic HAP emission reduction for the coating operations controlled by solvent recovery systems during each compliance period, using Equation 3 of § 63.4961 as applicable.

(D) The calculation of the organic HAP emission rate for the initial compliance period, using Equation 4 of § 63.4961.

(9) For the emission rate with add-on controls option, you must include the information specified in paragraphs (c)(9)(i) through (v) of this section. However, the requirements in paragraphs (c)(9)(i) through (iii) of this section do not apply to solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4961(j).

(i) For each emission capture system, a summary of the data and copies of the calculations supporting the determination that the emission capture system is a permanent total enclosure (PTE) or a measurement of the emission capture system efficiency. Include a description of the protocol followed for measuring capture efficiency, summaries of any capture efficiency tests conducted, and any calculations supporting the capture efficiency determination. If you use the data quality objective (DQO) or lower confidence limit (LCL) approach, you must also include the statistical calculations to show you meet the DQO or LCL criteria in appendix A to subpart KK of this part. You do not need to submit complete test reports.

(ii) A summary of the results of each add-on control device performance test. You do not need to submit complete test reports.

(iii) A list of each emission capture system's and add-on control device's operating limits and a summary of the data used to calculate those limits.

(iv) A statement of whether or not you developed and implemented the work practice plan required by § 63.4893.

(v) A statement of whether or not you developed and implemented the SSMP required by § 63.4900.

§ 63.4920 What reports must I submit?

(a) *Semiannual compliance reports.* You must submit semiannual compliance reports for each affected source according to the requirements of paragraphs (a)(1) through (7) of this section. The semiannual compliance reporting requirements may be satisfied by reports required under other parts of the Clean Air Act (CAA), such as those detailed in paragraph (a)(2) of this section.

(1) *Dates.* Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must prepare and submit each semiannual compliance report according to the dates specified in paragraphs (a)(1)(i) through (iv) of this section.

(i) The first semiannual compliance report must cover the first semiannual reporting period which begins the day after the end of the initial compliance period described in § 63.4940, § 63.4950, or § 63.4960 that applies to your affected source and ends on June 30 or December 31, whichever occurs first following the end of the initial compliance period.

(ii) Each subsequent semiannual compliance report must cover the subsequent semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(iii) Each semiannual compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(iv) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, and if the permitting authority has established dates for submitting 6-month monitoring reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent semiannual compliance reports according to the dates the permitting authority has established for the 40 CFR part 70 or 40 CFR part 71 6-month monitoring reports instead of according to the dates specified in paragraph (a)(1)(iii) of this section. However, under no circumstances shall the semiannual compliance report be submitted more than 30 days after the end of the semiannual reporting period established in paragraphs (a)(1)(i) and (ii) of this section.

(2) *Inclusion with title V report.* Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 40 CFR part 71 must report all deviations as defined in this subpart in the 6-month monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If an affected source submits a semiannual compliance report pursuant to this section along with, or as part of, the 6-month monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the semiannual compliance report includes all information required by the part 70 or part 71 6-month monitoring report concerning deviations from the requirements of this subpart as defined in § 63.4981, the submission of the semiannual compliance report shall be deemed to satisfy any obligation to report the same deviation information in the part 70 or part 71 6-month monitoring report. However, in such situations, the 6-month monitoring report must cross-reference the semiannual compliance report, and submission of a semiannual compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permitting authority.

(3) *General requirements.* The semiannual compliance report must contain the information specified in paragraphs (a)(3)(i) through (v) of this section, and the information specified in paragraphs (a)(4) through (7) and (c)(1)

of this section that is applicable to your affected source.

(i) Company name and address.

(ii) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the report. Such certifications must also comply with the requirements of 40 CFR 70.5(d) or 40 CFR 71.5(d)

(iii) Date of report and beginning and ending dates of the reporting period. The reporting period is the 6-month period ending on June 30 or December 31.

(iv) Identification of the compliance option or options specified in § 63.4891 that you used on each coating operation during the reporting period. If you switched between compliance options during the reporting period, you must report the beginning and ending dates you used each option.

(v) If you used the emission rate without add-on controls or the emission rate with add-on controls compliance option (§ 63.4891(b) or (c)), the calculation results for each organic HAP emission rate for each compliance period ending in the 6-month reporting period.

(4) *No deviations.* If there were no deviations from the emission limits, operating limits, and work practice standards in §§ 63.4890, 63.4892, and 63.4893, respectively, that apply to you, the semiannual compliance report must include an affirmative statement that there were no deviations from the emission limitations, operating limits, or work practice standards in §§ 63.4890, 63.4892, and 63.4893 during the reporting period. If there were no deviations from the emission limitations in § 63.4890, the semiannual compliance report must include the affirmative statement that is described in either § 63.4942(c), § 63.4952(c), or § 63.4962(f), as applicable. If you used the emission rate with add-on controls option and there were no periods during which the continuous parameter monitoring systems (CPMS) were out-of-control as specified in § 63.8(c)(7), the semiannual compliance report must include a statement that there were no periods during which the CPMS were out-of-control during the reporting period as specified in § 63.8(c)(7).

(5) *Deviations: compliant material option.* If you used the compliant material option, and there was a deviation from the applicable emission limit in § 63.4890, the semiannual compliance report must contain the information in paragraphs (a)(5)(i) through (iv) of this section.

(i) Identification of each coating used that deviated from the emission limit, and of each thinner and cleaning material used that contained organic HAP, and the dates and time periods each was used.

(ii) The calculation of the organic HAP content for each coating identified in paragraph (a)(5)(i) of this section, using Equation 2 of § 63.4941. You do not need to submit background data supporting this calculation, for example, information provided by materials suppliers or manufacturers, or test reports.

(iii) The determination of mass fraction of organic HAP for each coating, thinner, and cleaning material identified in paragraph (a)(5)(i) of this section. You do not need to submit background data supporting this calculation, for example, information provided by materials suppliers or manufacturers, or test reports.

(iv) A statement of the cause of each deviation.

(6) *Deviations: emission rate without add-on controls option.* If you used the emission rate without add-on controls option, and there was a deviation from any applicable emission limit in § 63.4890, the semiannual compliance report must contain the information in paragraphs (a)(6)(i) through (v) of this section. You do not need to submit background data supporting these calculations, for example, information provided by materials suppliers or manufacturers, or test reports.

(i) The beginning and ending dates of each compliance period during which the organic HAP emission rate exceeded the applicable emission limit in § 63.4890.

(ii) The calculation of the total mass of organic HAP emissions for each month, using Equations 1 of § 63.4951.

(iii) The calculation of the total volume of coating solids used each month, using Equation 2 of § 63.4951.

(iv) The calculation of the organic HAP emission rate for each month, using Equation 3 of § 63.4951.

(v) A statement of the cause of each deviation.

(7) *Deviations: emission rate with add-on controls option.* If you used the emission rate with add-on controls option, and there was a deviation from any applicable emission limitation (including any periods when emissions bypassed the add-on control device and were diverted to the atmosphere), the semiannual compliance report must contain the information in paragraphs (a)(7)(i) through (xvii) of this section. This includes periods of startup, shutdown, and malfunction during which deviations occurred. You do not need to submit background data supporting these calculations, for example, information provided by materials suppliers or manufacturers, or test reports.

(i) The beginning and ending dates of each compliance period during which the organic HAP emission rate exceeded the applicable emission limit in § 63.4890.

(ii) The calculation of the total mass of organic HAP emissions for the coatings, thinners, and cleaning materials used during each month, using Equation 1 of § 63.4951 and, if applicable, the calculation used to determine the total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste treatment, storage, and disposal facility (TSDF) for treatment or disposal during each compliance period, according to § 63.4951(e)(4).

(iii) The calculation of the total volume of coating solids used, using Equation 2 of § 63.4951.

(iv) The calculation of the mass of organic HAP emission reduction each month by emission capture systems and add-on control devices, using Equation 1 of § 63.4961, and Equation 3 of § 63.4961 for the calculation of the mass of organic HAP emission reduction for the coating operation controlled by solvent recovery systems each compliance period, as applicable.

(v) The calculation of the organic HAP emission rate for each compliance period, using Equation 4 of § 63.4961.

(vi) The date and time that each malfunction started and stopped.

(vii) A brief description of the CPMS.

(viii) The date of the latest CPMS certification or audit.

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

(x) The date, time, and duration that each CPMS was out-of-control, including the information in § 63.8(c)(8).

(xi) The date and time period of each deviation from an operating limit in Table 1 to this subpart; date and time period of any bypass of the add-on control device; and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(xii) A summary of the total duration of each deviation from an operating limit in Table 1 to this subpart and each bypass of the add-on control device during the semiannual reporting period and the total duration as a percent of the total affected source operating time during that semiannual reporting period.

(xiii) A breakdown of the total duration of the deviations from the operating limits in Table 1 to this

subpart and bypasses of the add-on control device during the semiannual reporting period into those that were due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(xiv) A summary of the total duration of CPMS downtime during the semiannual reporting period and the total duration of CPMS downtime as a percent of the total affected source operating time during that semiannual reporting period.

(xv) A description of any changes in the CPMS, coating operation, emission capture system, or add-on control device since the last semiannual reporting period.

(xvi) For each deviation from the work practice standards, a description of the deviation; the date and time period of the deviation; and the actions you took to correct the deviation.

(xvii) A statement of the cause of each deviation.

(b) *Performance test reports.* If you use the emission rate with add-on controls option, you must submit reports of performance test results for emission capture systems and add-on control devices no later than 60 days after completing the tests as specified in § 63.10(d)(2).

(c) *Startup, shutdown, and malfunction reports.* If you used the emission rate with add-on controls option and you had a startup, shutdown, or malfunction during the semiannual reporting period, you must submit the reports specified in paragraphs (c)(1) and (2) of this section.

(1) If your actions were consistent with your SSMP, you must include the information specified in § 63.10(d)(5) in the semiannual compliance report required by paragraph (a) of this section.

(2) If your actions were not consistent with your SSMP, you must submit an immediate startup, shutdown, and malfunction report as described in paragraphs (c)(2)(i) and (ii) of this section.

(i) You must describe the actions taken during the event in a report delivered by facsimile, telephone, or other means to the Administrator within 2 working days after starting actions that are inconsistent with the plan.

(ii) You must submit a letter to the Administrator within 7 working days after the end of the event, unless you have made alternative arrangements with the Administrator as specified in § 63.10(d)(5)(ii). The letter must contain the information specified in § 63.10(d)(5)(ii).

§ 63.4930 What records must I keep?

You must collect and keep records of the data and information specified in this section. Failure to collect and keep these records is a deviation from the applicable standard.

(a) A copy of each notification and report that you submitted to comply with this subpart, and the documentation supporting each notification and report.

(b) A current copy of information provided by materials suppliers or manufacturers. This would include records pertaining to the design and manufacturer's specifications for the life of the add-on control equipment. It would also include information such as manufacturer's formulation data for the materials used, or test data used to determine the mass fraction of organic HAP and density for each coating, thinner, and cleaning material and the volume fraction of coating solids for each coating. If you conducted testing to determine mass fraction of organic HAP, density, or volume fraction of coating solids, you must keep a copy of the complete test report. If you use information provided to you by the manufacturer or supplier of the material that was based on testing, you must keep the summary sheet of results provided to you by the manufacturer or supplier. You are not required to obtain the test report or other supporting documentation from the manufacturer or supplier.

(c) For each compliance period, the records specified in paragraphs (c)(1) through (4) of this section.

(1) A record of the coating operations at which you used each compliance option and the time periods (beginning and ending dates and times) you used each option.

(2) For the compliant material option, a record of the calculation of the organic HAP content for each coating, using Equation 2 of § 63.4941.

(3) For the emission rate without add-on controls option, a record of the calculation of the total mass of organic HAP emissions for the coatings, thinners, and cleaning materials used during each compliance period, using Equation 1 of § 63.4951 and, if applicable, the calculation used to determine the total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste TSDF for treatment or disposal during each compliance period, according to § 63.4951(e)(4); the calculation of the total volume of coating solids used during each compliance period, using Equation 2 of § 63.4951; and the calculation of the organic HAP emission rate for each compliance period, using Equation 3 of § 63.4951.

(4) For the emission rate with add-on controls option, records of the calculations specified in paragraphs (c)(4)(i) through (iv) of this section.

(i) The calculation of the total mass of organic HAP emissions for the coatings, thinners, and cleaning materials used during each compliance period, using Equation 1 of § 63.4951 and, if applicable, the calculation used to determine the total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste TSDF for treatment or disposal during each compliance period, according to § 63.4951(e)(4);

(ii) The calculation of the total volume of coating solids used during each compliance period, using Equation 2 of § 63.4951;

(iii) The calculation of the mass of organic HAP emission reduction by emission capture systems and add-on control devices, using Equation 1 of § 63.4961, and the calculation of the mass of organic HAP emission reduction for the coating operation controlled by a solvent recovery system during the compliance period, using Equation 3 of § 63.4961, as applicable;

(iv) The calculation of the organic HAP emission rate for each compliance period, using Equation 4 of § 63.4961.

(d) A record of the name and volume of each coating, thinner, and cleaning material used during each compliance period.

(e) A record of the mass fraction of organic HAP for each coating, thinner, and cleaning material used during each compliance period.

(f) A record of the volume fraction of coating solids for each coating used during each compliance period.

(g) If a determination of density is required by the compliance option(s) you used to demonstrate compliance with the emission limit, a record of the density for each coating used during each compliance period; and, if you use either the emission rate without add-on controls or the emission rate with add-on controls compliance option, the density for each thinner and cleaning material used during each compliance period.

(h) If you use an allowance in Equation 1 of § 63.4951 for organic HAP contained in waste materials sent to or designated for shipment to a TSDF according to § 63.4951(e)(4), you must keep records of the information specified in paragraphs (h)(1) through (3) of this section.

(1) The name and address of each TSDF to which you sent waste materials for which you use an allowance in

Equation 1 of § 63.4951, a statement of which subparts under 40 CFR parts 262, 264, 265, and 266 apply to the facility, and the date of each shipment.

(2) Identification of the coating operations producing waste materials included in each shipment and the month or months in which you used the allowance for these materials in Equation 1 of § 63.4951.

(3) The methodology used in accordance with § 63.4951(e)(4) to determine the total amount of waste materials sent to or the amount collected, stored, and designated for transport to a TSDF each month; and the methodology to determine the mass of organic HAP contained in these waste materials. This must include the sources for all data used in the determination, methods used to generate the data, frequency of testing or monitoring, and supporting calculations and documentation, including the waste manifest for each shipment.

(i) [Reserved]

(j) You must keep records of the date, time, and duration of each deviation.

(k) If you use the emission rate with add-on controls option, you must keep the records specified in paragraphs (k)(1) through (8) of this section.

(1) For each deviation, a record of whether the deviation occurred during a period of startup, shutdown, or malfunction.

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(3) The records required to show continuous compliance with each operating limit specified in Table 1 to this subpart that applies to you.

(4) For each capture system that is a PTE, the data and documentation you used to support a determination that the capture system meets the criteria in Method 204 of appendix M to 40 CFR part 51 for a PTE and has a capture efficiency of 100 percent, as specified in § 63.4964(a).

(5) For each capture system that is not a PTE, the data and documentation you used to determine capture efficiency according to the requirements specified in §§ 63.4963 and 63.4964(b) through (e), including the records specified in paragraphs (k)(5)(i) through (iii) of this section that apply to you.

(i) *Records for a liquid-to-uncaptured-gas protocol using a temporary total enclosure or building enclosure.* Records of the mass of total volatile hydrocarbon (TVH) as measured by Method 204A or F of appendix M to 40 CFR part 51 for each material used in the coating operation, and the total TVH for all materials used, during each capture efficiency test run, including a copy of the test report. Records of the mass of TVH emissions not captured by the capture system that exited the temporary total enclosure or building enclosure during each capture efficiency test run, as measured by Method 204D or E of appendix M to 40 CFR part 51, including a copy of the test report. Records documenting that the enclosure used for the capture efficiency test met the criteria in Method 204 of appendix M to 40 CFR part 51 for either a temporary total enclosure or a building enclosure.

(ii) *Records for a gas-to-gas protocol using a temporary total enclosure or a building enclosure.* Records of the mass of TVH emissions captured by the emission capture system as measured by Method 204B or C of appendix M to 40 CFR part 51 at the inlet to the add-on control device, including a copy of the test report. Records of the mass of TVH emissions not captured by the capture system that exited the temporary total enclosure or building enclosure during each capture efficiency test run, as measured by Method 204D or E of appendix M to 40 CFR part 51, including a copy of the test report. Records documenting that the enclosure used for the capture efficiency test met the criteria in Method 204 of appendix M to 40 CFR part 51 for either a temporary total enclosure or a building enclosure.

(iii) *Records for an alternative protocol.* Records needed to document a capture efficiency determination using an alternative method or protocol as specified in § 63.4964(e), if applicable.

(6) The records specified in paragraphs (k)(6)(i) and (ii) of this section for each add-on control device organic HAP destruction or removal efficiency determination as specified in § 63.4965.

(i) Records of each add-on control device performance test conducted according to §§ 63.4963 and 63.4965.

(ii) Records of the coating operation conditions during the add-on control device performance test showing that the performance test was conducted under representative operating conditions.

(7) Records of the data and calculations you used to establish the emission capture and add-on control device operating limits as specified in § 63.4966 and to document compliance with the operating limits as specified in Table 1 to this subpart.

(8) A record of the work practice plan required by § 63.4893 and documentation that you are implementing the plan on a continuous basis.

§ 63.4931 In what form and for how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1). Where appropriate, the records may be maintained as electronic spreadsheets or as a database.

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on-site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You may keep these records off-site for the remaining 3 years. You must keep records on-site pertaining to the design and manufacturer's specifications for operation of add-on control equipment for the life of the equipment.

Compliance Requirements for the Compliant Material Option

§ 63.4940 By what date must I conduct the initial compliance demonstration?

You must complete the initial compliance demonstration for the initial compliance period according to the requirements in § 63.4941. The initial compliance period begins on the applicable compliance date specified in § 63.4883 and ends on the last day of the first full month following the compliance date. The initial compliance demonstration includes the calculations according to § 63.4941 and supporting documentation showing that, during the initial compliance period, you used no coating with an organic HAP content that exceeded the applicable emission limit in § 63.4890, and you used no thinners or cleaning materials that contained organic HAP.

§ 63.4941 How do I demonstrate initial compliance with the emission limitations?

You may use the compliant material option for any individual coating operation, for any group of coating operations in the affected source, or for all the coating operations in the affected source to demonstrate compliance with an organic HAP emission limit. You must use either the emission rate without add-on controls option or the emission rate with add-on controls option for any coating operation in the affected source for which you do not use this option. To demonstrate initial compliance using the compliant material option, during the compliance period the coating operation or group of coating operations must use no coating with an organic HAP content that exceeds the applicable emission limit in

§ 63.4890 and must use no thinner or cleaning material that contains organic HAP as determined according to this section. Any coating operation for which you use the compliant material option is not required to comply with the operating limits or work practice standards required in §§ 63.4892 and 63.4893, respectively. To demonstrate initial compliance with the emission limitations using the compliant material option, you must meet all the requirements of this section for the coating operation or group of coating operations using this option. Use the procedures in this section for each coating, thinner, and cleaning material in the condition it is in when it is received from its manufacturer or supplier and prior to any alteration. You do not need to redetermine the organic HAP content of cleaning materials that are reclaimed and reused onsite provided these materials in their condition as received were demonstrated to comply with the compliant material option.

(a) *Determine the mass fraction of organic HAP for each material used.* You must determine the mass fraction of organic HAP for each coating, thinner, and cleaning material used during the compliance period by using one of the options in paragraphs (a)(1) through (5) of this section.

(1) *Method 311 (appendix A to 40 CFR part 63).* You may use Method 311 for determining the mass fraction of organic HAP. Use the procedures specified in paragraphs (a)(1)(i) and (ii) of this section when performing a Method 311 test.

(i) Count each organic HAP that is measured to be present at 0.1 percent by mass or more for Occupational Safety and Health Administration (OSHA)-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and at 1.0 percent by mass or more for other organic HAP compounds. For example, if toluene (not an OSHA carcinogen) is measured to be 0.5 percent of the material by mass, you do not have to count it. Express the mass fraction of each organic HAP you count as a value truncated to four places after the decimal point (for example, 0.3791).

(ii) Calculate the total mass fraction of organic HAP in the test material by adding up the individual organic HAP mass fractions and truncating the result to three places after the decimal point (for example, 0.763).

(2) *Method 24 (appendix A to 40 CFR part 60).* For coatings, you may use Method 24 to determine the mass fraction of nonaqueous volatile matter and use that value as a substitute for mass fraction of organic HAP.

(3) *Alternative method.* You may use an alternative test method for determining the mass fraction of organic HAP once the Administrator has approved it. You must follow the procedure in § 63.7(f) to submit an alternative test method for approval.

(4) *Information from the supplier or manufacturer of the material.* You may rely on information other than that generated by the test methods specified in paragraphs (a)(1) through (3) of this section, such as manufacturer's formulation data, if it represents each organic HAP that is present at 0.1 percent by mass or more for OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and at 1.0 percent by mass or more for other organic HAP compounds. For example, if toluene (not an OSHA carcinogen) is 0.5 percent of the material by mass, you do not have to count it. If there is a disagreement between such information and results of a test conducted according to paragraphs (a)(1) through (3) of this section, then the test method results will take precedence.

(5) *Solvent blends.* Solvent blends may be listed as single components for some materials in data provided by manufacturers or suppliers. Solvent blends may contain organic HAP which must be counted toward the total organic HAP mass fraction of the materials. When test data and manufacturer's data for solvent blends are not available, you may use the default values for the mass fraction of organic HAP in these solvent blends listed in Table 3 or 4 to this subpart. If you use the tables, you must use the values in Table 3 for all solvent blends that match Table 3 entries, and you may only use Table 4 if the solvent blends in the materials you use do not match any of the solvent blends in Table 3, and you only know whether the blend is aliphatic or aromatic. However, if the results of a Method 311 test indicate higher values than those listed on Table 3 or 4 of this subpart, the Method 311 results will take precedence.

(b) *Determine the volume fraction of coating solids for each coating.* You must determine the volume fraction of coating solids (liters of coating solids per liter of coating) for each coating used during the compliance period by a test or by information provided by the supplier or the manufacturer of the material, as specified in paragraphs (b)(1), (2), and (3) of this section. If test results obtained according to paragraph (b)(1) of this section do not agree with the information obtained under paragraph (b)(2) or (3) of this section, the test results will take precedence.

(1) *Test results.* You may use ASTM Method D2697–86 (Reapproved 1998), "Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings" (incorporated by reference, see § 63.14), or D6093–97, "Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer" (incorporated by reference, see § 63.14), to determine the volume fraction of coating solids for each coating. Divide the nonvolatile volume percent obtained with the methods by 100 to calculate volume fraction of coating solids. Alternatively, you may use another test method once you obtain approval from the Administrator according to the requirements of § 63.7(f).

(2) *Information from the supplier or manufacturer of the material.* You may obtain the volume fraction of coating solids for each coating from the supplier or manufacturer.

(3) *Calculation of volume fraction of coating solids.* If the volume fraction of coating solids cannot be determined using the options in paragraphs (b)(1) and (2) of this section, you must determine it using Equation 1 of this section:

$$V_s = 1 - \frac{M_{volatiles}}{D_{avg}} \qquad \text{(Eq. 1)}$$

Where:

V_s = Volume fraction of coating solids, liters coating solids per liter coating.

$M_{volatiles}$ = Total volatile matter content of the coating, including HAP, volatile organic compounds (VOC), water, and exempt compounds, determined according to Method 24 in appendix A of 40 CFR part 60, grams volatile matter per liter coating.

D_{avg} = Average density of volatile matter in the coating, grams volatile matter per liter volatile matter, determined from test results using ASTM Method D1475–90, information from the supplier or manufacturer of the material, or reference sources providing density or specific gravity data for pure materials. If there is disagreement between ASTM Method D1475–90 test results and other information sources, the test results will take precedence.

(c) *Determine the density of each coating.* You must determine the density of each coating used during the compliance period from test results using ASTM Method D1475–90 or information from the supplier or manufacturer of the material. If there is disagreement between ASTM Method

D1475–90 test results and the supplier's or manufacturer's information, the test results will take precedence.

(d) *Calculate the organic HAP content of each coating.* Calculate the organic HAP content, kg organic HAP per liter coating solids, of each coating used during the compliance period, using Equation 2 of this section, except that if the mass fraction of organic HAP in the coating equals zero, then the organic HAP content also equals zero and you are not required to use Equation 2 to calculate the organic HAP content.

$$H_c = \frac{(D_c)(W_c)}{V_s} \qquad \text{(Eq. 2)}$$

Where:

H_c = Organic HAP content of the coating, kg organic HAP per liter coating solids.

D_c = Density of coating, kg coating per liter coating, determined according to paragraph (c) of this section.

W_c = Mass fraction of organic HAP in the coating, kg organic HAP per kg coating, determined according to paragraph (a) of this section.

V_s = Volume fraction of coating solids, liter coating solids per liter coating, determined according to paragraph (b) of this section.

(e) *Compliance demonstration.* The calculated organic HAP content for each coating used during the initial compliance period must be less than or equal to the applicable emission limit in § 63.4890 and each thinner and cleaning material used during the initial compliance period must contain no organic HAP, determined according to paragraph (a) of this section. You must keep all records required by §§ 63.4930 and 63.4931. As part of the Notification of Compliance Status required in § 63.4910(c) and the semiannual compliance reports required in § 63.4920, you must identify each coating operation and group of coating operations for which you used the compliant material option. If there were no deviations from the emission limit, include a statement that each was in compliance with the emission limitations during the initial compliance period because it used no coatings for which the organic HAP content exceeded the applicable emission limit in § 63.4890, and it used no thinners or cleaning materials that contained organic HAP.

§ 63.4942 How do I demonstrate continuous compliance with the emission limitations?

(a) Following the initial compliance period, you must complete a compliance demonstration according to the requirements in § 63.4941(e) for each subsequent compliance period. Each month following the initial compliance period described in § 63.4940 is a compliance period.

(b) If you choose to comply with the emission limitations by using the compliant material option, the use of any coating, thinner, or cleaning material that does not meet the criteria specified in paragraph (a) of this section is a deviation from the emission limitations that must be reported as specified in §§ 63.4910(c)(6) and 63.4920(a)(5).

(c) As part of each semiannual compliance report required by § 63.4920, you must identify the coating operation or group of coating operations for which you used the compliant material option. If there were no deviations from the emission limits in § 63.4890, submit an affirmative statement that the coating operation or group of coating operations was in compliance with the emission limitations during the reporting period because you used no coating for which the organic HAP content exceeded the applicable emission limit in § 63.4890, and you used no thinner or cleaning material that contained organic HAP.

(d) You must maintain records as specified in §§ 63.4930 and 63.4931.

Compliance Requirements for the Emission Rate Without Add-On Controls Option

§ 63.4950 By what date must I conduct the initial compliance demonstration?

You must complete the initial compliance demonstration for the initial compliance period according to the requirements of § 63.4951. The initial compliance period begins on the applicable compliance date specified in § 63.4883 and ends on the last day of the first full month following the compliance date. The initial compliance demonstration includes the calculations showing that the organic HAP emission rate for the initial compliance period was equal to or less than the applicable emission limit in § 63.4890.

§ 63.4951 How do I demonstrate initial compliance with the emission limitations?

You may use the emission rate without add-on controls option for any individual coating operation, for any group of coating operations in the affected source, or for all the coating operations in the affected source to demonstrate compliance with an organic HAP emission limit. You must use either the compliant material option or the emission rate with add-on controls option for any coating operation in the affected source for which you do not use this option. To demonstrate initial compliance using the emission rate without add-on controls option, the coating operation or group of coating operations must comply with the applicable emission limit in § 63.4890, but is not required to meet the operating limits or work practice standards in §§ 63.4892 and 63.4893, respectively. You must meet all the requirements of this section to demonstrate initial compliance with the applicable emission limit in § 63.4890 for the coating operation or group of coating operations. When calculating the organic HAP emission rate according to this section, do not include any coatings, thinners, or cleaning materials used on coating operations for which you use the compliant material option or the emission rate with add-on controls option. You do not need to include organic HAP in coatings, thinners, or cleaning materials that have been reclaimed onsite and reused in the coating operation for which you use the emission rate without add-on controls option.

(a) *Determine the mass fraction of organic HAP for each material.* You must determine the mass fraction of organic HAP for each coating, thinner, and cleaning material used during the compliance period according to the requirements in § 63.4941(a).

(b) *Determine the volume fraction of coating solids for each coating.* You must determine the volume fraction of coating solids for each coating used during the compliance period according to the requirements in § 63.4941(b).

(c) *Determine the density of each material.* You must determine the density of each coating, thinner, and cleaning material used during the compliance period according to the requirements in § 63.4941(c) from test results using ASTM Method D1475–90, information from the supplier or manufacturer of the material, or reference sources providing density or specific gravity data for pure materials. If there is disagreement between ASTM Method D1475–90 test results and such other information sources, the test results will take precedence.

(d) *Determine the volume of each material used.* You must determine the volume (liters) of each coating, thinner, and cleaning material used during the compliance period by measurement or usage records.

(e) *Calculate the mass of organic HAP emissions.* The mass of organic HAP emissions is the combined mass of organic HAP contained in all coatings, thinners, and cleaning materials used during the compliance period minus the organic HAP in certain waste materials.

Use Equation 1 of this section to calculate the mass of organic HAP emissions:

$$H_e = A + B + C - R_w \quad \text{(Eq. 1)}$$

Where:

H_e = Total mass of organic HAP emissions during the compliance period, kg.

A = Total mass of organic HAP in the coatings used during the compliance period, kg, as calculated in Equation 1A of this section.

B = Total mass of organic HAP in the thinners used during the compliance period, kg, as calculated in Equation 1B of this section.

C = Total mass of organic HAP in the cleaning materials used during the compliance period, kg, as calculated in Equation 1C of this section.

R_w = Total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste TSDF for treatment or disposal during the compliance period, kg, determined according to paragraph (e)(4) of this section. The mass of any waste material reused during the same compliance period may not be included in R_w. (You may assign a value of zero to R_w if you do not wish to use this allowance.)

(1) Calculate the mass of organic HAP in the coatings used during the compliance period, using Equation 1A of this section:

$$A = \sum_{i=1}^{m} \left(Vol_{c,i}\right)\left(D_{c,i}\right)\left(W_{c,i}\right) \quad \text{(Eq. 1A)}$$

Where:

A = Total mass of organic HAP in the coatings used during the compliance period, kg.

$Vol_{c,i}$ = Total volume of coating, i, used during the compliance period, liters.

$D_{c,i}$ = Density of coating, i, kg coating per liter coating.

$W_{c,i}$ = Mass fraction of organic HAP in coating, i, kg organic HAP per kg coating.

m = Number of different coatings used during the compliance period.

(2) Calculate the mass of organic HAP in the thinners used during the compliance period, using Equation 1B of this section:

$$B = \sum_{j=1}^{n} \left(Vol_{t,j}\right)\left(D_{t,j}\right)\left(W_{t,j}\right) \quad \text{(Eq. 1B)}$$

Where:

B = Total mass of organic HAP in the thinners used during the compliance period, kg.

$Vol_{t,j}$ = Total volume of thinner, j, used during the compliance period, liters.

$D_{t,j}$ = Density of thinner, j, kg per liter.

$W_{t,j}$ = Mass fraction of organic HAP in thinner, j, kg organic HAP per kg thinner.

n = Number of different thinners used during the compliance period.

(3) Calculate the mass of organic HAP in the cleaning materials used during the compliance period using Equation 1C of this section:

$$C = \sum_{k=1}^{p} \left(Vol_{s,k}\right)\left(D_{s,k}\right)\left(W_{s,k}\right) \quad \text{(Eq. 1C)}$$

Where:

C = Total mass of organic HAP in the cleaning materials used during the compliance period, kg.

$Vol_{s,k}$ = Total volume of cleaning material, k, used during the compliance period, liters.

$D_{s,k}$ = Density of cleaning material, k, kg per liter.

$W_{s,k}$ = Mass fraction of organic HAP in cleaning material, k, kg organic HAP per kg material.

p = Number of different cleaning materials used during the compliance period.

(4) If you choose to account for the mass of organic HAP contained in waste materials sent or designated for shipment to a hazardous waste TSDF in the calculation of the total mass of organic HAP emissions during the compliance period in Equation 1 of this section, then you must determine the total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste TSDF for treatment or disposal during each compliance period, according to paragraphs (e)(4)(i) through (iv) of this section.

(i) You may include in the determination of the total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste TSDF for treatment or disposal during each compliance period only waste materials that are generated by coating operations for which you use Equation 1 of this section and that will be treated or disposed of by a facility regulated as a TSDF under 40 CFR part 262, 264, 265, or 266. The TSDF may be either off-site or on-site. You may not include in the determination of the total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste TSDF for treatment or disposal during each compliance period only waste materials that are generated by coating operations the organic HAP contained in wastewater, nor the organic HAP contained in any waste material reused during the same compliance period.

(ii) You must determine either the amount of the waste materials sent to a TSDF during the compliance period or the amount collected and stored during the compliance period and designated for future transport to a TSDF. Do not include in your determination of the total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste TSDF for treatment or disposal during each compliance period only waste materials that are generated by coating operations any waste materials sent to a TSDF during a compliance period if you have already included them in the amount collected and stored during that or a previous compliance period.

(iii) Determine the total mass of organic HAP contained in the waste materials specified in paragraph (e)(4)(ii) of this section.

(iv) You must document your methodology to determine the amount of waste materials and the total mass of organic HAP they contain, as required in § 63.4930(h). To the extent that waste manifests include this information, they may be used as part of the documentation of the amount of waste materials and mass of organic HAP contained in them.

(f) *Calculate the total volume of coating solids used.* Calculate the total volume of coating solids used, which is the combined volume of coating solids for all the coatings used during the compliance period, using Equation 2 of this section:

$$V_{st} = \sum_{i=1}^{m} \left(Vol_{c,i}\right)\left(V_{s,i}\right) \quad \text{(Eq. 2)}$$

Where:

V_{st} = Total volume of coating solids used during the compliance period, liters.

$Vol_{c,i}$ = Total volume of coating, i, used during the compliance period, liters.

$V_{s,i}$ = Volume fraction of coating solids for coating, i, liter solids per liter coating, determined according to § 63.4941(b).

m = Number of coatings used during the compliance period.

(g) *Calculate the organic HAP emission rate.* Calculate the organic HAP emission rate for the compliance period, kg organic HAP per liter coating solids used, using Equation 3 of this section:

$$H_{avg} = \frac{H_e}{V_{st}} \quad \text{(Eq. 3)}$$

Where:

H_{avg} = Organic HAP emission rate for the compliance period, kg organic HAP per liter coating solids.

H_e = Total mass of organic HAP emissions from all materials used during the compliance period, kg, as calculated by Equation 1 of this section.

V_{st} = Total volume of coating solids used during the compliance period, liters, as calculated by Equation 2 of this section.

(h) *Compliance demonstration.* The calculated organic HAP emission rate for the initial compliance period must be less than or equal to the applicable emission limit in § 63.4890. You must keep all records as required by §§ 63.4930 and 63.4931. As part of the Notification of Compliance Status required by § 63.4910 and the semiannual compliance reports required in § 63.4920, you must identify the coating operation or group of coating operations for which you used the emission rate without add-on controls option. If there were no deviations from the emission limit, include a statement that the coating operation or group of coating operations was in compliance with the emission limitations during the initial compliance period because the organic HAP emission rate was less than or equal to the applicable emission limit in § 63.4890, determined according to this section.

§ 63.4952 How do I demonstrate continuous compliance with the emission limitations?

(a) Following the initial compliance period, you must complete a compliance demonstration according to the requirements in § 63.4951(h) for each subsequent compliance period. Each month following the initial compliance period described in § 63.4950 is a compliance period.

(b) If the organic HAP emission rate for any compliance period exceeded the applicable emission limit in § 63.4890, this is a deviation from the emission limitations for that compliance period and must be reported as specified in §§ 63.4910(c)(6) and 63.4920(a)(6).

(c) As part of each semiannual compliance report required by § 63.4920, you must identify the coating operation or group of coating operations for which you used the emission rate without add-on controls option. If there were no deviations from the emission limitations, you must submit an affirmative statement that the coating operation or group of coating operations was in compliance with the emission limitations during the reporting period because the organic HAP emission rate for each compliance period was less than or equal to the applicable emission limit in § 63.4890.

(d) You must maintain records as specified in §§ 63.4930 and 63.4931.

Compliance Requirements for the Emission Rate With Add-On Controls Option

§ 63.4960 By what date must I conduct performance tests and other initial compliance demonstrations?

(a) *New and reconstructed affected sources.* For a new or reconstructed affected source, you must meet the requirements of paragraphs (a)(1) through (4) of this section.

(1) All emission capture systems, add-on control devices, and CPMS must be installed and operating no later than the applicable compliance date specified in § 63.4883. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4961(j), you must conduct a performance test of each capture system and add-on control device according to §§ 63.4963, 63.4964, and 63.4965, and establish the operating limits required by § 63.4892, no later than 180 days after the applicable compliance date specified in § 63.4883. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4961(j), you must initiate the first material balance no later than 180 days after the applicable compliance date specified in § 63.4883.

(2) You must develop and begin implementing the work practice plan required by § 63.4893 no later than the compliance date specified in § 63.4883.

(3) You must complete the initial compliance demonstration for the initial compliance period according to the requirements of § 63.4961. The initial compliance period begins on the applicable compliance date specified in § 63.4883 and ends on the last day of the first full month following the compliance date. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 63.4963, 63.4964, and 63.4965; results of liquid-liquid material balances conducted according to § 63.4961(j); calculations showing whether the organic HAP emission rate for the initial compliance period was equal to or less than the emission limit in § 63.4890; the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 63.4967; and documentation of whether you developed and implemented the work practice plan required by § 63.4893.

(4) You do not need to comply with the operating limits for the emission capture system and add-on control device required by § 63.4892 until after you have completed the performance tests specified in paragraph (a)(1) of this section. Instead, you must maintain a log detailing the operation and maintenance of the emission capture system, add-on control device, and continuous parameter monitors during the period between the compliance date and the performance test. You must begin complying with the operating limits for your affected source on the date you complete the performance tests specified in paragraph (a)(1) of this section. The requirements in this paragraph (a)(4) do not apply to solvent recovery systems for which you conduct liquid-liquid material balances.

(b) *Existing affected sources.* For an existing affected source, you must meet the requirements of paragraphs (b)(1) through (3) of this section.

(1) All emission capture systems, add-on control devices, and CPMS must be installed and operating no later than the applicable compliance date specified in § 63.4883. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4961(j), you must conduct a performance test of each capture system and add-on control device according to the procedures in §§ 63.4963, 63.4964, and 63.4965, and establish the operating limits required by § 63.4892, no later than the compliance date specified in § 63.4883. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4961(j), you must initiate the first material balance no later than the compliance date specified in § 63.4883.

(2) You must develop and begin implementing the work practice plan required by § 63.4893 no later than the compliance date specified in § 63.4883.

(3) You must complete the initial compliance demonstration for the initial compliance period according to the requirements of § 63.4961. The initial compliance period begins on the applicable compliance date specified in § 63.4883 and ends on the last day of the first full month following the compliance date. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 63.4963, 63.4964, and 63.4965; results of liquid-liquid material balances conducted according to § 63.4961(j); calculations showing whether the organic HAP

emission rate for the initial compliance period was equal to or less than the emission limit in § 63.4890(c); the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 63.4967; and documentation of whether you developed and implemented the work practice plan required by § 63.4893.

§ 63.4961 How do I demonstrate initial compliance?

(a) *When add-on controls are used.* You may use the emission rate with add-on controls option for any coating operation, for any group of coating operations in the affected source, or for all of the coating operations in the affected source. You may include both controlled and uncontrolled coating operations in a group for which you use this option. You must use either the compliant material option or the emission rate without add-on controls option for any coating operation in the affected source for which you do not use the emission rate with add-on controls option. To demonstrate initial compliance, the coating operation or group of coating operations for which you use the emission rate with add-on controls option must meet the applicable emission limit in § 63.4890, and each controlled coating operation must meet the operating limits and work practice standards required in §§ 63.4892 and 63.4893, respectively. You must meet all the requirements of this section to demonstrate initial compliance with the emission limitations. When calculating the organic HAP emission rate according to this section, do not include any coatings, thinners, or cleaning materials used on coating operations for which you use the compliant material option or the emission rate without add-on controls option.

(b) *Compliance with operating limits.* Except as provided in § 63.4960(a)(4), you must establish and demonstrate continuous compliance during the initial compliance period with the operating limits required by § 63.4892, using the procedures specified in §§ 63.4966 and 63.4967.

(c) *Compliance with work practice requirements.* You must develop, implement, and document your implementation of the work practice plan required by § 63.4893 during the initial compliance period, as specified in § 63.4930.

(d) *Compliance with emission limits.* You must follow the procedures in paragraphs (e) through (m) of this section to demonstrate compliance with the applicable emission limit in § 63.4890.

(e) *Determine the mass fraction of organic HAP, density, volume used, and volume fraction of coating solids.* Follow the procedures specified in § 63.4951(a) through (d) to determine the mass fraction of organic HAP, density, and volume of each coating, thinner, and cleaning material used during each compliance period and the volume fraction of coating solids for each coating used during each compliance period.

(f) *Calculate the total mass of organic HAP emissions before add-on controls.* Using Equation 1 of § 63.4951, calculate the total mass of organic HAP emissions before add-on controls from all coatings, thinners, and cleaning materials used during the compliance period.

(g) *Calculate the organic HAP emission reduction for each controlled coating operation.* Determine the mass of organic HAP emissions reduced for each controlled coating operation during each compliance period. The emission reduction determination quantifies the total organic HAP emissions that pass through the emission capture system and are destroyed or removed by the add-on control device. Use the procedures in paragraph (h) of this section to calculate the mass of organic HAP emission reduction for each controlled coating operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances. For each controlled coating operation using a solvent recovery system for which you conduct a liquid-liquid material balance, use the procedures in paragraph (j) of this section to calculate the organic HAP emission reduction.

(h) *Calculate the organic HAP emission reduction for controlled coating operations not using liquid-liquid material balance.* For each controlled coating operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances, calculate the organic HAP emission reduction, using Equation 1 of this section. The calculation applies the emission capture system efficiency and add-on control device efficiency to the mass of organic HAP contained in the coatings, thinners, and cleaning materials that are used in the coating operation served by the emission capture system and add-on control device during the compliance period. For any period of time a deviation specified in § 63.4962(c) or (d) occurs in the controlled coating operation, including a deviation during a period of startup, shutdown, or malfunction, you must assume zero efficiency for the emission capture system and add-on control device. Equation 1 of this section treats the materials used during such a deviation as if they were used on an uncontrolled coating operation for the time period of the deviation:

$$H_R = (A_I + B_I + C_I - R_w)\left(\frac{CE}{100} \times \frac{DRE}{100}\right) + H_{unc} \quad \text{(Eq. 1)}$$

Where:

H_R = Mass of organic HAP emission reduction for the controlled coating operation during the compliance period, kg.

A_I = Total mass of organic HAP in the coatings used in the controlled coating operation during the compliance period, excluding coatings used during deviations, kg, as calculated in Equation 1A of this section.

B_I = Total mass of organic HAP in the thinners used in the controlled coating operation during the compliance period, excluding thinners used during deviations, kg, as calculated in Equation 1B of this section.

C_I = Total mass of organic HAP in the cleaning materials used in the controlled coating operation during the compliance period, excluding cleaning materials used during deviations, kg, as calculated in Equation 1C of this section.

R_w = Total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste TSDF for treatment or disposal during the compliance period, kg, determined according to § 63.4951(e)(4). The mass of any waste material reused during the same compliance period may not be included in R_w. (You may assign a

value of zero to R_w if you do not wish to use this allowance.)

CE = Capture efficiency of the emission capture system vented to the add-on control device, percent. Use the test methods and procedures specified in §§ 63.4963 and 63.4964 to measure and record capture efficiency.

DRE = Organic HAP destruction or removal efficiency of the add-on control device, percent. Use the test methods and procedures in §§ 63.4963 and 63.4965 to measure and record the organic HAP destruction or removal efficiency.

H_{unc} = Total mass of organic HAP in the coatings, thinners, and cleaning materials used during all deviations specified in § 63.4962(c) and (d) that occurred during the compliance period in the controlled coating operation, kg, as calculated in Equation 1D of this section.

(1) Calculate the mass of organic HAP in the coatings used in the controlled coating operation, using Equation 1A of this section. Do not include in the calculation the coatings used during any deviation specified in § 63.4962(c) or (d) that occurred during the month. Include such coatings in the calculation of the total mass of organic HAP in the coatings, thinners, and cleaning materials used during all deviations that occurred during the compliance period in the controlled coating operation in Equation 1D of this section.

$$A_I = \sum_{i=1}^{m} (Vol_{c,i})(D_{c,i})(W_{c,i}) \quad \text{(Eq. 1A)}$$

Where:

A_I = Total mass of organic HAP in the coatings used in the controlled coating operation during the compliance period, excluding coatings used during deviations, kg.

$Vol_{c,i}$ = Total volume of coating, i, used during the compliance period except during deviations, liters.

$D_{c,i}$ = Density of coating, i, kg per liter.

$W_{c,i}$ = Mass fraction of organic HAP in coating, i, kg per kg.

m = Number of different coatings used.

(2) Calculate the mass of organic HAP in the thinners used in the controlled coating operation, using Equation 1B of this section. Do not include in the calculation the thinners used during any deviation specified in § 63.4962(c) or (d) that occurred during the month. Include such coatings in the calculation of the total mass of organic HAP in the coatings, thinners, and cleaning materials used during all deviations that occurred during the compliance period in the controlled coating operation in Equation 1D of this section.

$$B_I = \sum_{j=1}^{n} (Vol_{t,j})(D_{t,j})(W_{t,j}) \quad \text{(Eq. 1B)}$$

Where:

B_I = Total mass of organic HAP in the thinners used in the controlled coating operation during the compliance period, excluding thinners used during deviations, kg.

$Vol_{t,j}$ = Total volume of thinner, j, used during the compliance period except during deviations, liters.

$D_{t,j}$ = Density of thinner, j, kg per liter.

$W_{t,j}$ = Mass fraction of organic HAP in thinner, j, kg per kg.

n = Number of different thinners used.

(3) Calculate the mass of organic HAP in the cleaning materials used in the controlled coating operation, using Equation 1C of this section. Do not include in the calculation the cleaning materials used during any deviation specified in § 63.4962(c) or (d) that occurred during the compliance period. Include such cleaning materials in the calculation of the total mass of organic HAP in the coatings, thinners, and cleaning materials used during all deviations that occurred during the compliance period in the controlled coating operation in Equation 1D of this section.

$$C_I = \sum_{k=1}^{p} (Vol_{s,k})(D_{s,k})(W_{s,k}) \quad \text{(Eq. 1C)}$$

Where:

C_I = Total mass of organic HAP in the cleaning materials used in the controlled coating operation during the compliance period, excluding cleaning materials used during deviations, kg.

$Vol_{s,k}$ = Total volume of cleaning material, k, used during the compliance period except during deviations, liters.

$D_{s,k}$ = Density of cleaning material, k, kg per liter.

$W_{s,k}$ = Mass fraction of organic HAP in cleaning material, k, kg per kg.

p = Number of different cleaning materials used.

(4) Calculate the mass of organic HAP in the coatings, thinners, and cleaning materials used in the controlled coating operation during deviations specified in § 63.4962(c) and (d), using Equation 1D of this section:

$$H_{unc} = \sum_{h=1}^{q} (Vol_h)(D_h)(W_h) \quad \text{(Eq. 1D)}$$

Where:

H_{unc} = Total mass of organic HAP in the coatings, thinners, and cleaning materials used during all deviations specified in § 63.4962(c) and (d) that occurred during the compliance period in the controlled coating operation, kg.

Vol_h = Total volume of coating, thinner, or cleaning material, h, used in the controlled coating operation during deviations, liters.

D_h = Density of coating, thinner, or cleaning material, h, kg per liter.

W_h = Mass fraction of organic HAP in coating, thinner, or cleaning material, h, kg organic HAP per kg coating.

q = Number of different coatings, thinning solvents, or cleaning materials.

(i) [Reserved]

(j) *Calculate the organic HAP emission reduction for controlled coating operations using liquid-liquid material balance.* For each controlled coating operation using a solvent recovery system for which you conduct liquid-liquid material balances, calculate the organic HAP emission reduction by applying the volatile organic matter collection and recovery efficiency to the mass of organic HAP contained in the coatings, thinners, and cleaning materials that are used in the coating operation controlled by the solvent recovery system during the compliance period. Perform a liquid-liquid material balance for each compliance period as specified in paragraphs (j)(1) through (6) of this section. Calculate the mass of organic HAP emission reduction by the solvent recovery system as specified in paragraph (j)(7) of this section.

(1) For each solvent recovery system, you must install, calibrate, maintain, and operate according to the manufacturer's specifications, a device that indicates the cumulative amount of volatile organic matter recovered by the solvent recovery system each compliance period. The device must be initially certified by the manufacturer to be accurate to within ±2.0 percent of the mass of volatile organic matter recovered.

(2) For each solvent recovery system, determine the mass of volatile organic matter recovered for the compliance period, based on measurement with the device required in paragraph (j)(1) of this section.

(3) Determine the mass fraction of volatile organic matter for each coating, thinner, and cleaning material used in the coating operation controlled by the solvent recovery system during the compliance period. You may determine the volatile organic matter mass fraction using Method 24 of 40 CFR part 60, appendix A, or an EPA-approved alternative method, or you may use

information provided by the manufacturer or supplier of the coating. In the event of any inconsistency between information provided by the manufacturer or supplier and the results of Method 24 of 40 CFR part 60, appendix A, or an approved alternative method, the test method results will govern.

(4) Determine the density of each coating, thinner, and cleaning material used in the coating operation controlled by the solvent recovery system during the compliance period according to § 63.4951(c).

(5) Measure the volume of each coating, thinner, and cleaning material used in the coating operation controlled by the solvent recovery system during the compliance period.

(6) For each compliance period, calculate the solvent recovery system's volatile organic matter collection and recovery efficiency, using Equation 2 of this section:

$$R_v = 100\frac{M_{VR}}{\sum_{i=1}^{m} Vol_i D_i WV_{c,i} + \sum_{j=1}^{n} Vol_j D_j WV_{t,j} + \sum_{k=1}^{p} Vol_k D_k WV_{s,k}} \quad \text{(Eq. 2)}$$

Where:

R_V = Volatile organic matter collection and recovery efficiency of the solvent recovery system during the compliance period, percent.

M_{VR} = Mass of volatile organic matter recovered by the solvent recovery system during the compliance period, kg.

Vol_i = Volume of coating, i, used in the coating operation controlled by the solvent recovery system during the compliance period, liters.

D_i = Density of coating, i, kg per liter.

$WV_{c,i}$ = Mass fraction of volatile organic matter for coating, i, kg volatile organic matter per kg coating.

Vol_j = Volume of thinner, j, used in the coating operation controlled by the solvent recovery system during the compliance period, liters.

D_j = Density of thinner, j, kg per liter.

$WV_{t,j}$ = Mass fraction of volatile organic matter for thinner, j, kg volatile organic matter per kg thinner.

Vol_k = Volume of cleaning material, k, used in the coating operation controlled by the solvent recovery system during the compliance period, liters.

D_k = Density of cleaning material, k, kg per liter.

$WV_{s,k}$ = Mass fraction of volatile organic matter for cleaning material, k, kg volatile organic matter per kg cleaning material.

m = Number of different coatings used in the coating operation controlled by the solvent recovery system during the compliance period.

n = Number of different thinners used in the coating operation controlled by the solvent recovery system during the compliance period.

p = Number of different cleaning materials used in the coating operation controlled by the solvent recovery system during the compliance period.

(7) Calculate the mass of organic HAP emission reduction for the coating operation controlled by the solvent recovery system during the compliance period, using Equation 3 of this section:

$$H_{CSR} = (A_{CSR} + B_{CSR} + C_{CSR})\left(\frac{R_V}{100}\right) \quad \text{(Eq. 3)}$$

Where:

H_{CSR} = Mass of organic HAP emission reduction for the coating operation controlled by the solvent recovery system during the compliance period, kg.

A_{CSR} = Total mass of organic HAP in the coatings used in the coating operation controlled by the solvent recovery system, kg, calculated using Equation 3A of this section.

B_{CSR} = Total mass of organic HAP in the thinners used in the coating operation controlled by the solvent recovery system, kg, calculated using Equation 3B of this section.

C_{CSR} = Total mass of organic HAP in the cleaning materials used in the coating operation controlled by the solvent recovery system, kg, calculated using Equation 3C of this section.

R_V = Volatile organic matter collection and recovery efficiency of the solvent recovery system, percent, from Equation 2 of this section.

(i) Calculate the mass of organic HAP in the coatings used in the coating operation controlled by the solvent recovery system, kg, using Equation 3A of this section.

$$A_{CSR} = \sum_{i=1}^{m} (Vol_{c,i})(D_{c,i})(W_{c,i}) \quad \text{(Eq. 3A)}$$

Where:

A_{CSR} = Total mass of organic HAP in the coatings used in the coating operation controlled by the solvent recovery system during the month, kg.

$Vol_{c,i}$ = Total volume of coating, i, used during the month in the coating operation controlled by the solvent recovery system, liters.

$D_{c,i}$ = Density of coating, i, kg coating per liter coating.

$W_{c,i}$ = Mass fraction of organic HAP in coating, i, kg organic HAP per kg coating.

m = Number of different coatings used.

(ii) Calculate the mass of organic HAP in the thinners used in the coating operation controlled by the solvent recovery system, using Equation 3B of this section:

$$B_{CSR} = \sum_{j=1}^{n} (Vol_{t,j})(D_{t,j})(W_{t,j}) \quad \text{(Eq. 3B)}$$

Where:

B_{CSR} = Total mass of organic HAP in the thinners used in the coating operation controlled by the solvent recovery system during the month, kg.

$Vol_{t,j}$ = Total volume of thinner, j, used during the month in the coating operation controlled by the solvent recovery system, liters.

$D_{t,j}$ = Density of thinner, j, kg thinner per liter thinner.

$W_{t,j}$ = Mass fraction of organic HAP in thinner, j, kg organic HAP per kg thinner.

n = Number of different thinners used.

(iii) Calculate the mass of organic HAP in the cleaning materials used in the coating operation controlled by the solvent recovery system during the month, using Equation 3C of this section:

$$C_{CSR} = \sum_{k=1}^{p} (Vol_{s,k})(D_{s,k})(W_{s,k}) \quad \text{(Eq. 3C)}$$

Where:

C_{CSR} = Total mass of organic HAP in the cleaning materials used in the coating operation controlled by the solvent recovery system during the month, kg.

$Vol_{s,k}$ = Total volume of cleaning material, k, used during the month in the coating operation controlled by the solvent recovery system, liters.

$D_{s,k}$ = Density of cleaning material, k, kg cleaning material per liter cleaning material.

$W_{s,k}$ = Mass fraction of organic HAP in cleaning material, k, kg organic HAP per kg cleaning material.

p = Number of different cleaning materials used.

(k) *Calculate the total volume of coating solids used.* Calculate the total volume of coating solids used, which is the combined volume of coating solids for all the coatings used during the compliance period, using Equation 2 of § 63.4951.

(l) *Calculate the organic HAP emissions rate.* Calculate the organic HAP emission rate to the atmosphere, using Equation 4 of this section:

$$H_{hap} = \frac{H_e - \sum_{i=1}^{q}(H_{R,i}) - \sum_{j=1}^{r}(H_{CSR,j})}{V_{st}} \quad \text{(Eq. 4)}$$

Where:

H_{hap} = Organic HAP emission rate for the compliance period, kg organic HAP per liter coating solids.

H_e = Total mass of organic HAP emissions before add-on controls from all the coatings, thinners, and cleaning materials used during the compliance period, kg, determined according to paragraph (f) of this section.

$H_{R,i}$ = Total mass of organic HAP emission reduction for controlled coating operation, i, not using liquid-liquid material balances, during the compliance period, kg, from Equation 1 of this section.

$H_{CSR,j}$ = Total mass of organic HAP emission reduction for controlled coating operation, j, using a liquid-liquid material balance, during the compliance period, kg, from Equation 3 of this section.

V_{st} = Total volume of coating solids used during the compliance period, liters, from Equation 2 of § 63.4951.

q = Number of controlled coating operations except those controlled with a solvent recovery system.

r = Number of coating operations controlled with a solvent recovery system.

(m) *Compliance demonstration.* To demonstrate initial compliance with the emission limit during the compliance period as calculated using Equation 4 of this section, the HAP emission rate for the compliance period must be less than or equal to the applicable emission limit in § 63.4890. You must keep all records as required by §§ 63.4930 and 63.4931. As part of the Notification of Compliance Status required by § 63.4910 and the semiannual compliance reports required in § 63.4920, you must identify the coating operation or group of coating operations for which you used the emission rate with add-on controls option. If there were no deviations from the emission limit, include a statement that the coating operation or group of coating operations was in compliance with the emission limitations during the initial compliance period because the organic HAP emission rate was less than or equal to the applicable emission limit in § 63.4890, and you achieved the operating limits required by § 63.4892 and the work practice standards required by § 63.4893.

§ 63.4962 How do I demonstrate continuous compliance with the emission limitations?

(a) Following the initial compliance period, you must complete a compliance demonstration according to the requirements in § 63.4961(m) for each subsequent compliance period. Each month following the initial compliance period described in § 63.4960 is a compliance period.

(b) If the organic HAP emission rate for any compliance period exceeded the applicable emission limit in § 63.4890, this is a deviation from the emission limitation for that compliance period and must be reported as specified in §§ 63.4910(c)(6) and 63.4920(a)(7).

(c) You must demonstrate continuous compliance with each operating limit required by § 63.4892 that applies to you, as specified in Table 1 to this subpart.

(1) If an operating parameter is out of the allowed range specified in Table 1 to this subpart, this is a deviation from the operating limit that must be reported as specified in §§ 63.4910(c)(6) and 63.4920(a)(7).

(2) If an operating parameter deviates from the operating limit specified in Table 1 to this subpart, then you must assume that the emission capture system and add-on control device were achieving zero efficiency during the time period of the deviation. For the purposes of completing the compliance calculations specified in § 63.4961, you must treat the materials used during a deviation on a controlled coating operation as if they were used on an uncontrolled coating operation for the time period of the deviation, as indicated in Equation 1 of § 63.4961.

(d) You must meet the requirements for bypass lines in § 63.4967(b) for controlled coating operations for which you do not conduct liquid-liquid material balances. If any bypass line is opened and emissions are diverted to the atmosphere when the coating operation is running, this is a deviation that must be reported as specified in §§ 63.4910(c)(6) and 63.4920(a)(7). For the purposes of completing the compliance calculations in § 63.4961, you must treat the materials used during a deviation on a controlled coating operation as if they were used on an uncontrolled coating operation for the time period of the deviation, as indicated in Equation 1 of § 63.4961.

(e) You must demonstrate continuous compliance with the work practice standards in § 63.4893. If you did not develop a work practice plan, or you did not implement the plan, or you did not keep the records required by § 63.4930(k)(8), this is a deviation from the work practice standards that must be reported as specified in §§ 63.4910(c)(6) and 63.4920(a)(7).

(f) As part of each semiannual compliance report required in § 63.4920, you must identify the coating operation or group of coating operations for which you used the emission rate with add-on controls option. If there were no deviations from the emission limitations, submit an affirmative statement that you were in compliance with the emission limitations during the reporting period because the organic HAP emission rate for each compliance period was less than or equal to the applicable emission limit in § 63.4890, and you achieved the operating limits required by § 63.4892 and the work practice standards required by § 63.4893 during each compliance period.

(g) During periods of startup, shutdown, or malfunction of the emission capture system, add-on control device, or coating operation that may affect emission capture or control device efficiency, you must operate in

accordance with the SSMP required by § 63.4900(c).

(h) [Reserved]

(i) You must maintain records as specified in §§ 63.4930 and 63.4931.

§ 63.4963 What are the general requirements for performance tests?

(a) You must conduct each performance test required by § 63.4960 according to the requirements in § 63.7(e)(1) and under the conditions in this section unless you obtain a waiver of the performance test according to the provisions in § 63.7(h).

(1) *Representative coating operation operating conditions.* You must conduct the performance test under representative operating conditions for the coating operation. Operations during periods of startup, shutdown, or malfunction, and during periods of nonoperation do not constitute representative conditions. You must record the process information that is necessary to document operating conditions during the test and explain why the conditions represent normal operation.

(2) *Representative emission capture system and add-on control device operating conditions.* You must conduct the performance test when the emission capture system and add-on control device are operating at a representative flow rate, and the add-on control device is operating at a representative inlet concentration. You must record information that is necessary to document emission capture system and add-on control device operating conditions during the test and explain why the conditions represent normal operation.

(b) You must conduct each performance test of an emission capture system according to the requirements in § 63.4964. You must conduct each performance test of an add-on control device according to the requirements in § 63.4965.

(c) The performance test to determine add-on control device organic HAP destruction or removal efficiency must consist of three runs as specified in § 63.7(e)(3) and each run must last at least 1 hour.

§ 63.4964 How do I determine the emission capture system efficiency?

You must use the procedures and test methods in this section to determine capture efficiency as part of the performance test required by § 63.4960.

(a) *Assuming 100 percent capture efficiency.* You may assume the capture system efficiency is 100 percent if both of the conditions in paragraphs (a)(1) and (2) of this section are met:

(1) The capture system meets the criteria in Method 204 of appendix M to 40 CFR part 51 for a PTE and directs all the exhaust gases from the enclosure to an add-on control device.

(2) All coatings, thinners, and cleaning materials used in the coating operation are applied within the capture system; coating solvent flash-off and coating, curing, and drying occurs within the capture system; and the removal of or evaporation of cleaning materials from the surfaces they are applied to occurs within the capture system. For example, this criterion is not met if parts enter the open shop environment when being moved between a spray booth and a curing oven.

(b) *Measuring capture efficiency.* If the capture system does not meet both of the criteria in paragraphs (a)(1) and (2) of this section, then you must use one of the three protocols described in paragraphs (c), (d), and (e) of this section to measure capture efficiency. The capture efficiency measurements use TVH capture efficiency as a surrogate for organic HAP capture efficiency. For the protocols in paragraphs (c) and (d) of this section, the capture efficiency measurement must consist of three test runs. Each test run must be at least 3 hours duration or the length of a production run, whichever is longer, up to 8 hours. For the purposes of this test, a production run means the time required for a single part to go from the beginning to the end of production, which includes surface preparation activities and drying or curing time.

(c) *Liquid-to-uncaptured-gas protocol using a temporary total enclosure or building enclosure.* The liquid-to-uncaptured-gas protocol compares the mass of liquid TVH in materials used in the coating operation to the mass of TVH emissions not captured by the emission capture system. Use a temporary total enclosure or a building enclosure and the procedures in paragraphs (c)(1) through (6) of this section to measure emission capture system efficiency using the liquid-to-uncaptured-gas protocol.

(1) Either use a building enclosure or construct an enclosure around the coating operation where coatings, thinners, and cleaning materials are applied, and all areas where emissions from these applied coatings and materials subsequently occur, such as flash-off, curing, and drying areas. The areas of the coating operation where capture devices collect emissions for routing to an add-on control device, such as the entrance and exit areas of an oven or spray booth, must also be inside the enclosure. The enclosure must meet the applicable definition of a temporary total enclosure or building enclosure in Method 204 of appendix M to 40 CFR part 51.

(2) Use Method 204A or 204F of appendix M to 40 CFR part 51 to determine the mass fraction, kg TVH per kg material, of TVH liquid input from each coating, thinner, and cleaning material used in the coating operation during each capture efficiency test run. To make the determination, substitute TVH for each occurrence of the term VOC in the methods.

(3) Use Equation 1 of this section to calculate the mass of TVH liquid input from all the coatings, thinners, and cleaning materials used in the coating operation during each capture efficiency test run:

$$TVH_{used} = \sum_{i=1}^{n} (TVH_i)(Vol_i)(D_i) \qquad \text{(Eq. 1)}$$

Where:

TVH_{used} = Mass of liquid total volatile hydrocarbons in materials used in the coating operation during the capture efficiency test run, lb.

TVH_i = Mass fraction of TVH in coating, thinner, or cleaning material, i, that is used in the coating operation during the capture efficiency test run, kg TVH per kg material.

Vol_i = Total volume of coating, thinner, or cleaning material, i, used in the coating operation during the capture efficiency test run, liters.

D_i = Density of coating, thinner, or cleaning material, i, kg material per liter material.

n = Number of different coatings, thinners, and cleaning materials used in the coating operation during the capture efficiency test run.

(4) Use Method 204D or E of appendix M to 40 CFR part 51 to measure the total mass of TVH emissions that are not captured by the emission capture system; they are measured as they exit the temporary total enclosure or building enclosure during each capture efficiency test run. To make the measurement, substitute TVH for each occurrence of the term VOC in the methods.

(i) Use Method 204D if the enclosure is a temporary total enclosure.

(ii) Use Method 204E if the enclosure is a building enclosure. During the capture efficiency measurement, all organic compound emitting operations inside the building enclosure, other than the coating operation for which capture efficiency is being determined,

must be shut down, but all fans and blowers must be operating normally.

(5) For each capture efficiency test run, determine the percent capture efficiency of the emission capture system, using Equation 2 of this section:

$$CE = \frac{(TVH_{used} - TVH_{uncaptured})}{TVH_{used}} \times 100 \qquad \text{(Eq. 2)}$$

Where:

CE = Capture efficiency of the emission capture system vented to the add-on control device, percent.

TVH_{used} = Total mass of TVH liquid input used in the coating operation during the capture efficiency test run, kg.

$TVH_{uncaptured}$ = Total mass of TVH that is not captured by the emission capture system and that exits from the temporary total enclosure or building enclosure during the capture efficiency test run, kg.

(6) Determine the capture efficiency of the emission capture system as the average of the capture efficiencies measured in the three test runs.

(d) *Gas-to-gas protocol using a temporary total enclosure or a building enclosure.* The gas-to-gas protocol compares the mass of TVH emissions captured by the emission capture system to the mass of TVH emissions not captured. Use a temporary total enclosure or a building enclosure and the procedures in paragraphs (d)(1) through (5) of this section to measure emission capture system efficiency using the gas-to-gas protocol.

(1) Either use a building enclosure or construct an enclosure around the coating operation where coatings, thinners, and cleaning materials are applied, and all areas where emissions from these applied coatings and materials subsequently occur, such as flash-off, curing, and drying areas. The areas of the coating operation where capture devices collect emissions generated by the coating operation for routing to an add-on control device, such as the entrance and exit areas of an oven or a spray booth, must also be inside the enclosure. The enclosure must meet the applicable definition of a temporary total enclosure or building enclosure in Method 204 of appendix M to 40 CFR part 51.

(2) Use Method 204B or 204C of appendix M to 40 CFR part 51 to measure the total mass of TVH emissions captured by the emission capture system during each capture efficiency test run as measured at the inlet to the add-on control device. To make the measurement, substitute TVH for each occurrence of the term VOC in the methods.

(i) The sampling points for the Method 204B or 204C measurement must be upstream from the add-on control device and must represent total emissions routed from the capture system and entering the add-on control device.

(ii) If multiple emission streams from the capture system enter the add-on control device without a single common duct, then the emissions entering the add-on control device must be simultaneously measured in each duct and the total emissions entering the add-on control device must be determined.

(3) Use Method 204D or 204E of appendix M to 40 CFR part 51 to measure the total mass of TVH emissions that are not captured by the emission capture system; they are measured as they exit the temporary total enclosure or building enclosure during each capture efficiency test run. To make the measurement, substitute TVH for each occurrence of the term VOC in the methods.

(i) Use Method 204D if the enclosure is a temporary total enclosure.

(ii) Use Method 204E if the enclosure is a building enclosure. During the capture efficiency measurement, all organic compound emitting operations inside the building enclosure, other than the coating operation for which capture efficiency is being determined, must be shut down, but all fans and blowers must be operating normally.

(4) For each capture efficiency test run, determine the percent capture efficiency of the emission capture system, using Equation 3 of this section:

$$CE = \frac{TVH_{captured}}{(TVH_{captured} + TVH_{uncaptured})} \times 100 \qquad \text{(Eq. 3)}$$

Where:

CE = Capture efficiency of the emission capture system vented to the add-on control device, percent.

$TVH_{captured}$ = Total mass of TVH captured by the emission capture system as measured at the inlet to the add-on control device during the emission capture efficiency test run, kg.

$TVH_{uncaptured}$ = Total mass of TVH that is not captured by the emission capture system and that exits from the temporary total enclosure or building enclosure during the capture efficiency test run, kg.

(5) Determine the capture efficiency of the emission capture system as the average of the capture efficiencies measured in the three test runs.

(e) *Alternative capture efficiency protocol.* As an alternative to the procedures specified in paragraphs (c) and (d) of this section, you may determine capture efficiency using any other capture efficiency protocol and test methods that satisfy the criteria of either the DQO or LCL approach as described in appendix A to subpart KK of this part.

§ 63.4965 How do I determine the add-on control device emission destruction or removal efficiency?

You must use the procedures and test methods in this section to determine the add-on control device emission destruction or removal efficiency as part of the performance test required by § 63.4960. You must conduct three test runs as specified in § 63.7(e)(3), and each test run must last at least 1 hour.

(a) For all types of add-on control devices, use the test methods specified in paragraphs (a)(1) through (5) of this section.

(1) Use Method 1 or 1A of appendix A to 40 CFR part 60, as appropriate, to select sampling sites and velocity traverse points.

(2) Use Method 2, 2A, 2C, 2D, 2F, or 2G of appendix A to 40 CFR part 60, as appropriate, to measure gas volumetric flow rate.

(3) Use Method 3, 3A, or 3B of appendix A to 40 CFR part 60, as

appropriate, for gas analysis to determine dry molecular weight. You may also use as an alternative to Method 3B, the manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas in ANSI/ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]" (incorporated by reference, see § 63.14).

(4) Use Method 4 of appendix A to 40 CFR part 60 to determine stack gas moisture.

(5) Methods for determining gas volumetric flow rate, dry molecular weight, and stack gas moisture must be performed, as applicable, during each test run.

(b) Measure total gaseous organic mass emissions as carbon at the inlet and outlet of the add-on control device simultaneously, using either Method 25 or 25A of appendix A to 40 CFR part 60, as specified in paragraphs (b)(1) through (3) of this section. You must use the same method for both the inlet and outlet measurements.

(1) Use Method 25 if the add-on control device is an oxidizer and you expect the total gaseous organic concentration as carbon to be more than 50 parts per million (ppm) at the control device outlet.

(2) Use Method 25A if the add-on control device is an oxidizer and you expect the total gaseous organic concentration as carbon to be 50 ppm or less at the control device outlet.

(3) Use Method 25A if the add-on control device is not an oxidizer.

(c) If two or more add-on control devices are used for the same emission stream, then you must measure emissions at the outlet of each device. For example, if one add-on control device is a concentrator with an outlet for the high-volume, dilute stream that has been treated by the concentrator, and a second add-on control device is an oxidizer with an outlet for the low-volume, concentrated stream that is treated with the oxidizer, you must measure emissions at the outlet of the oxidizer and the high volume dilute stream outlet of the concentrator.

(d) For each test run, determine the total gaseous organic emissions mass flow rates for the inlet and the outlet of the add-on control device, using Equation 1 of this section. If there is more than one inlet or outlet to the add-on control device, you must calculate the total gaseous organic mass flow rate using Equation 1 of this section for each inlet and each outlet and then total all of the inlet emissions and total all of the outlet emissions.

$$M_f = Q_{sd} C_c (12) (0.0416) \left(10^{-6}\right) \qquad \text{(Eq. 1)}$$

Where:

M_f= Total gaseous organic emissions mass flow rate, kg/per hour (h).

Q_{sd}= Volumetric flow rate of gases entering or exiting the add-on control device, as determined by Method 2, 2A, 2C, 2D, 2F, or 2G, dry standard cubic meters/hour (dscm/h).

C_c= Concentration of organic compounds as carbon in the vent gas, as determined by Method 25 or Method 25A, parts per million by volume (ppmv), dry basis.

0.0416 = Conversion factor for molar volume, kg-moles per cubic meter (mol/m^3) (@ 293 Kelvin (K) and 760 millimeters of mercury (mmHg)).

(e) For each test run, determine the add-on control device organic emissions destruction or removal efficiency, using Equation 2 of this section:

$$DRE = \frac{M_{fi} - M_{fo}}{M_{fi}} \qquad \text{(Eq. 2)}$$

Where:

DRE = Organic emissions destruction or removal efficiency of the add-on control device, percent.

M_{fi}= Total gaseous organic emissions mass flow rate at the inlet(s) to the add-on control device, using Equation 1 of this section, kg/h.

M_{fo}= Total gaseous organic emissions mass flow rate at the outlet(s) of the add-on control device, using Equation 1 of this section, kg/h.

(f) Determine the emission destruction or removal efficiency of the add-on control device as the average of the efficiencies determined in the three test runs and calculated in Equation 2 of this section.

§ 63.4966 How do I establish the emission capture system and add-on control device operating limits during the performance test?

During the performance test required by § 63.4960 and described in §§ 63.4963, 63.4964, and 63.4965, you must establish the operating limits required by § 63.4892 according to this section, unless you have received approval for alternative monitoring and operating limits under § 63.8(f) as specified in § 63.4892.

(a) *Thermal oxidizers.* If your add-on control device is a thermal oxidizer, establish the operating limits according to paragraphs (a)(1) and (2) of this section.

(1) During the performance test, you must monitor and record the combustion temperature at least once every 15 minutes during each of the three test runs. You must monitor the temperature in the firebox of the thermal oxidizer or immediately downstream of the firebox before any substantial heat exchange occurs.

(2) Use the data collected during the performance test to calculate and record the average combustion temperature maintained during the performance test. This average combustion temperature is the minimum operating limit for your thermal oxidizer.

(b) *Catalytic oxidizers.* If your add-on control device is a catalytic oxidizer, establish the operating limits according to either paragraphs (b)(1) and (2) or paragraphs (b)(3) and (4) of this section.

(1) During the performance test, you must monitor and record the temperature just before the catalyst bed and the temperature difference across the catalyst bed at least once every 15 minutes during each of the three test runs.

(2) Use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed and the average temperature difference across the catalyst bed maintained during the performance test. These are the minimum operating limits for your catalytic oxidizer.

(3) As an alternative to monitoring the temperature difference across the catalyst bed, you may monitor the temperature at the inlet to the catalyst bed and implement a site-specific inspection and maintenance plan for your catalytic oxidizer as specified in paragraph (b)(4) of this section. During the performance test, you must monitor and record the temperature just before the catalyst bed at least once every 15 minutes during each of the three test runs. Use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed during the performance test. This is the minimum operating limit for your catalytic oxidizer.

(4) You must develop and implement an inspection and maintenance plan for your catalytic oxidizer(s) for which you elect to monitor according to paragraph (b)(3) of this section. The plan must address, at a minimum, the elements specified in paragraphs (b)(4)(i) through (iii) of this section.

(i) Annual sampling and analysis of the catalyst activity (*i.e.*, conversion efficiency) following the manufacturer's or catalyst supplier's recommended procedures.

(ii) Monthly inspection of the oxidizer system, including the burner assembly and fuel supply lines for problems and,

as necessary, adjust the equipment to assure proper air-to-fuel mixtures.

(iii) Annual internal and monthly external visual inspection of the catalyst bed to check for channeling, abrasion, and settling. If problems are found, you must replace the catalyst bed or take corrective action consistent with the manufacturer's recommendations and conduct a new performance test to determine destruction efficiency according to § 63.4965.

(c) *Carbon adsorbers.* If your add-on control device is a carbon adsorber, establish the operating limits according to paragraphs (c)(1) and (2) of this section.

(1) You must monitor and record the total regeneration desorbing gas (*e.g.*, steam or nitrogen) mass flow for each regeneration cycle, and the carbon bed temperature after each carbon bed regeneration and cooling cycle, for the regeneration cycle either immediately preceding or immediately following the performance test.

(2) The operating limits for your carbon adsorber are the minimum total desorbing gas mass flow recorded during the regeneration cycle and the maximum carbon bed temperature recorded after the cooling cycle.

(d) *Condensers.* If your add-on control device is a condenser, establish the operating limits according to paragraphs (d)(1) and (2) of this section.

(1) During the performance test, you must monitor and record the condenser outlet (product side) gas temperature at least once every 15 minutes during each of the three test runs.

(2) Use the data collected during the performance test to calculate and record the average condenser outlet (product side) gas temperature maintained during the performance test. This average condenser outlet gas temperature is the maximum operating limit for your condenser.

(e) *Emission capture system.* For each capture device that is not part of a PTE that meets the criteria of § 63.4964(a), establish an operating limit for either the gas volumetric flow rate or duct static pressure, as specified in paragraphs (e)(1) and (2) of this section. The operating limit for a PTE is specified in Table 1 to this subpart.

(1) During the capture efficiency determination required by § 63.4960 and described in §§ 63.4963 and 63.4964, you must monitor and record either the gas volumetric flow rate or the duct static pressure for each separate capture device in your emission capture system at least once every 15 minutes during each of the three test runs at a point in the duct between the capture device and the add-on control device inlet.

(2) Calculate and record the average gas volumetric flow rate or duct static pressure for the three test runs for each capture device. This average gas volumetric flow rate or duct static pressure is the minimum operating limit for that specific capture device.

(f) *Concentrators.* If your add-on control device includes a concentrator, you must establish operating limits for the concentrator according to paragraphs (f)(1) through (4) of this section.

(1) During the performance test, you must monitor and record the desorption concentrate stream gas temperature at least once every 15 minutes during each of the three runs of the performance test.

(2) Use the data collected during the performance test to calculate and record the average temperature. This is the minimum operating limit for the desorption concentrate gas stream temperature.

(3) During the performance test, you must monitor and record the pressure drop of the dilute stream across the concentrator at least once every 15 minutes during each of the three runs of the performance test.

(4) Use the data collected during the performance test to calculate and record the average pressure drop. This is the maximum operating limit for the dilute stream across the concentrator.

(g) *Bioreactors.* If you are using a bioreactor, you must comply with the provisions for the use of an alternative monitoring method as set forth in 40 CFR 63.8(f).

§ 63.4967 What are the requirements for continuous parameter monitoring system installation, operation, and maintenance?

(a) *General.* You must install, operate, and maintain each CPMS specified in paragraphs (c), (e), and (f) of this section according to paragraphs (a)(1) through (6) of this section. You must install, operate, and maintain each CPMS specified in paragraphs (b) and (d) of this section according to paragraphs (a)(3) through (5) of this section.

(1) The CPMS must complete a minimum of one cycle of operation for each successive 15-minute period. You must have a minimum of four equally spaced successive cycles of CPMS operation in 1 hour.

(2) You must determine the average of all recorded readings for each 3-hour period of the emission capture system and add-on control device operation.

(3) You must record the results of each inspection, calibration, and validation check of the CPMS.

(4) You must maintain the CPMS at all times and have available necessary parts for routine repairs of the monitoring equipment.

(5) You must operate the CPMS and collect emission capture system and add-on control device parameter data at all times that a controlled coating operation is operating, except during monitoring malfunctions, repairs to correct the monitor malfunctions, and required quality assurance or control activities (including, if applicable, calibration checks and required zero and span adjustments).

(6) You must not use emission capture system or add-on control device parameter data recorded during monitoring malfunctions, repairs to correct the monitor malfunctions, out-of-control periods, or required quality assurance or control activities when calculating data averages. You must use all the data collected during all other periods in calculating the data averages for determining compliance with the emission capture system and add-on control device operating limits.

(7) A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the CPMS to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions. Any period for which the monitoring system is out-of-control and data are not available for required calculations is a deviation from the monitoring requirements.

(b) *Capture system bypass line.* You must meet the requirements of paragraphs (b)(1) and (2) of this section for each emission capture system that contains bypass lines that could divert emissions away from the add-on control device to the atmosphere.

(1) You must monitor or secure the valve or closure mechanism controlling the bypass line in a nondiverting position in such a way that the valve or closure mechanism cannot be opened without creating a record that the valve was opened. The method used to monitor or secure the valve or closure mechanism must meet one of the requirements specified in paragraphs (b)(1)(i) through (iv) of this section.

(i) *Flow control position indicator.* Install, calibrate, maintain, and operate according to the manufacturer's specifications a flow control position indicator that takes a reading at least once every 15 minutes and provides a record indicating whether the emissions are directed to the add-on control device or diverted from the add-on control device. The time of occurrence and flow control position must be recorded, as well as every time the flow direction is changed. The flow control position indicator must be installed at the entrance to any bypass line that could

divert the emissions away from the add-on control device to the atmosphere.

(ii) *Car-seal or lock-and-key valve closures.* Secure any bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. You must visually inspect the seal or closure mechanism at least once every month to ensure that the valve is maintained in the closed position, and the emissions are not diverted away from the add-on control device to the atmosphere.

(iii) *Valve closure monitoring.* Ensure that any bypass line valve is in the closed (nondiverting) position through monitoring of valve position at least once every 15 minutes. You must inspect the monitoring system at least once every month to verify that the monitor will indicate valve position.

(iv) *Automatic shutdown system.* Use an automatic shutdown system in which the coating operation is stopped when flow is diverted by the bypass line away from the add-on control device to the atmosphere when the coating operation is running. You must inspect the automatic shutdown system at least once every month to verify that it will detect diversions of flow and shut down the coating operation.

(2) If any bypass line is opened, you must include a description of why the bypass line was opened and the length of time it remained open in the semiannual compliance reports required in § 63.4920.

(c) *Thermal oxidizers and catalytic oxidizers.* If you are using a thermal oxidizer or catalytic oxidizer as an add-on control device (including those used with concentrators or with carbon adsorbers to treat desorbed concentrate streams), you must comply with the requirements in paragraphs (c)(1) through (3) of this section:

(1) For a thermal oxidizer, install a gas temperature monitor in the firebox of the thermal oxidizer or in the duct immediately downstream of the firebox before any substantial heat exchange occurs.

(2) For a catalytic oxidizer, install a gas temperature monitor in the gas stream immediately before the catalyst bed, and if you are establishing operating limits according to § 63.4966(b)(1) and (2), also install a gas temperature monitor in the gas stream immediately after the catalyst bed.

(3) For each gas temperature monitoring device, you must meet the requirements in paragraphs (a) and (c)(3)(i) through (vi) of this section for each gas temperature monitoring device.

(i) Locate the temperature sensor in a position that provides a representative temperature.

(ii) Use a temperature sensor with an accuracy of at least 5 degrees Fahrenheit or 1.0 percent of the temperature value, whichever is larger.

(iii) Perform an initial calibration according to the manufacturer's requirements.

(iv) Before using the sensor for the first time or upon relocation or replacement of the sensor, perform a validation check by comparing the sensor output to a calibrated temperature measurement device or by comparing the sensor output to a simulated temperature.

(v) Conduct an accuracy audit every quarter and after every 24 hour excursion. Accuracy audit methods include comparisons of sensor output to redundant temperature sensors, to calibrated temperature measurement devices, or to temperature simulation devices.

(vi) Conduct a visual inspection of each sensor every quarter if redundant temperature sensors are not used.

(d) *Carbon adsorbers.* If you are using a carbon adsorber as an add-on control device, you must monitor the total regeneration desorbing gas (*e.g.*, steam or nitrogen) mass flow for each regeneration cycle, the carbon bed temperature after each regeneration and cooling cycle, and comply with paragraphs (a)(3) through (5) and (d)(1) through (3) of this section.

(1) The regeneration desorbing gas mass flow monitor must be an integrating device having a measurement sensitivity of plus or minus 10 percent, capable of recording the total regeneration desorbing gas mass flow for each regeneration cycle.

(2) The carbon bed temperature monitor must be capable of recording the temperature within 15 minutes of completing any carbon bed cooling cycle.

(3) For all carbon adsorbers, you must meet the requirements in paragraphs (c)(3)(i) through (vi) of this section for each gas temperature monitoring device.

(e) *Condensers.* If you are using a condenser, you must monitor the condenser outlet (product side) gas temperature and comply with paragraphs (a) and (e)(1) and (2) of this section.

(1) The temperature monitor must provide a gas temperature record at least once every 15 minutes.

(2) For all condensers, you must meet the requirements in paragraphs (c)(3)(i) through (vi) of this section for each gas temperature monitoring device.

(f) *Emission capture systems.* The capture system monitoring system must comply with the applicable requirements in paragraphs (f)(1) and (2) of this section.

(1) For each flow measurement device, you must meet the requirements in paragraphs (a) and (f)(1)(i) through (vii) of this section.

(i) Locate a flow sensor in a position that provides a representative flow measurement in the duct from each capture device in the emission capture system to the add-on control device.

(ii) Use a flow sensor with an accuracy of at least 10 percent of the flow.

(iii) Perform an initial sensor calibration in accordance with the manufacturer's requirements.

(iv) Perform a validation check before initial use or upon relocation or replacement of a sensor. Validation checks include comparison of sensor values with electronic signal simulations or via relative accuracy testing.

(v) Perform accuracy audits every quarter and after every 24 hour excursion. Accuracy audits include comparison of sensor values with electronic signal simulations or with values obtained via relative accuracy testing.

(vi) Perform leak checks monthly.

(vii) Perform visual inspections of the sensor system quarterly if there is no redundant sensor.

(2) For each pressure drop measurement device, you must comply with the requirements in paragraphs (a) and (f)(2)(i) through (vii) of this section.

(i) Locate the pressure sensor(s) in or as close to a position that provides a representative measurement of the pressure drop across each opening you are monitoring.

(ii) Use a pressure sensor with an accuracy of at least 0.5 inches of water column or 5 percent of the measured value, whichever is larger.

(iii) Perform an initial calibration of the sensor according to the manufacturer's requirements.

(iv) Conduct a validation check before initial operation or upon relocation or replacement of the sensor. Validation checks include comparison of the sensor values to calibrated pressure measurement devices or to pressure simulation using calibrated pressure sources.

(v) Conduct accuracy audits every quarter and after every 24 hour excursion. Accuracy audits include comparison of sensor values to calibrated pressure measurement devices or to pressure simulation using calibrated pressure sources.

(vi) Perform monthly leak checks on pressure connections. A pressure of at least 1.0 inches of water column to the

connection must yield a stable sensor result for at least 15 seconds.

(vii) Perform a visual inspection of the sensor at least monthly if there is no redundant sensor.

(g) *Concentrators.* If you are using a concentrator, such as a zeolite wheel or rotary carbon bed concentrator, you must comply with the requirements in paragraphs (a) and (g)(1) and (2) of this section.

(1) You must install a temperature monitor in the desorption gas stream. The temperature monitor must meet the requirements in paragraphs (a) and (c)(3) of this section.

(2) You must install a device to monitor pressure drop across the zeolite wheel or rotary carbon bed. The pressure monitoring device must meet the requirements in paragraphs (a) and (f)(2) of this section.

Other Requirements and Information

§ 63.4980 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. Environmental Protection Agency (EPA), or a delegated authority such as your State, local, or tribal agency. If the Administrator has delegated authority to your State, local, or tribal agency, then that agency (as well as EPA) has the authority to implement and enforce this subpart. You should contact your EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator and are not transferred to the State, local, or tribal agency.

(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) Approval of alternatives to the work practice standards in § 63.4893 under § 63.6(g).

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.4981 What definitions apply to this subpart?

Terms used in this subpart are defined in the CAA, in 40 CFR 63.2, and in this section as follows:

Add-on control means an air pollution control device such as a thermal oxidizer or carbon adsorber that reduces pollution in an air stream by destruction or removal before discharge to the atmosphere.

Adhesive means any chemical substance that is applied for the purpose of bonding two surfaces together.

Capture device means a hood, enclosure, room, floor sweep, or other means of containing or collecting emissions and directing those emissions into an add-on air pollution control device.

Capture efficiency or *capture system efficiency* means the portion (expressed as a percentage) of the pollutants from an emission source that is delivered to an add-on control device.

Capture system means one or more capture devices intended to collect emissions generated by a coating operation in the use of coatings or cleaning materials, both at the point of application and at subsequent points where emissions from the coatings and cleaning materials occur, such as flashoff, drying, or curing. As used in this subpart, multiple capture devices that collect emissions generated by a coating operation are considered a single capture system.

Cleaning material means a solvent used to remove contaminants and other materials, such as dirt, grease, oil, and dried or wet coating (*e.g.*, depainting), from a substrate before or after coating application or from equipment associated with a coating operation, such as spray booths, spray guns, racks, tanks, and hangers. Thus, it includes any cleaning material used on substrates or equipment or both.

Coating means a material applied to a substrate for decorative, protective, or functional purposes. Such materials include, but are not limited to, paints, sealants, caulks, inks, adhesives, and maskants. Decorative, protective, or functional materials that consist only of protective oils for metal, acids, bases, or any combination of these substances are not considered coatings for the purposes of this subpart.

Coating operation means equipment used to apply cleaning materials to a substrate to prepare it for coating application or to remove dried or wet coating (surface preparation); to apply coating to a substrate (coating application) and to dry or cure the coating after application; and to clean coating operation equipment (equipment cleaning). A single coating operation may include any combination of these types of equipment, but always includes at least the point at which a coating or cleaning material is applied and all subsequent points in the affected source where organic HAP emissions from that coating or cleaning material occur. There may be multiple coating operations in an affected source. Coating application with hand-held nonrefillable aerosol containers, touchup markers, or marking pens is not a coating operation for the purposes of this subpart.

Coating solids means the nonvolatile portion of the coating that makes up the dry film.

Continuous parameter monitoring system (CPMS) means the total equipment that may be required to meet the data acquisition and availability requirements of this subpart, used to sample, condition (if applicable), analyze, and provide a record of coating operation, or capture system, or add-on control device parameters.

Controlled coating operation means a coating operation from which some or all of the organic HAP emissions are routed through an emission capture system and add-on control device.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart including, but not limited to, any emission limit, or operating limit, or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limit, or operating limit, or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is allowed by this subpart.

Emission limitation means an emission limit, operating limit, or work practice standard.

Enclosure means a structure that surrounds a source of emissions and captures and directs the emissions to an add-on control device.

Exempt compound means a specific compound that is not considered a VOC due to negligible photochemical reactivity. The exempt compounds are listed in 40 CFR 51.100(s).

Facility maintenance means the routine repair or renovation (including surface coating) of the tools, equipment, machinery, and structures that comprise

the infrastructure of the affected facility and that are necessary for the facility to function in its intended capacity.

Manufacturer's formulation data means data on a material (such as a coating) that are supplied by the material manufacturer based on knowledge of the ingredients used to manufacture that material, rather than based on testing of the material with the test methods specified in § 63.4941(a)(1) through (3). Manufacturer's formulation data may include, but are not limited to, information on density, organic HAP content, volatile organic matter content, and coating solids content.

Mass fraction of coating solids means the ratio of the mass of coating solids to the mass of a coating in which it is contained, expressed as kg of coating solids per kg of coating.

Mass fraction of organic HAP means the ratio of the mass of organic HAP to the mass of a material in which it is contained, expressed as kg of organic HAP per kg of material.

Month means a calendar month or a pre-specified period of 28 days to 35 days to allow for flexibility in recordkeeping when data are based on a business accounting period.

Organic HAP content means the mass of organic HAP per volume of coating solids for a coating, calculated using Equation 2 of § 63.4941. The organic HAP content is determined for the coating in the condition it is in when received from its manufacturer or supplier and does not account for any alteration after receipt.

Permanent total enclosure (PTE) means a permanently installed enclosure that meets the criteria of Method 204 of appendix M, 40 CFR part 51, for a PTE and that directs all the exhaust gases from the enclosure to an add-on control device.

Protective oil means an organic material that is applied to metal for the purpose of providing lubrication or protection from corrosion without forming a solid film. This definition of protective oil includes, but is not limited to, lubricating oils, evaporative oils (including those that evaporate completely), and extrusion oils.

Research or laboratory facility means a facility whose primary purpose is for research and development of new processes and products, that is conducted under the close supervision of technically trained personnel, and is not engaged in the manufacture of final or intermediate products for commercial purposes, except in a *de minimis* manner.

Responsible official means responsible official as defined in 40 CFR 70.2.

Startup, initial means the first time equipment is brought online in a facility.

Surface preparation means use of a cleaning material on a portion of or all of a substrate. This includes use of a cleaning material to remove dried coating, which is sometimes called "depainting" or "paint stripping," for the purpose of preparing a substrate for coating application.

Temporary total enclosure means an enclosure constructed for the purpose of measuring the capture efficiency of pollutants emitted from a given source as defined in Method 204 of appendix M, 40 CFR part 51.

Thinner means an organic solvent that is added to a coating after the coating is received from the supplier.

Total volatile hydrocarbon (TVH) means the total amount of nonaqueous volatile organic matter determined according to Methods 204 and 204A through 204F of appendix M to 40 CFR part 51 and substituting the term TVH each place in the methods where the term VOC is used. The TVH includes both VOC and non-VOC.

Uncontrolled coating operation means a coating operation from which none of the organic HAP emissions are routed through an emission capture system and add-on control device.

Volatile organic compound (VOC) means any compound defined as VOC in 40 CFR 51.100(s).

Volume fraction of coating solids means the ratio of the volume of coating solids (also known as volume of nonvolatiles) to the volume of coating, expressed as liters of coating solids per liter of coating.

Wastewater means water that is generated in a coating operation and is collected, stored, or treated prior to being discarded or discharged.

Tables to Subpart RRRR of Part 63

TABLE 1 TO SUBPART RRRR OF PART 63.—OPERATING LIMITS IF USING THE EMISSION RATE WITH ADD-ON CONTROLS OPTION

[If you are required to comply with operating limits by § 63.4892, you must comply with the applicable operating limits in the following table:]

For the following device . . .	you must meet the following operating limit . . .	and you must demonstrate continuous compliance with the operating limit by . . .
1. thermal oxidizer	a. the average combustion temperature in any 3-hour period must not fall below the combustion temperature limit established according to § 63.4966(a).	i. collecting the combustion temperature data according to § 63.4967(c); ii. reducing the data to 3-hour block averages; and iii. maintaining the 3-hour average combustion temperature at or above the temperature limit.
2. catalytic oxidizer	a. the average temperature measured just before the catalyst bed in any 3-hour period must not fall below the limit established according to § 63.4966(b); and either	i. collecting the temperature data according to § 63.4967(c); ii. reducing the data to 3-hour block averages; and iii. maintaining the 3-hour average temperature before the catalyst bed at or above the temperature limit.
	b. ensure that the average temperature difference across the catalyst bed in any 3-hour period does not fall below the temperature difference limit established according to § 63.4966(b), or	i. collecting the temperature data according to § 63.4967(c); ii. reducing the data to 3-hour block averages; and iii. maintaining the 3-hour average temperature difference at or above the temperature difference limit.

TABLE 1 TO SUBPART RRRR OF PART 63.—OPERATING LIMITS IF USING THE EMISSION RATE WITH ADD-ON CONTROLS OPTION—Continued

[If you are required to comply with operating limits by §63.4892, you must comply with the applicable operating limits in the following table:]

For the following device . . .	you must meet the following operating limit . . .	and you must demonstrate continuous compliance with the operating limit by . . .
	c. develop and implement an inspection and maintenance plan according to §63.4966(b)(3) and (4).	i. maintaining an up-to-date inspection and maintenance plan, records of annual catalyst activity checks, records of monthly inspections of the oxidizer system, and records of the annual internal inspections of the catalyst bed. If a problem is discovered during a monthly or annual inspection required by §63.4966(b)(4), you must take corrective action as soon as practicable consistent with the manufacturer's recommendations.
3. carbon adsorber	a. the total regeneration desorbing gas (*e.g.*, steam or nitrogen) mass flow for each carbon bed regeneration cycle must not fall below the total regeneration desorbing gas mass flow limit established according to §63.4966(c).	i. measuring the total regeneration desorbing gas (*e.g.*, steam or nitrogen) mass flow for each regeneration cycle according §63.4967(d); and ii. maintaining the total regeneration desorbing gas mass flow at or above the mass flow limit.
	b. the temperature of the carbon bed after completing each regeneration and any cooling cycle must not exceed the carbon bed temperature limit established according to §63.4966(c).	i. measuring the temperature of the carbon bed after completing each regeneration and any cooling cycle according to §63.4967(d); and ii. operating the carbon beds such that each carbon bed is not returned to service until completing each regeneration and any cooling cycle until the recorded temperature of the carbon bed is at or below the temperature limit.
4. condenser	a. the average condenser outlet (product side) gas temperature in any 3-hour period must not exceed the temperature limit established according to §63.4966(d).	i. collecting the condenser outlet (product side) gas temperature according to §63.4967(e); ii. reducing the data to 3-hour block averages; and iii. maintaining the 3-hour average gas temperature at the outlet at or below the temperature limit.
5. emission capture system that is a PTE according to §63.4964(a).	a. the direction of the air flow at all times must be into the enclosure; and either	i. collecting the direction of air flow, and either the facial velocity of air through all natural draft openings according to §63.4967(f)(1) or the pressure drop across the enclosure according to §63.4967(f)(2); and ii. maintaining the facial velocity of air flow through all natural draft openings or the pressure drop at or above the facial velocity limit or pressure drop limit, and maintaining the direction of air flow into the enclosure at all times.
	b. the average facial velocity of air through all natural draft openings in the enclosure must be at least 200 feet per minute; or	i. collecting the direction of air flow, and either the facial velocity of air through all natural draft openings according to §63.4967(f)(1) or the pressure drop across the enclosure according to §63.4967(f)(2); and ii. maintaining the facial velocity of air flow through all natural draft openings or the pressure drop at or above the facial velocity limit or pressure drop limit, and maintaining the direction of air flow into the enclosure at all times.
	c. the pressure drop across the enclosure must be at least 0.007 inch H_2O, as established in Method 204 of appendix M to 40 CFR part 51.	i. collecting the direction of air flow, and either the facial velocity of air through all natural draft openings according to §63.4967(f)(1) or the pressure drop across the enclosure according to §63.4967(f)(2); and ii. maintaining the facial velocity of air flow through all natural draft openings or the pressure drop at or above the facial velocity limit or pressure drop limit, and maintaining the direction of air flow into the enclosure at all times.
6. emission capture system that is not a PTE according to §63.4964(a).	a. the average gas volumetric flow rate or duct static pressure in each duct between a capture device and add-on control device inlet in any 3-hour period must not fall below the average volumetric flow rate or duct static pressure limit established for that capture device according to §63.4966(e).	i. collecting the gas volumetric flow rate or duct static pressure for each capture device according to §63.4967(f); ii. reducing the data to 3-hour block averages; and iii. maintaining the 3-hour average gas volumetric flow rate or duct static pressure for each capture device at or above the gas volumetric flow rate or duct static pressure limit.

TABLE 1 TO SUBPART RRRR OF PART 63.—OPERATING LIMITS IF USING THE EMISSION RATE WITH ADD-ON CONTROLS OPTION—Continued

[If you are required to comply with operating limits by §63.4892, you must comply with the applicable operating limits in the following table:]

For the following device . . .	you must meet the following operating limit . . .	and you must demonstrate continuous compliance with the operating limit by . . .
7. concentrators, including zeolite wheels and rotary carbon adsorbers.	a. the average gas temperature of the desorption concentrate stream in any 3-hour period must not fall below the limit established according to §63.4966(f).	i. collecting the temperature data according to §63.4967(g); ii. reducing the data to 3-hour block averages; and iii. maintaining the 3-hour average temperature at or above the temperature limit.
	b. the average pressure drop of the dilute stream across the concentrator in any 3-hour period must not fall below the limit established according to §63.4966(f).	i. collecting the pressure drop data according to §63.4967(g); ii. reducing the pressure drop data to 3-hour block averages; and iii. maintaining the 3-hour average pressure drop at or above the pressure drop
8. bioreactor systems	a. the use of an alternative monitoring method as set forth in §63.8(f)	

TABLE 2 TO SUBPART RRRR OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART RRRR

[You must comply with the applicable General Provisions requirements according to the following table:]

Citation	Subject	Applicable to subpart	Explanation
§63.1(a)(1)–(14)	General Applicability	Yes.	
§63.1(b)(1)–(3)	Initial Applicability Determination	Yes	Applicability to subpart RRRR is also specified in §63.4881.
§63.1(c)(1)	Applicability After Standard Established	Yes.	
§63.1(c)(2)–(3)	Applicability of Permit Program for Area Sources.	No	Area sources are not subject to subpart RRRR.
§63.1(c)(4)–(5)	Extensions and Notifications	Yes.	
§63.1(e)	Applicability of Permit Program Before Relevant Standard is Set.	Yes.	
§63.2	Definitions	Yes	Additional definitions are specified in §63.4981.
§63.3(a)–(c)	Units and Abbreviations	Yes.	
§63.4(a)(1)–(5)	Prohibited Activities	Yes.	
§63.4(b)–(c)	Circumvention/Severability	Yes.	
§63.5(a)	Construction/Reconstruction	Yes.	
§63.5(b)(1)–(6)	Requirements for Existing, Newly Constructed, and Reconstructed Sources.	Yes.	
§63.5(d)	Application for Approval of Construction/Reconstruction.	Yes.	
§63.5(e)	Approval of Construction/Reconstruction	Yes.	
§63.5(f)	Approval of Construction/Reconstruction Based on Prior State Review.	Yes.	
§63.6(a)	Compliance With Standards and Maintenance Requirements—Applicability.	Yes.	
§63.6(b)(1)–(7)	Compliance Dates for New and Reconstructed Sources.	Yes	Section 63.4883 specifies the compliance dates.
§63.6(c)(1)–(5)	Compliance Dates for Existing Sources	Yes	Section 63.4883 specifies the compliance dates.
§63.6(e)(1)–(2)	Operation and Maintenance	Yes.	
§63.6(e)(3)	SSMP	Yes	Only sources using an add-on control device to comply with the standard must complete SSMP.
§63.6(f)(1)	Compliance Except During Startup, Shutdown, and Malfunction.	Yes	Applies only to sources using an add-on control device to comply with the standards.
§63.6(f)(2)–(3)	Methods for Determining Compliance	Yes.	
§63.6(g)(1)–(3)	Use of Alternative Standards	Yes.	
§63.6(h)	Compliance With Opacity/Visible Emission Standards.	No	Subpart RRRR does not establish opacity standards and does not require continuous opacity monitoring systems (COMS).
§63.6(i)(1)–(16)	Extension of Compliance	Yes.	
§63.6(j)	Presidential Compliance Exemption	Yes.	
§63.7(a)(1)	Performance Test Requirements—Applicability	Yes	Applies to all affected sources using an add-on control device to comply with the standards. Additional requirements for performance testing are specified in §§63.4963, 63.4964, and 63.4965.

TABLE 2 TO SUBPART RRRR OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART RRRR—Continued

[You must comply with the applicable General Provisions requirements according to the following table:]

Citation	Subject	Applicable to subpart	Explanation
§63.7(a)(2)	Performance Test Requirements—Dates	Yes	Applies only to performance tests for capture system and control device efficiency at sources using these to comply with the standards. Section 63.4960 specifies the schedule for performance test requirements that are earlier than those specified in §63.7(a)(2).
§63.7(a)(3)	Performance Tests Required by the Administrator.	Yes.	
§63.7(b)–(e)	Performance Test Requirements—Notification, Quality Assurance, Facilities Necessary Safe Testing, Conditions During Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standards.
§63.7(f)	Performance Test Requirements—Use of Alternative Test Method.	Yes	Applies to all test methods except those used to determine capture system efficiency.
§63.7(g)–(h)	Performance Test Requirements—Data Analysis, Recordkeeping, Reporting, Waiver of Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standards.
§63.8(a)(1)–(3)	Monitoring Requirements—Applicability	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standards. Additional requirements for monitoring are specified in §63.4967.
§63.8(a)(4)	Additional Monitoring Requirements	No	Subpart RRRR does not have monitoring requirements for flares.
§63.8(b)	Conduct of Monitoring	Yes.	
§63.8(c)(1)–(3)	Continuous Monitoring System (CMS) Operation and Maintenance.	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standards. Additional requirements for CMS operations and maintenance are specified in §63.4967.
§63.8(c)(4)	CMS	No	Section 63.4967 specifies the requirements for the operation of CMS for capture systems and add-on control devices at sources using these to comply.
§63.8(c)(5)	COMS	No	Subpart RRRR does not have opacity or visible emissions standards.
§63.8(c)(6)	CMS Requirements	No	Section 63.4967 specifies the requirements for monitoring systems for capture systems and add-on control devices at sources using these to comply.
§63.8(c)(7)	COS Out-of-Control Periods	Yes.	
§63.8(c)(8)	CMS Out-of-Control Periods Reporting	No	Section 63.4920 requires reporting of CMS out-of-control periods.
§63.8(d)–(e)	Quality Control Program and CMS Performance Evaluation.	No	Subpart RRRR does not require the use of continuous emissions monitoring systems.
§63.8(f)(1)–(5)	Use of an Alternative Monitoring Method	Yes.	
§63.8(f)(6)	Alternative to Relative Accuracy Test	No	Subpart RRRR does not require the use of continuous emissions monitoring systems.
§63.8(g)(1)–(5)	Data Reduction	No	Sections 63.4966 and 63.4967 specify monitoring data reduction.
§63.9(a)–(d)	Notification Requirements	Yes.	
§63.9(e)	Notification of Performance Test	Yes	Applies only to capture system and add-on control device performance tests at sources using these to comply with the standards.
§63.9(f)	Notification of Visible Emissions/Opacity Test	No	Subpart RRRR does not have opacity or visible emission standards.
§63.9(g)(1)–(3)	Additional Notifications When Using CMS	No	Subpart RRRR does not require the use of continuous emissions monitoring systems.
63.9(h)	Notification of Compliance Status	Yes	Section 63.4910 specifies the dates for submitting the notification of compliance status.
§63.9(i)	Adjustment of Submittal Deadlines	Yes.	
§63.9(j)	Change in Previous Information	Yes.	
§63.10(a)	Recordkeeping/Reporting—Applicability and General Information.	Yes.	
§63.10(b)(1)	General Recordkeeping Requirements	Yes	Additional requirements are specified in §§63.4930 and 63.4931.

TABLE 2 TO SUBPART RRRR OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART RRRR—Continued

[You must comply with the applicable General Provisions requirements according to the following table:]

Citation	Subject	Applicable to subpart	Explanation
§63.10(b)(2)(i)–(v)	Recordkeeping Relevant to Startup, Shutdown, and Malfunction Periods and CMS.	Yes	Requirements for Startup, Shutdown, and Malfunction records only apply to add-on control devices used to comply with the standards.
§63.10(b)(2)(vi)–(xi)		Yes.	
§63.10(b)(2)(xii)	Records	Yes.	
§63.10(b)(2)(xiii)		No	Subpart RRRR does not require the use of continuous emissions monitoring systems.
§63.10(b)(2)(xiv)		Yes.	
§63.10(b)(3)	Recordkeeping Requirements for Applicability Determinations.	Yes.	
§63.10(c)(1)–(6)	Additional Recordkeeping Requirements for Sources with CMS.	Yes.	
§63.10(c)(7)–(8)		No	The same records are required in §63.4920(a)(7).
§63.10(c)(9)–(15)		Yes.	
§63.10(d)(1)	General Reporting Requirements	Yes	Additional requirements are specified in §63.4920.
§63.10(d)(2)	Report of Performance Test Results	Yes	Additional requirements are specified in §63.4920(b).
§63.10(d)(3)	Reporting Opacity or Visible Emissions Observations.	No	Subpart RRRR does not require opacity or visible emissions observations.
§63.10(d)(4)	Progress Reports for Sources With Compliance Extensions.	Yes.	
§63.10(d)(5)	Startup, Shutdown, and Malfunction Reports	Yes	Applies only to add-on control devices at sources using these to comply with the standards.
§63.10(e)(1)–(2)	Additional CMS Reports	No	Subpart RRRR does not require the use of continuous emissions monitoring systems.
§63.10(e)(3)	Excess Emissions/CMS Performance Reports	No	Section 63.4920(b) specifies the contents of periodic compliance reports.
§63.10(e)(4)	COMS Data Reports	No	Subpart RRRR does not specify requirements for opacity or COMS.
§63.10(f)	Recordkeeping/Reporting Waiver	Yes.	
§63.11	Control Device Requirements/Flares	No	Subpart RRRR does not specify use of flares for compliance.
§63.12	State Authority and Delegations	Yes	
§63.13	Addresses	Yes.	
§63.14	Incorporation by Reference	Yes.	
§63.15	Availability of Information/Confidentiality	Yes.	

TABLE 3 TO SUBPART RRRR OF PART 63.—DEFAULT ORGANIC HAP MASS FRACTION FOR SOLVENTS AND SOLVENT BLENDS

[You may use the mass fraction values in the following table for solvent blends for which you do not have test data or manufacturer's formulation data:]

Solvent/Solvent blend	CAS. No.	Average organic HAP mass fraction	Typical organic HAP, percent by mass
1. Toluene	108–88–3	1.0	Toluene.
2. Xylene(s)	1330–20–7	1.0	Xylenes, ethylbenzene.
3. Hexane	110–54–3	0.5	n-hexane.
4. n-Hexane	110–54–3	1.0	n-hexane.
5. Ethylbenzene	100–41–4	1.0	Ethylbenzene.
6. Aliphatic 140		0	None.
7. Aromatic 100		0.02	1% xylene, 1% cumene.
8. Aromatic 150		0.09	Naphthalene.
9. Aromatic naphtha	64742–95–6	0.02	1% xylene, 1% cumene.
10. Aromatic solvent	64742–94–5	0.1	Naphthalene.
11. Exempt mineral spirits	8032–32–4	0	None.
12. Ligroines (VM & P)	8032–32–4	0	None.
13. Lactol spirits	64742–89–6	0.15	Toluene.
14. Low aromatic white spirit	64742–82–1	0	None.
15. Mineral spirits	64742–88–7	0.01	Xylenes.
16. Hydrotreated naphtha	64742–48–9	0	None.
17. Hydrotreated light distillate	64742–47–8	0.001	Toluene.
18. Stoddard solvent	8052–41–3	0.01	Xylenes.
19. Super high-flash naphtha	64742–95–6	0.05	Xylenes.

TABLE 3 TO SUBPART RRRR OF PART 63.—DEFAULT ORGANIC HAP MASS FRACTION FOR SOLVENTS AND SOLVENT BLENDS—Continued

[You may use the mass fraction values in the following table for solvent blends for which you do not have test data or manufacturer's formulation data:]

Solvent/Solvent blend	CAS. No.	Average organic HAP mass fraction	Typical organic HAP, percent by mass
20. Varsol® solvent	8052–49–3	0.01	0.5% xylenes, 0.5% ethyl benzene.
21. VM & P naphtha	64742–89–8	0.06	3% toluene, 3% xylene.
22. Petroleum distillate mixture	68477–31–6	0.08	4% naphthalene, 4% biphenyl.

TABLE 4 TO SUBPART RRRR OF PART 63.—DEFAULT ORGANIC HAP MASS FRACTION FOR PETROLEUM SOLVENT GROUPS [1]

[You May Use the Mass Fraction Values in the Following Fable for Solvent Blends for Which You Do Not Have Test Data or Manufacturer's Formulation Data:]

Solvent type	Average organic HAP mass fraction	Typical organic percent HAP, by mass
Aliphatic [2]	0.03	1% Xylene, 1% Toluene, and 1% Ethylbenzene.
Aromatic [3]	0.06	4% Xylene, 1% Toluene, and 1% Ethylbenzene.

[1] Use this table only if the solvent blend does not match any of the solvent blends in Table 3 to this subpart and you only know whether the blend is aliphatic or aromatic.

[2] E.g., Mineral Spirits 135, Mineral Spirits 150 EC, Naphtha, Mixed Hydrocarbon, Aliphatic Hydrocarbon, Aliphatic Naphtha, Naphthol Spirits, Petroleum Spirits, Petroleum Oil, Petroleum Naphtha, Solvent Naphtha, Solvent Blend.

[3] E.g., Medium-flash Naphtha, High-flash Naphtha, Aromatic Naphtha, Light Aromatic Naphtha, Light Aromatic Hydrocarbons, Aromatic Hydrocarbons, Light Aromatic Solvent.

[FR Doc. 03–5623 Filed 5–22–03; 8:45 am]

BILLING CODE 6560–50–P

Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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 by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it 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 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

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. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a 111(d)/129 plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a 111(d)/129 plan submission, to use VCS in place of a 111(d)/129 plan submission that otherwise satisfies the provisions of the Clean Air Act. 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. 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.*).

B. Submission to Congress and the Comptroller General

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 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

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 July 28, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 approving the section 111(d)/129 negative declaration submitted by the West Virginia Department of Environmental Protection, Division of Air Quality, 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, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfur acid plants, Waste treatment and disposal.

Dated: April 30, 2003.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 62, subpart XX, 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 XX—West Virginia

■ 2. Subpart XX is amended by adding an undesignated center heading and § 62.12160 to read as follows:

Emissions From Existing Small Municipal Waste Combustion Units

§ 62.12160 Identification of plan—negative declaration.

Letter from the West Virginia Department of Environmental Protection, Division of Air Quality, submitted July 3, 2001, certifying that there are no existing small municipal waste combustion units within the State of West Virginia that are subject to 40 CFR part 60, subpart BBBB.

[FR Doc. 03–13176 Filed 5–23–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0040, FRL–7461–4]

RIN 2060–A174

National Emission Standards for Hazardous Air Pollutants: Engine Test Cells/Stands

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for engine test cells/stands. We have identified engine test cells/stands as major sources of hazardous air pollutants (HAP) such as toluene, benzene, mixed xylenes, and 1,3-butadiene. The final NESHAP will implement section 112(d) of the Clean Air Act (CAA), which requires all major sources of HAP to meet emission standards reflecting the application of the maximum achievable control technology (MACT). The final NESHAP will protect public health by reducing exposure to air pollution.

EFFECTIVE DATE: The final rule is effective May 27, 2003. The incorporation by reference of certain publications listed in today's final rule is approved by the Director of the Office of the Federal Register as of May 27, 2003.

ADDRESSES: Docket No. OAR–2002–0040 contains supporting documentation used in developing the final rule. The docket is located at the Air and Radiation Docket and Information Center in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC and may be inspected from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Jaime Pagán, Combustion Group, Emission Standards Division (C439–01), U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541–5340; facsimile number (919) 541–0942; electronic mail (e-mail) address *pagan.jaime@epa.gov*.

SUPPLEMENTARY INFORMATION:

Regulated Entities. Subcategories and entities potentially regulated by this action include those listed in Table 1 of this preamble. In general, engine test cells/stands are covered under the Standard Industrial Classification (SIC) and North American Industrial Classification System (NAICS) codes listed in Table 1 of this preamble. However, cells/stands classified under other SIC or NAICS codes may be subject to the final standards if they meet the applicability criteria. Not all cells/stands classified under the SIC and NAICS codes in Table 1 of this preamble will be subject to the final standards because some of the classifications cover products outside the scope of the final NESHAP for engine test cells/stands.

TABLE 1.—SUBCATEGORIES POTENTIALLY REGULATED BY THE NESHAP FOR ENGINE TEST CELLS/STANDS

Test cells/stands used for testing	SIC codes	NAICS codes
Internal Combustion Engines with rated power of 25 horsepower (hp) (19 kilowatts [kW]) or more.	3531, 3519, 3523, 3559, 3599, 3621, 3711, 3714, 4226, 4512, 5541, 7538, 7539, 8299, 8711, 8731, 8734, 8741.	333120, 333618, 333111, 333319, 335312, 336111, 336120, 336112, 336992, 336312, 336350, 481111, 811111, 811118, 611692, 54171, 541380.
Internal Combustion Engines with rated power of less than 25 hp (19 kW).	3519, 3621, 3524, 8734	333618, 336399, 335312, 332212, 333112, 541380.
Combustion Turbine Engines	3511, 3566, 3721, 3724, 4512, 4581, 7699, 9661.	333611, 333612, 336411, 336412, 481111, 488190, 811310, 811411, 92711.
Rocket Engines	3724, 3761, 3764, 9661, 9711	336412, 336414, 336415, 54171, 92711, 92811

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 test cell/stand is regulated by this action, you should examine the applicability criteria in § 63.9285 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.

Electronic Docket (E-Docket). The EPA has established an official public docket for this action under Docket ID No. OAR–2002–0040. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center (Air Docket), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC 20460. The Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742. A reasonable fee may be charged for copying docket materials.

Electronic Access. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, select "search" and key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as confidential business information and other information whose disclosure is restricted by statute, which are not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. The EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in this document.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's document also will be available on the WWW. Following the Administrator's signature, a copy of this action will be posted at *http://www.epa.gov/ttn/oarpg* on EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of the final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by July 28, 2003. 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 public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by the final rule may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce the requirements.

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

I. Background
A. What is the Source of Authority for Development of NESHAP?
B. What Criteria Did We Use in the Development of the NESHAP?
II. What Changes and Clarifications Have We Made to the Proposed Standards?
A. Applicability
B. Affected Source
C. Compliance Dates
D. Reconstruction

E. New Source MACT
F. Monitoring Requirements
G. Cost and Economic Assumptions and Impacts
H. Startup, Shutdown, and Malfunction (SSM)
I. Emissions Averaging
J. Miscellaneous
III. What are the Final Standards?
A. What is the Source Category?
B. What is the Affected Source?
C. What are the Emission Limits?
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F. What are the Notification, Recordkeeping, and Reporting Requirements?
IV. What are the Environmental, Energy, Cost, and Economic Impacts?
A. What are the Air Impacts?
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V. Statutory and Executive Order Reviews
A. Executive Order 12866, Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132, Federalism
F. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045, Protection of Children from Environmental Health and Safety Risks
H. Executive Order 13211, Actions that Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Congressional Review Act

I. Background

A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. Engine test facilities were listed as a source category under the fuel combustion industry group, and rocket engine test firing was listed as a source category under the miscellaneous processes industry group in the **Federal Register** on July 16, 1992 (57 FR 31576). These two source categories were combined and renamed engine test cells/stands in the **Federal Register** on May 14, 2002 (67 FR 34547). Major sources of HAP are those that have the potential to emit greater than 10 tons per year (tpy) of any one HAP or 25 tpy of any combination of HAP.

B. What Criteria Did We Use in the Development of the NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better controlled and lower emitting sources in each source category or subcategory. For new sources, the MACT standards cannot be less stringent than the emission control that is achieved in practice by the best controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best performing 12 percent of existing sources in the category or subcategory (or the best performing 5 sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

II. What Changes and Clarifications Have We Made to the Proposed Standards?

In response to the public comments received on the proposed standards, we made several changes in developing the final rule. Some of the comments and our responses and rule changes are summarized in the following sections. The complete summary of comments and responses can be found in the Response to Comments document, which is available from several sources (*see* **SUPPLEMENTARY INFORMATION** section).

A. Applicability

The final rule applies to an owner or operator of engine test cells/stands located at major sources of HAP emissions. An engine test cell/stand is any apparatus used for testing uninstalled stationary or uninstalled mobile (motive) engines. Because the proposed rule did not include a definition of uninstalled engine, many commenters requested clarification of uninstalled engine versus installed engine testing in regards to determining applicability of the final rule.

The final rule clarifies this applicability issue. The final rule regulates the testing of engines, not the testing of any final product (*e.g.*, automobile, boat, power generator, etc.). If the engine being tested in a test cell/stand is not installed in, or an integrated part of, the final product, then the test cell/stand is considered part of the affected source.

This new clarification for uninstalled also clarifies the applicability of testing outboard motors. One of the comments specifically stated that outboard motors operated while detached from a boat should not be considered uninstalled, since "the engine remains coupled to lower unit gear drive and propeller without modification to its vessel-installed configuration."

In the final rule, outboard motors are considered installed when the engine is coupled with the gear drive and propeller. Therefore, a facility with engine testing involving outboard motors, in their vessel-installed configuration, is not an affected source.

Another comment stated that large diesel engines used in locomotives must drive a load in order to be accurately tested. The facility captures the work produced by the engine by driving a generator to provide the load and utilizes the electric power. The commenter wanted to assure that this type of engine testing situation also would not fall into a source category pertaining to power production. We agree with the comment and clarify that the only applicable source category for engine test cells/stands that utilize incidentally produced power is the Engine Test Cells/Stands NESHAP.

Two other comments prompted specific applicability exclusions. One comment from the petroleum refinery industry stated that the engine test cells/stands NESHAP should not apply to petroleum refinery industry sources using knock engine testing. Because knock engines and other devices used for testing fuels and lubricants at refineries do not test the engine per se but instead test the fuels and lubricants for product quality and development purposes, these engines are not covered. The final rule specifically excludes test cells that are operated to test or evaluate fuels (such as knock engines), transmissions, electronics, etc.

Another comment involved universities with aviation programs using engine test stands for education purposes. The final rule specifically excludes research and teaching activities at major source facilities that are not engaged in the development of

engines or engine test services for commercial purposes.

B. Affected Source

There were several comments requesting that the definition of affected source be revised to include all engine test cells/stands located at a major source. One commenter added that test cells/stands are typically grouped within a common building, often sharing common manifolds.

The proposed rule defined the affected source as any existing, new, or reconstructed engine test cell/stand used for testing uninstalled stationary or uninstalled mobile (motive) engines that is located at a major source of HAP emissions.

The final rule includes a revised definition of affected source in accordance with the rationale in the amended General Provisions (67 FR 16582): "A broader definition of affected source permits emission requirements to apply to a larger group of processes, activities and equipment, and may thereby facilitate more innovative and economically efficient control strategies." (67 FR 16588). The final rule defines an affected source as the collection of all equipment and activities associated with engine test cells/stands used for testing uninstalled stationary or uninstalled mobile (motive) engines located at a major source of HAP emissions.

C. Compliance Dates

Three commenters noted a discrepancy between the language in the proposed preamble and the proposed rule concerning the compliance date.

An inadvertent error in the proposal preamble language was made. The proposal regulatory text was correct. The final rule clarifies the compliance date for existing sources as 3 years after the effective (promulgation) date, and the compliance date for new sources as the effective date or upon startup, whichever is later.

D. Reconstruction

One commenter specifically stated that movement or relocation of portable test stands within a facility should not be considered reconstruction. We do not consider movement or relocation of portable test stands (or related equipment) within a facility to be reconstruction. The revised definition of affected source in the final rule also addresses this issue.

Three commenters had ideas for specific activities to exclude from a reconstruction determination. Two commenters recommended that EPA include a modified definition of reconstruction in the final rule that would add to the General Provisions definition in 40 CFR 63.2 an exclusion for the cost of replacement or modification of components required to demonstrate compliance with EPA's emission regulations contained in 40 CFR parts 89, 90, and 91. The commenter stated that manufacturers may be forced by regulation to invest in new equipment for test cells and fall under the definition of reconstruction in order to comply with new EPA engine requirements, even though such improvements will not change the capacity or emissions from the cell. A specific definition of reconstruction needs to be applied to engine test cells that only counts costs incurred to increase capacity or if the modification results in increased HAP emissions. The commenter further stated that EPA has previously recognized this problem and adopted a reasonable approach in the final Large Municipal Waste Combustor rule (40 CFR 60.50a(f) and 60.50b(d)), and that the same reasoning could be applied to engine test cells. Another commenter specifically recommended that EPA exclude passive measurement and control instrumentation and electronics from inclusion in a reconstruction evaluation.

According to the recently amended General Provisions, the definition of affected source states, "Reconstruction, unless otherwise defined in a relevant standard, means the replacement of components of an affected or previously nonaffected source to such an extent that:

(1) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable new source; and

(2) It is technologically and economically feasible for the reconstructed source to meet the relevant standard(s) established by the Administrator (or a State) pursuant to section 112 of the CAA. Upon reconstruction, an affected source, or a stationary source that becomes an affected source, is subject to relevant standards for new sources, including compliance dates, irrespective of any change in emissions of HAP from that source."

Because of the diversity of engine test cells/stands and test requirements used by the various types of engine manufacturers and industry sectors, it is difficult to define what types of test equipment and support equipment comprise a new affected source (*e.g.* actual engine test cell/stand) or reconstructed affected source. We cannot limit or define reconstruction to include only those changes that will increase capacity or HAP emissions associated with the engine test cell/stand because there is no way of knowing how the engine test cell/stand will be used in the future. However, we do not consider equipment reconfiguration to be reconstruction.

The regulations for Large Municipal Waste Combustors in 40 CFR 60.50a(f) and 60.50b(d) establish that physical or operational changes made to an existing unit primarily for the purpose of complying with emission guidelines under subpart Cb are not considered a modification or reconstruction. We recognize the precedent set by these provisions with respect to the exclusion of costs for required regulatory modifications to comply with other EPA regulations. We have reviewed the regulatory language in these regulations and conclude that it is appropriate to provide a similar level of flexibility to engine test cells/stands. In response to these comments, the final rule includes new language clarifying that changes made to an existing affected source primarily for the purpose of complying with revisions to engine testing requirements under 40 CFR parts 80, 86, 89, 90, 91, or 92 are not considered a modification or reconstruction. We agree with the commenter that it is appropriate to exclude existing engine test cells that are modified to meet revisions under Title 40 provisions. We believe that it is unnecessary to require these existing test cells to install emission control devices when modifications are due to changes to the federal mobile source regulations and since those improvements will not increase the capacity or the emissions from the test cell/stand. Therefore, those affected sources modified to meet revisions to requirements in those parts and subparts will not be subject to new source MACT.

The final rule also includes language that excludes passive measurement and control instrumentation and electronics from the reconstruction evaluation.

E. New Source MACT

Several commenters stated the proposed new source emissions limits (99.9 percent carbon monoxide (CO) emission reduction or 5 parts per million by volume CO outlet concentration) were too stringent or not attainable. The commenters further stated that the limits should reflect real world applications.

In the proposed rule, EPA used the best information available at the time to determine MACT for both new and existing sources. The EPA reviewed the additional test data submitted during

the comment period, as well as the various comments describing test conditions that are significantly different from those used in previously submitted test reports. The EPA also evaluated other rules requiring similar combustion control equipment. The Paper and Other Web Coating NESHAP, subpart JJJJ, has an option of meeting overall emissions reductions of 98 percent. This destruction efficiency achieved through thermal oxidation was generally accepted as the "level of control achievable on a continuous basis under all normal operating conditions applicable to new sources." Therefore, for that particular source category (which involves coatings and cleaning solvents), EPA determined that thermal oxidation was the best control technology and justified setting the emission limits for thermal oxidizers at 98 percent control efficiency or, alternatively, achieving an outlet concentration of 20 parts per million or less.

With this control technology limit in mind, EPA compared the two source categories for similarities and/or differences that could lead to a comparable level of destruction efficiency for engine test cells/stands. Coating operations covered by the Paper and Other Web Coating NESHAP contain large concentrations of solvents that are easily removed through thermal oxidation. Engine testing by-products, on the other hand, are the result (by-products) of an incomplete combustion process, and HAP are typically emitted in significantly lower concentrations than surface coating and solvent cleaning emissions. As noted by the commenters, there are a variety of fuels and test conditions used at different sources for several types of engine tests. (A summary of the submitted test reports and emissions data is included in the docket.) In reviewing the test data submitted by the commenters, we found that even though some of the test reports showed very high destruction efficiencies for thermal oxidizers, the best controlled facilities were only being required to meet 95 percent or 96 percent control volatile organic compounds (VOC), based on their operating permit requirements. These levels of control take into consideration differences in operating conditions for engine test cells/stands. After reviewing the comments and information submitted, we conclude that a maximum control level of 96 percent is appropriate once we consider the differences in HAP emission levels from engines tested, the testing conditions, and also the need to account for measurement uncertainties. We also conclude that increased compliance flexibility will result from the use of total hydrocarbons (THC) (in addition to CO) for demonstrating compliance. Therefore, the new source emission limits have been changed in the final rule to 96 percent reduction for CO or THC based on the updated test data, additional test reports, and estimates reflecting the most prevalent engine test setups and conditions across all engine testing sectors involving engines greater than or equal to 25 horsepower (hp).

F. Monitoring Requirements

Several commenters requested that the continuous emissions monitoring systems (CEMS) requirements be eliminated or changed to parametric monitoring. The commenters stated that CEMS are too expensive and do not provide any meaningful environmental benefit to justify the capital costs to install them on engine test stands. They also pointed out that in other permitting decisions and guidance documents, EPA has determined that initial stack tests followed by monitoring of operating temperature is a proven and cost-effective way of monitoring oxidizer performance.

The EPA reviewed the monitoring requirements in the proposal and compared them with other similar emission sources. The HAP emitted by engine test cells are the result of byproducts of incomplete combustion. Thermal destruction of these HAP occurs at temperatures between 590 °C and 650 °C (1,100 °F and 1,200 °F), thus making temperature an appropriate parameter to monitor the destruction of HAP. In the case of monitoring a regenerative thermal oxidizer (RTO), the temperature is monitored during the initial performance test. After the RTO meets the performance test requirements and demonstrates compliance with the applicable emission limit, the operating temperature is continuously monitored to verify the performance of the RTO. As a result, we have concluded that parametric monitoring is adequate for ensuring compliance with the emission limit. Thus, we have changed the monitoring requirements in the final rule to allow parameter (temperature) monitoring for thermal oxidizers. Since some facilities may already have existing continuous monitoring equipment in place, CEMS are still included in the final rule as a monitoring option.

G. Cost and Economic Assumptions and Impacts

As a result of the changes to address public comments, the final rule includes a new estimation of cost impacts. The final rule estimates there will be 18 affected source facilities at a cost of $3.2 million and a HAP reduction of 65.5 tpy.

H. Startup, Shutdown, and Malfunction (SSM)

The proposed rule specifically required affected sources to comply with the applicable emission limitation at all times, including SSM of the engine test cells/stands. Many commenters disagreed with these provisions. One commenter requested an exclusion for the startup period during which a catalytic oxidizer comes up to operating temperature. The commenter also provided examples of issues involving oxidizer malfunctions: (1) Engines cannot be shut off instantaneously, and excess emissions can occur in the time that it takes to complete an orderly and safe shutdown; and (2) there are certain tests that must be redone at large cost if they are interrupted. An example piston scuff test was described by the commenter as taking about 90 minutes, and if the engine is shutdown, the engine must be rebuilt and the test rerun. In the case of an oxidizer malfunction when such a test is in progress, the commenter requested that the operator be able to complete the test without risk of enforcement action.

The majority of emissions from engine testing occur during the times that would be covered by SSM provisions. Therefore, to ensure that those emissions are controlled, the SSM provisions were excluded from the proposed rule. Because the SSM provisions apply to the process as well as the control equipment, the impact of the engine test NESHAP to minimize HAP emissions would be significantly reduced by adopting the SSM provisions.

Based on the comments, the final rule includes SSM provisions for any control equipment and monitoring equipment related to new or reconstructed affected source emissions. The new language references the General Provisions for SSM procedures related to control equipment. The time required for a catalytic oxidizer to come up to operating temperature is not covered by the SSM provisions because engine testing should not be conducted before the minimum operating temperature (determined during the initial performance test) is achieved.

I. Emissions Averaging

We asked for comments on including some type of averaging provisions, and several commenters recommended that

averaging provisions be included in the final rule. We looked at existing rules that include averaging provisions such as the Petroleum Refineries NESHAP (subpart CC), the Aluminum Reduction Plants NESHAP (subpart LL), and the Group IV Polymers and Resins NESHAP (subpart JJJ) and found that these rules allow averaging only between emission sources covered under each specific rule. In reviewing the comments and considering different averaging options, there were several issues that had to be taken into account. First, in all previous regulations that implemented an averaging scheme, only processes within the same source category were considered and accounted for in the averaging scheme. In other words, the concept of emissions averaging has always been considered and implemented within a given source category, and not across source categories. Second, only existing sources have been allowed to take part in this type of flexibility option. This decision not to allow new sources to average their emissions is consistent with the direction outlined in the statute where new sources are expected to reduce their emissions to a level equivalent to that of the best controlled similar source. Many facilities that operate engine test cells/stands also conduct other processes that emit HAP. However, these other processes, such as coating and cleaning, are not part of the engine test cells/stands source category and are already regulated under other NESHAP.

For these reasons, we concluded that averaging emissions is not an appropriate option for this source category. Therefore, the final rule includes no averaging provisions.

J. Miscellaneous

Some commenters recommended that the term engine test cell/stand be defined to clarify that a rotary test firing operation that holds numerous engines is considered a single engine test cell/stand. Changes to the definition of affected source in the final rule provides for the collection of all equipment and activities associated with engine test cells/stands, which would relieve the necessity for specific language regarding carousel testing setups.

It was also noted that the proposed regulation wording regarding the initial notification requirement for new or reconstructed engine test cells/stands used for testing internal combustion (IC) engines with a rated power of less than 25 hp (19 kilowatts (kW)) was unclear and confusing. Additional language was added to those sections of the final rule dealing with initial notifications to clarify those requirements. Any new or reconstructed source testing IC engines with a rated power less than 25 hp must submit an initial notification, but do not have to comply with any of the other final rule requirements.

III. What Are the Final Standards?

A. What Is the Source Category?

The final rule covers four subcategories of engine test cells/stands located at major source facilities: (1) Engine test cells/stands used for testing internal combustion engines with rated power of 25 hp (19 kW) or more, (2) engine test cells/stands used for testing internal combustion engines with rated power of less than 25 hp, (3) engine test cells/stands used for testing combustion turbine engines, and (4) engine test cells/stands used for testing rocket engines. The rated power criteria for distinguishing between the two internal combustion engine subcategories is based on the largest engine (in terms of rated power) that is tested in the engine test cell/stand.

B. What Is the Affected Source?

The final rule applies to each affected source, which is defined as the collection of all equipment and activities associated with engine test cells/stands used for testing uninstalled stationary or uninstalled mobile (motive) engines located at a major source of HAP emissions. An uninstalled engine is defined as an engine being tested in a test cell/stand that is not installed in, or an integrated part of, the final product. A major source of HAP emissions is a plant site that emits or has the potential to emit any single 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.

Each new or reconstructed affected source used for testing internal combustion engines with a rated power of 25 hp (19 kW) or more that is located at a major source of HAP emissions must comply with the requirements in the final rule. New or reconstructed affected sources used for testing internal combustion engines with a rated power of less than 25 hp (19 kW) are not required to comply with the emission limitations in the final rule, but are required to submit an Initial Notification upon startup of the test cells/stands.

New or reconstructed affected sources used for testing combustion turbine engines or new or reconstructed test cells/stands used for testing rocket engines are not required to comply with the emission limitation or the recordkeeping or reporting requirements in the final rule.

Existing affected sources that are located at major sources of HAP emissions are not required to comply with the emission limitations or the recordkeeping or reporting requirements in the final rule.

The final rule also does not apply to engine test cells/stands that are located at area sources of HAP emissions. An area source is any source that is not a major source of HAP emissions.

C. What Are the Emission Limits?

As the owner or operator of a new or reconstructed affected source used in whole or in part for testing internal combustion engines with rated power of 25 hp (19 kW) or more and located at a major source of HAP emissions, you must comply with one of the following two emission limitations by May 27, 2003 or upon startup if you start up your affected source after May 27, 2003: (1) Reduce CO or THC emissions in the exhaust from the new or reconstructed affected source to 20 parts per million by volume dry basis (ppmvd) or less, at 15 percent oxygen (O_2) content, or (2) reduce CO or THC emissions in the exhaust from the new or reconstructed affected source by 96 percent or more. Existing affected sources used in whole or in part for testing internal combustion engines with rated power of 25 hp (19 kW) or more and located at a major source of HAP emissions are not required to comply with the emission limitations.

Finally, as mentioned earlier, new or reconstructed affected sources used for testing internal combustion engines with a rated power of less than 25 hp (19 kW), new or reconstructed affected sources used for testing combustion turbine engines, and new or reconstructed affected sources used for testing rocket engines are not required to comply with either emission limitation. In addition, neither existing affected sources located at major sources of HAP emissions nor new, reconstructed, or existing affected sources located at area sources of HAP emissions are required to comply with the emission limitations.

D. What Are the Initial Compliance Requirements?

The initial compliance requirements are different depending on whether you demonstrate compliance with the outlet concentration emission limitation or the percent reduction emission limitation. If you choose to comply with the outlet concentration emission limitation, you must conduct EPA Methods 3A and 10 of appendix A to 40 CFR part 60 for CO

measurement or EPA Method 25A of appendix A to 40 CFR part 60 for THC measurement. The final rule also provides for an alternate test method (ASTM D 6522–00) for testing engines that burn natural gas as fuel. You must demonstrate that the outlet concentration of CO or THC emissions from the new or reconstructed affected source or emission control device is 20 ppmvd or less, corrected to 15 percent O_2 content, using the first 4-hour rolling average after a successful performance evaluation.

If you comply with the percent reduction emission limitation, you must conduct an initial performance test to determine the capture and control efficiencies of the equipment and to establish operating limits to be achieved on a continuous basis. The performance test would have to be completed no later than 180 days after the compliance date for new or reconstructed affected sources. You must demonstrate that the reduction in CO or THC emissions is at least 96 percent using the first 4-hour rolling average after a successful performance evaluation. Your inlet and outlet measurements must be on a dry basis and corrected to 15 percent O_2 content.

If you use a capture system and add-on control device, you determine both the efficiency of the capture system and the emission reduction efficiency of the control device. To determine the capture efficiency, you either verify the presence of a potential to emit (PTE) using EPA Method 204 of 40 CFR part 51, appendix M, or use one of the protocols in 40 CFR 63.9320 of the final rule to measure capture efficiency. If you have a PTE and all engine testing occurs within the enclosure and you route all exhaust gases from the enclosure to a control device, then you assume 100 percent capture.

To determine the emission reduction efficiency of the control device, you conduct measurements of the inlet and outlet gas streams. The test would consist of three runs, each run lasting at least 1 hour, using the following EPA Methods in 40 CFR part 60, appendix A:

- Method 1 or 1A for selection of the sampling sites;
- Method 2, 2A, 2C, 2D, 2F, or 2G to determine the gas volumetric flow rate;
- Method 3, 3A, or 3B for gas analysis to determine dry molecular weight;
- Method 4 to determine stack moisture; and
- Method 25 or 25A to determine organic volatile matter concentration. Alternatively, any other test method or data that have been validated according to the applicable procedures in Method 301 of 40 CFR part 63, appendix A, and approved by the Administrator could be used.

E. What Are the Continuous Compliance Requirements?

Several general continuous compliance requirements apply to affected sources required to comply with the applicable emission limitation. You are required to comply with the applicable emission limitation at all times, except during SSM of any control equipment and associated monitoring equipment related to the new or reconstructed affected source emissions. You must operate and maintain your air pollution control equipment and monitoring equipment according to good air pollution control practices at all times. You must conduct monitoring at all times that the new or reconstructed affected source is in operation except during periods of malfunction of the monitoring equipment or necessary repairs and quality assurance or control activities, such as calibration drift checks.

For each new or reconstructed affected source operation on which you use a capture system and control device, the continuous parameter monitoring results for each month would affect your compliance determination. If the monitoring results indicate no deviations from the operating limits and there were no bypasses of the control device, you assume the capture system and control device are achieving the same percent emission reduction efficiency as during the most recent performance test in which compliance was demonstrated. If there are any deviations from the operating limits during the month or any bypasses of the control device, you account for them in the calculation of the monthly emissions by assuming the capture system and control device were achieving zero emission reduction during the periods of deviation. Then, you determine the overall percent reduction of CO or THC emissions.

If you use an emission capture system and control device, the final rule would require you to achieve, on a continuous basis, the operating limits you establish during the performance test. If the continuous monitoring shows that the capture system and control device is operating outside the range of values established during the performance test, you have deviated from the established operating limits.

If you operate a capture system and control device that allow emissions to bypass the control device, you have to demonstrate that CO or THC emissions collected by the capture system are being routed to the control device by monitoring for potential bypass of the control device. You may choose from the following four monitoring procedures:

- Flow control position indicator to provide a record of whether the exhaust stream is directed to the control device;
- Car-seal or lock-and-key valve closures to secure the bypass line valve in the closed position when the control device is operating;
- Valve closure monitoring to ensure any bypass line valve or damper is closed when the control device is operating; or
- Automatic shutdown system to stop the engine test cell/stand operation when flow is diverted from the control device.

If the bypass monitoring procedures indicate that emissions are not routed to the control device, you have deviated from the emission limits.

To demonstrate continuous compliance with either the percent reduction or outlet concentration emission limitation using continuous parameter monitoring systems, you must continuously monitor and record the appropriate parameter, depending on the control device used. The operating parameter must not drop below the level established by the performance test in order to maintain the reduction in CO or THC emissions at or above 96 percent, or 20 ppmvd or less, corrected to 15 percent O_2 content, based on a rolling 4-hour average, averaged every hour.

To demonstrate continuous compliance with the outlet concentration emission limitation using CEMS, you must calibrate and operate your CEMS according to the requirements in 40 CFR 63.8. You must continuously monitor and record the CO or THC and O_2 concentrations at the outlet of the engine test cell/stand or emission control device and calculate the CO or THC emission concentration for each hour. Then, the hourly CO or THC emission concentrations for each hour of the 4-hour compliance period are averaged together. The outlet CO or THC emission concentration must be 20 ppmvd or less, corrected to 15 percent O_2 content, based on the 4-hour rolling average, averaged every hour.

To demonstrate continuous compliance with the percent reduction emission limitation using CEMS, you must calibrate and operate your CEMS according to the requirements in 40 CFR 63.8. You must continuously monitor and record the CO or THC, and O_2 concentration before and after the emission control device and calculate the percent reduction in CO or THC emissions hourly. The reduction in CO

or THC emissions must be 96 percent or more, based on the 4-hour rolling average, averaged every hour.

For monitoring approaches using CEMS, you must also follow procedure 1 of 40 CFR part 60, appendix F, to verify that the CEMS is working properly over time.

F. What Are the Notification, Recordkeeping, and Reporting Requirements?

You must submit all applicable notifications listed in the NESHAP General Provisions (40 CFR part 63, subpart A), including an initial notification, notification of performance evaluation, and a notification of compliance status for each engine test cell/stand required to comply with the emission limitations.

You must submit an initial notification for each single or collection of new or reconstructed engine test cells/stands located at a major source of HAP emissions used for testing internal combustion engines with a rated power of less than 25 hp (19 kW).

You must record all of the data necessary to determine if you are in compliance with the applicable emission limitation. Your records must be in a form suitable and readily available for review. You must also keep each record for 5 years following the date of each occurrence, measurement, maintenance, report, or record. Records must remain on site for at least 2 years and then can be maintained off site for the remaining 3 years.

For each affected source, to comply with the applicable emission limitation you must submit a compliance report semiannually. This report must contain the company name and address, a statement by a responsible official that the report is accurate, a statement of compliance, or documentation of any deviation from the requirements of the final rule during the reporting period.

IV. What Are the Environmental, Energy, Cost, and Economic Impacts?

A. What Are the Air Impacts?

The final rule will reduce HAP emissions in the 5th year following promulgation by an estimated 59.5 megagrams per year (65.5 tpy).

B. What Are the Non-Air Health, Environmental, and Energy Impacts?

Assuming that new or reconstructed affected sources will be controlled by regenerative thermal oxidizers (RTO), secondary air and energy impacts would result from fuel combustion needed to operate these control devices.

The RTO require electricity and the combustion of natural gas to operate and maintain operating temperatures. By-products of fuel combustion required to generate electricity and maintain RTO operating temperature include emission of CO, nitrogen oxides (NO_X), sulfur dioxide (SO_2), and particulate matter less than 10 microns in diameter (PM_{10}). Assuming the electricity required for RTO operation is generated at coal-fired plants built since 1978 and using AP–42 emissions factors, generation of electricity required to operate RTO at an estimated 18 new facilities would result in the following increases in these air pollutants: CO, 3.45 tpy; NO_X, 8.15 tpy; SO_2, 4.15 tpy; and PM_{10}, 0.45 tpy.

Energy impacts include the consumption of electricity and natural gas needed to operate RTO. The estimated increase in electricity consumption from the operation of RTOs is 183,600 kilowatt-hour per year. Increased fuel energy consumption resulting from burning natural gas would be 1,790,000 million British thermal units per year. No significant secondary water or solid waste impacts would result from the operation of emission control devices.

There would also be a very small increase in fuel consumption expected resulting from back pressure caused by the emission control system.

C. What Are the Economic Impacts?

Based on the cost of compliance data provided above, the final rule is not expected to affect any of the existing sources in the industries that use engine test cells/stands, or test rocket engines. We estimate that 18 facilities will construct a total of 72 new engine test cells/stands at large engine research and development or production facilities in the next 5 years, requiring controls to be installed to comply with the final rule. Six of the estimated facilities (with 24 of the new engine test cells/stands) are anticipated to be built by auto, tractor, and diesel engine manufacturers, while 12 of the facilities (with 48 engine test cells/stands) are estimated to be built by military facilities. The total compliance cost to each facility, including control equipment and monitoring, inspection, recordkeeping and reporting costs, is estimated to be $179,000 per year (1999$). The auto, tractor, and diesel engine manufacturing firms that are expected to construct new engine test cells/stands are large multi-national firms; thus, the cost of compliance is insignificant in comparison to firm revenues. For example, the impact on each firm is less than 0.0004 percent of corporate revenues in 1999, or nearly zero in percentage terms. Likewise, the cost of compliance for military facilities that may be affected is insignificant when compared to facility operating budgets. Therefore, the economic impacts associated with the final rule are considered to be negligible.

V. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 5173, October 4, 1993), EPA must determine whether the regulatory action is "significant" and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive order. The Executive order defines "significant regulatory action" as one that is likely to result in standards that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order.

Pursuant to the terms of Executive Order 12866, it has been determined that the final rule does not constitute a "significant regulatory action" because it does not meet any of the above criteria. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Paperwork Reduction Act

The information collection requirements in the final rule are being submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1967.01), and a copy may be obtained from Susan Auby by mail at Office of Environmental Information, Collection Strategies Division (MD–2822T), 1200 Pennsylvania Avenue, NW., Washington DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded from the Internet at *http://www.epa.gov/icr*. The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping,

and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. 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.

The final rule requires maintenance inspections of the control devices but does not require any notifications or reports beyond those required by the General Provisions. The recordkeeping requirements involve only the specific information needed to determine compliance.

The monitoring, reporting, and recordkeeping burden for this collection (averaged over the first 5 years after the effective date of the standards) is estimated to be 4,800 labor hours per year at a total annual cost of $221,000. This estimate includes a one-time (initial) control device performance evaluation, annualized capital monitoring equipment costs, semiannual compliance reports, maintenance inspections, notifications, and recordkeeping. Total annual costs associated with the new source control and monitoring requirements over the period of the ICR are estimated at $3.2 million.

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 purpose of collecting, validating, and verifying information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor a collection of information, and a person is not required to respond to such a collection, unless the collection displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) 5 U.S.C. 601 *et seq.*, 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 final 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 on small entities, a small entity is defined as: (1) A small business whose parent company has either fewer than 500 employees if the business is involved in testing marine engines, or fewer than 1,000 employees if the business is involved in the testing of other types of engines (as defined by the Small Business Administration); (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 that is independently owned and operated and is not dominant in its field. Based on the Small Business Administration definitions, there are no small entities affected by this NESHAP. Pursuant to the provisions of 5 U.S.C. 605(b), we hereby certify that the NESHAP, if promulgated, 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 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 of 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.

The EPA has determined that the 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 aggregate, or the private sector in any one year, nor does the final rule significantly or uniquely impact small governments, because it contains no requirements that apply to such governments or impose obligations upon them. Thus, the requirements of the UMRA do not apply to the final rule.

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."

The 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. None of the affected facilities are owned or operated by State governments. Thus, the requirements of section 6 of the Executive Order 13132 do not apply to the final rule.

specifications for measurement system performance, most notably the calibration procedures and instrument performance characteristics. The instrument performance characteristics that are provided are nonmandatory and also do not provide the same level of quality assurance as the EPA methods. For example, the zero and span/calibration drift is only checked weekly, whereas the EPA methods requires drift checks after each run.

Two very similar standards, ASTM D5835–95, Standard Practice for Sampling Stationary Source Emissions for Automated Determination of Gas Concentration, and ISO 10396:1993, Stationary Source Emissions: Sampling for the Automated Determination of Gas Concentrations, are impractical alternatives to EPA Method 3A for the purposes of the final rule because they lack in detail and quality assurance/quality control requirements. Specifically, these two standards do not include the following: (1) Sensitivity of the method; (2) acceptable levels of analyzer calibration error; (3) acceptable levels of sampling system bias; (4) zero drift and calibration drift limits, time span, and required testing frequency; (5) a method to test the interference response of the analyzer; (6) procedures to determine the minimum sampling time per run and minimum measurement time; and (7) specifications for data recorders, in terms of resolution (all types) and recording intervals (digital and analog recorders, only).

The voluntary consensus standard ISO 12039:2001, Stationary Source Emissions—Determination of Carbon Monoxide, Carbon Dioxide, and Oxygen—Automated Methods, is not acceptable as an alternative to EPA Method 3A. This ISO standard is similar to EPA Method 3A, but is missing some key features. In terms of sampling, the hardware required by ISO 12039:2001 does not include a three-way calibration valve assembly or equivalent to block the sample gas flow while calibration gases are introduced. In its calibration procedures, ISO 12039:2001 only specifies a two-point calibration while EPA Method 3A specifies a three-point calibration. Also, ISO 12039:2001 does not specify performance criteria for calibration error, calibration drift, or sampling system bias tests as in the EPA method, although checks of these quality control features are required by the ISO standard.

The standard, ASTM D3162 (1994) Standard Test Method for Carbon Monoxide in the Atmosphere (Continuous Measurement by Nondispersive Infrared Spectrometry), is impractical as an alternative to EPA Method 10 in the final rule because this ASTM standard, which is stated to be applicable in the range of 0.5–100 ppm CO, does not cover the range of EPA Method 10 (20–1,000 ppm CO) at the upper end (but states that it has a lower limit of sensitivity). Also, ASTM D3162 does not provide a procedure to remove carbon dioxide interference. Therefore, this ASTM standard is not appropriate for combustion source conditions. In terms of non-dispersive infrared instrument performance specifications, ASTM D3162 has much higher maximum allowable rise and fall times (5 minutes) than EPA Method 10 (which has 30 seconds).

The voluntary consensus standard CAN/CSA Z223.21–M1978, Method for the Measurement of Carbon Monoxide: 3—Method of Analysis by Non-Dispersive Infrared Spectrometry, is not acceptable as an alternative to EPA Method 10 because it is lacking in the following areas: (1) Sampling procedures; (2) procedures to correct for the carbon dioxide concentration; (3) instructions to correct the gas volume if CO_2 traps are used; (4) specifications to certify the calibration gases are within 2 percent of the target concentration; (5) mandatory instrument performance characteristics (*e.g.*, rise time, fall time, zero drift, span drift, precision); (6) quantitative specification of the span value maximum as compared to the measured value: The standard specifies that the instruments should be compatible with the concentration of gases to be measured, whereas EPA Method 10 specifies that the instrument span value should be no more than 1.5 times the source performance standard.

Two voluntary consensus standards, EN 12619:1999 Stationary Source Emissions—Determination of the Mass Concentration of Total Gaseous Organic Carbon at Low Concentrations in Flue Gases—Continuous Flame Ionization Detector Method, and ISO 14965:2000(E) Air Quality—Determination of Total Nonmethane Organic Compounds—Cryogenic Preconcentration and Direct Flame Ionization Method, are impractical alternatives to EPA Method 25 and 25A for the purposes of the final rule because the standards do not apply to solvent process vapors in concentrations greater than 40 ppm (EN 12619) and 10 ppm carbon (ISO 14965). Methods whose upper limits are this low are too limited to be useful in measuring source emissions, which are expected to be much higher.

Two of the 13 voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of the final rule because they are under development by a voluntary consensus body: ASME/BSR MFC 13M, Flow Measurement by Velocity Traverse, for EPA Method 2 (and possibly 1); and ASME/BSR MFC 12M, Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters, for EPA Method 2.

Sections 63.9310, 63.9320, 63.9321 and 63.9322 to 40 CFR part 63, subpart PPPPP, list the EPA testing methods included in the regulation. Under 40 CFR 63.7(f) and 63.8(f) of subpart A of the General Provisions, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any of the EPA testing methods, performance specifications, or procedures.

J. 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. The EPA will submit a report containing this 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**. The final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

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

Dated: February 28, 2003.

Christine Todd Whitman,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of the 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 (b)(27) and revising paragraph (i)(3) to read as follows:

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." The 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 the amendments. We know of one company that reported operating engine test cells/stands that are owned by an Indian tribal government. However, these test cells/stands are used for testing rocket engines. Although test cells/stands used for testing rocket engines are covered by the final rule, test cells/stands used for testing rocket engines are not required to meet any emission limitation, reporting, or recordkeeping requirements. 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 applies to any rule that EPA determines (1) is "economically significant" as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has 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 EPA.

The EPA interprets Executive Order 13045 as applying only to 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. The 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 That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is 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 (NTTAA) of 1995 (Public Law 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement 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, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to the OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

The final rule involves technical standards. The EPA cites the following standards in the final rule: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 10, 10B, 25, 25A, 204, 204B,C,D,E and Performance Specifications (PS) 3 and PS 4A. Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods/performance specifications. No applicable voluntary consensus standards were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 204, 204B through 204F, and PS 3 and PS 4A. The search and review results have been documented and are placed in the docket (No. OAR–2002–0040) for the final rule.

Two voluntary consensus standards were identified as acceptable alternatives to the EPA methods specified in the final rule. The voluntary consensus standard ASTM D6522–00, Standard Test Method for the 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 is cited in the final rule as an acceptable alternative to EPA Methods 3A and 10 for identifying carbon monoxide and oxygen concentrations for the final rule when the fuel is natural gas.

The voluntary consensus standard ANSI/ASME PTC 19.10–1981, Part 10 Flue and Exhaust Gas Analyses, is cited in the final rule for its manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas. This part of ANSI/ASME PTC 19.10–1981 is an acceptable alternative to Method 3B.

In addition to the voluntary consensus standards EPA cites in the final rule, the search for emissions measurement procedures identified 13 other voluntary consensus standards. The EPA determined that 11 of these 13 standards identified for measuring emissions of the HAP or surrogates subject to emission standards in the final rule were impractical alternatives to EPA test methods/performance specifications for the purposes of the final rule. Therefore, the EPA does not intend to adopt these standards. The reasons for the determinations of these 11 methods are discussed below.

The voluntary consensus standard ASTM D3154–00, Standard Method for Average Velocity in a Duct (Pitot Tube Method), is impractical as an alternative to EPA Methods 1, 2, 2C, 3, 3B, and 4 for the purposes of the final rule since the standard appears to lack in quality control and quality assurance requirements. Specifically, ASTM D3154–00 does not include the following: (1) Proof that openings of standard pitot tube have not plugged during the test; (2) if differential pressure gauges other than inclined manometers (*e.g.*, magnehelic gauges) are used, their calibration must be checked after each test series; and (3) the frequency and validity range for calibration of the temperature sensors.

The voluntary consensus standard ASTM D3464–96 (2001), Standard Test Method Average Velocity in a Duct Using a Thermal Anemometer, is impractical as an alternative to EPA Method 2 for the purposes of the final rule primarily because applicability specifications are not clearly defined, *e.g.*, range of gas composition, temperature limits. Also, the lack of supporting quality assurance data for the calibration procedures and specifications, and certain variability issues that are not adequately addressed by the standard limit EPA's ability to make a definitive comparison of the method in these areas.

The voluntary consensus standard ISO 10780:1994, Stationary Source Emissions—Measurement of Velocity and Volume Flowrate of Gas Streams in Ducts, is impractical as an alternative to EPA Method 2 in the final rule. The standard recommends the use of an L-shaped pitot, which historically has not been recommended by EPA. The EPA specifies the S-type design, which has large openings that are less likely to plug up with dust.

The voluntary consensus standard, CAN/CSA Z223.2–M86(1986), Method for the Continuous Measurement of Oxygen, Carbon Dioxide, Carbon Monoxide, Sulphur Dioxide, and Oxides of Nitrogen in Enclosed Combustion Flue Gas Streams, is unacceptable as a substitute for EPA Method 3A since it does not include quantitative

§ 63.14 Incorporation by reference.

* * * * *

(b) * * *

(27) ASTM D 6522–00, Standard Test Method for Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers, IBR approved for § 63.9307(c)(2).

* * * * *

(i) * * *

(3) ANSI/ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]," , IBR approved for §§ 63.865(b), 63.3360(e)(1)(iii), 63.4166(a)(3), 63.4965(a)(3), 63.5160(d)(1)(iii), 63.9307(c)(2), and 63.9323(a)(3).

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■ 3. Part 63 is amended by adding subpart PPPPP to read as follows:

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

What This Subpart Covers

Sec.
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63.9290 What parts of my plant does this subpart cover?
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Emission Limitations

63.9300 What emission limitation must I meet?
63.9301 What are my options for meeting the emission limits?
63.9302 What operating limits must I meet?

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63.9305 What are my general requirements for complying with this subpart?
63.9306 What are my continuous parameter monitoring system (CPMS) installation, operation, and maintenance requirements?
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Testing and Initial Compliance Requirements

63.9310 By what date must I conduct the initial compliance demonstrations?
63.9320 What procedures must I use?
63.9321 What are the general requirements for performance tests?
63.9322 How do I determine the emission capture system efficiency?
63.9323 How do I determine the add-on control device emission destruction or removal efficiency?
63.9324 How do I establish the emission capture system and add-on control device operating limits during the performance test?
63.9330 How do I demonstrate initial compliance with the emission limitation?

Continuous Compliance Requirements

63.9335 How do I monitor and collect data to demonstrate continuous compliance?
63.9340 How do I demonstrate continuous compliance with the emission limitation?

Notifications, Reports, and Records

63.9345 What notifications must I submit and when?
63.9350 What reports must I submit and when?
63.9355 What records must I keep?
63.9360 In what form and how long must I keep my records?

Other Requirements and Information

63.9365 What parts of the General Provisions apply to me?
63.9370 Who implements and enforces this subpart?
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Tables to Subpart PPPPP of Part 63

Table 1 to Subpart PPPPP of Part 63. Emission Limitations
Table 2 to Subpart PPPPP of Part 63. Operating Limits
Table 3 to Subpart PPPPP of Part 63. Requirements for Initial Compliance Demonstrations
Table 4 to Subpart PPPPP of Part 63. Initial Compliance with Emission Limitations
Table 5 to Subpart PPPPP of Part 63. Continuous Compliance with Emission Limitations
Table 6 to Subpart PPPPP of Part 63. Requirements for Reports
Table 7 to Subpart PPPPP of Part 63. Applicability of General Provisions to Subpart PPPPP

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

What This Subpart Covers

§ 63.9280 What is the purpose of subpart PPPPP?

This subpart PPPPP establishes national emission standards for hazardous air pollutants (NESHAP) for engine test cells/stands located at major sources of hazardous air pollutants (HAP) emissions. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations contained in this NESHAP.

§ 63.9285 Am I subject to this subpart?

You are subject to this subpart if you own or operate an engine test cell/stand that is located at a major source of HAP emissions.

(a) An engine test cell/stand is any apparatus used for testing uninstalled stationary or uninstalled mobile (motive) engines.

(b) An uninstalled engine is an engine that is not installed in, or an integrated part of, the final product.

(c) A major source of HAP emissions is a plant site that emits or has the potential to emit any single 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.

§ 63.9290 What parts of my plant does this subpart cover?

This subpart applies to each new, reconstructed, or existing affected source.

(a) *Affected source.* An affected source is the collection of all equipment and activities associated with engine test cells/stands used for testing uninstalled stationary or uninstalled mobile (motive) engines located at a major source of HAP emissions.

(1) *Existing affected source.* An affected source is existing if you commenced construction or reconstruction of the affected source on or before May 14, 2002. A change in ownership of an existing affected source does not make that affected source a new or reconstructed affected source.

(2) *New affected source.* An affected source is new if you commenced construction of the affected source after May 14, 2002.

(3) *Reconstructed affected source.* An affected source is reconstructed if you meet the definition of reconstruction in § 63.2 of subpart A of this part and reconstruction is commenced after May 14, 2002. Changes made to an existing affected source primarily for the purpose of complying with revisions to engine testing requirements under 40 CFR parts 80, 86, 89, 90, 91, or 92 are not considered a modification or reconstruction. In addition, passive measurement and control instrumentation and electronics are not included as part of any affected source reconstruction evaluation.

(b) Existing affected sources do not have to meet the requirements of this subpart and of subpart A of this part.

(c) Any portion of a new or reconstructed affected source located at a major source that is used exclusively for testing internal combustion engines with rated power of less than 25 horsepower (hp) (19 kilowatts(kW)) does not have to meet the requirements of this subpart and of subpart A of this part except for the initial notification requirements of § 63.9345(b).

(d) Any portion of a new or reconstructed affected source located at a major source that meets any of the

criteria specified in paragraphs (d)(1) through (4) of this section does not have to meet the requirements of this subpart and of subpart A of this part.

(1) Any portion of the affected source used exclusively for testing combustion turbine engines.

(2) Any portion of the affected source used exclusively for testing rocket engines.

(3) Any portion of the affected source used in research and teaching activities at facilities that are not engaged in the development of engines or engine test services for commercial purposes.

(4) Any portion of the affected source operated to test or evaluate fuels (such as knock engines), transmissions, or electronics.

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

(a) *Affected sources.*

(1) If you start up your new or reconstructed affected source before May 27, 2003, you must comply with the emission limitations in this subpart no later than May 27, 2003.

(2) If you start up your new or reconstructed affected source on or after May 27, 2003, you must comply with the emission limitations in this subpart upon startup.

(b) *Area sources that become major sources.* If your new or reconstructed affected source is located at an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP, your new or reconstructed affected source must be in compliance with this subpart when the area source becomes a major source.

(c) You must meet the notification requirements in § 63.9345 and in 40 CFR part 63, subpart A.

Emission Limitations

§ 63.9300 What emission limitations must I meet?

For each new or reconstructed affected source that is used in whole or in part for testing internal combustion engines with rated power of 25 hp (19 kW) or more and that is located at a major source, you must comply with the emission limitations in Table 1 to this subpart. (Tables are found at the end of this subpart.)

§ 63.9301 What are my options for meeting the emission limits?

You may use either a continuous parameter monitoring system (CPMS) or a continuous emission monitoring system (CEMS) to demonstrate compliance with the emission limitations. Continuous monitoring systems must meet the requirements in § 63.9306 (CPMS) and § 63.9307 (CEMS).

§ 63.9302 What operating limits must I meet?

(a) For any new or reconstructed affected source on which you use add-on controls, you must meet the operating limits specified in Table 2 to this subpart. These operating limits must be established during the performance test according to the requirements in § 63.9324. You must meet the operating limits at all times after you establish them.

(b) If you use an add-on control device other than those listed in Table 2 to this subpart, or wish to monitor an alternative parameter and comply with a different operating limit, you must apply to the Administrator for approval of alternative monitoring under § 63.8(f).

General Compliane Requirements

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

(a) You must be in compliance with the emission limitation that applies to you at all times, except during periods of startup, shutdown, or malfunction (SSM) of your control device or associated monitoring equipment.

(b) If you must comply with the emission limitation, you must operate and maintain your engine test cell/stand, air pollution control equipment, and monitoring equipment in a manner consistent with good air pollution control practices for minimizing emissions at all times.

(c) You must develop and implement a written SSM plan (SSMP) for emission control devices and associated monitoring equipment according to the provisions in § 63.6(e)(3). The plan will apply only to emission control devices, and not to engine test cells/stands.

§ 63.9306 What are my continuous parameter monitoring system (CPMS) installation, operation, and maintenance requirements?

(a) *General.* You must install, operate, and maintain each CPMS specified in paragraphs (c) and (d) of this section according to paragraphs (a)(1) through (7) of this section. You must install, operate, and maintain each CPMS specified in paragraph (b) of this section according to paragraphs (a)(3) through (5) of this section.

(1) The CPMS must complete a minimum of one cycle of operation for each successive 15-minute period. You must have a minimum of four equally spaced successive cycles of CPMS operation in 1 hour.

(2) You must determine the average of all recorded readings for each successive 3-hour period of the emission capture system and add-on control device operation.

(3) You must record the results of each inspection, calibration, and validation check of the CPMS.

(4) You must maintain the CPMS at all times and have available necessary parts for routine repairs of the monitoring equipment.

(5) You must operate the CPMS and collect emission capture system and add-on control device parameter data at all times that an engine test cell/stand is operating, except during monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, if applicable, calibration checks and required zero and span adjustments).

(6) You must not use emission capture system or add-on control device parameter data recorded during monitoring malfunctions, associated repairs, out-of-control periods, or required quality assurance or control activities when calculating data averages. You must use all the data collected during all other periods in calculating the data averages for determining compliance with the emission capture system and add-on control device operating limits.

(7) A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the CPMS to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions. Any period for which the monitoring system is out-of-control and data are not available for required calculations is a deviation from the monitoring requirements.

(b) *Capture system bypass line.* You must meet the requirements of paragraphs (b)(1) and (2) of this section for each emission capture system that contains bypass lines that could divert emissions away from the add-on control device to the atmosphere.

(1) You must monitor or secure the valve or closure mechanism controlling the bypass line in a nondiverting position in such a way that the valve or closure mechanism cannot be opened without creating a record that the valve was opened. The method used to monitor or secure the valve or closure mechanism must meet one of the requirements specified in paragraphs (b)(1)(i) through (iv) of this section.

(i) *Flow control position indicator.* Install, calibrate, maintain, and operate according to the manufacturer's specifications a flow control position indicator that takes a reading at least once every 15 minutes and provides a record indicating whether the emissions are directed to the add-on control device

or diverted from the add-on control device. The time of occurrence and flow control position must be recorded, as well as every time the flow direction is changed. The flow control position indicator must be installed at the entrance to any bypass line that could divert the emissions away from the add-on control device to the atmosphere.

(ii) *Car-seal or lock-and-key valve closures.* Secure any bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. You must visually inspect the seal or closure mechanism at least once every month to ensure that the valve is maintained in the closed position, and the emissions are not diverted away from the add-on control device to the atmosphere.

(iii) *Valve closure monitoring.* Ensure that any bypass line valve is in the closed (nondiverting) position through monitoring of valve position at least once every 15 minutes. You must inspect the monitoring system at least once every month to verify that the monitor will indicate valve position.

(iv) *Automatic shutdown system.* Use an automatic shutdown system in which the engine testing operation is stopped when flow is diverted by the bypass line away from the add-on control device to the atmosphere when an engine test cell/stand is operating. You must inspect the automatic shutdown system at least once every month to verify that it will detect diversions of flow and shut down the engine test cell/stand in operation.

(2) If any bypass line is opened, you must include a description of why the bypass line was opened and the length of time it remained open in the semiannual compliance reports required in § 63.9350.

(c) *Thermal oxidizers and catalytic oxidizers.* If you are using a thermal oxidizer or catalytic oxidizer as an add-on control device, you must comply with the requirements in paragraphs (c)(1) through (3) of this section.

(1) For a thermal oxidizer, install a gas temperature monitor in the firebox of the thermal oxidizer or in the duct immediately downstream of the firebox before any substantial heat exchange occurs.

(2) For a catalytic oxidizer, you must install a gas temperature monitor in the gas stream immediately before the catalyst bed, and if you established operating limits according to § 63.9324(b)(1) and (2), also install a gas temperature monitor in the gas stream immediately after the catalyst bed.

(i) If you establish operating limits according to § 63.9324(b)(1) and (2), then you must install the gas temperature monitors both upstream and downstream of the catalyst bed. The temperature monitors must be in the gas stream immediately before and after the catalyst bed to measure the temperature difference across the bed.

(ii) If you establish operating limits according to § 63.9324(b)(3) and (4), then you must install a gas temperature monitor upstream of the catalyst bed. The temperature monitor must be in the gas stream immediately before the catalyst bed to measure the temperature.

(3) For all thermal oxidizers and catalytic oxidizers, you must meet the requirements in paragraphs (a) and (c)(3)(i) through (vii) of this section for each gas temperature monitoring device.

(i) Locate the temperature sensor in a position that provides a representative temperature.

(ii) Use a temperature sensor with a measurement sensitivity of 4 degrees Fahrenheit or 0.75 percent of the temperature value, whichever is larger.

(iii) Shield the temperature sensor system from electromagnetic interference and chemical contaminants.

(iv) If a gas temperature chart recorder is used, it must have a measurement sensitivity in the minor division of at least 20 degrees Fahrenheit.

(v) Perform an electronic calibration at least semiannually according to the procedures in the manufacturer's owner's manual. Following the electronic calibration, you must conduct a temperature sensor validation check in which a second or redundant temperature sensor placed near the process temperature sensor must yield a reading within 30 degrees Fahrenheit of the process temperature sensor reading.

(vi) Conduct calibration and validation checks anytime the sensor exceeds the manufacturer's specified maximum operating temperature range or install a new temperature sensor.

(vii) At least monthly, inspect components for integrity and electrical connections for continuity, oxidation, and galvanic corrosion.

(d) Emission capture systems. The capture system monitoring system must comply with the applicable requirements in paragraphs (d)(1) and (2) of this section.

(1) For each flow measurement device, you must meet the requirements in paragraphs (a) and (d)(1)(i) through (iv) of this section.

(i) Locate a flow sensor in a position that provides a representative flow measurement in the duct from each capture device in the emission capture system to the add-on control device.

(ii) Reduce swirling flow or abnormal velocity distributions due to upstream and downstream disturbances.

(iii) Conduct a flow sensor calibration check at least semiannually.

(iv) At least monthly, inspect components for integrity, electrical connections for continuity, and mechanical connections for leakage.

(2) For each pressure drop measurement device, you must comply with the requirements in paragraphs (a) and (d)(2)(i) through (vi) of this section.

(i) Locate the pressure sensor(s) in or as close to a position that provides a representative measurement of the pressure drop across each opening you are monitoring.

(ii) Minimize or eliminate pulsating pressure, vibration, and internal and external corrosion.

(iii) Check pressure tap pluggage daily.

(iv) Using an inclined manometer with a measurement sensitivity of 0.0002 inch water, check gauge calibration quarterly and transducer calibration monthly.

(v) Conduct calibration checks any time the sensor exceeds the manufacturer's specified maximum operating pressure range or install a new pressure sensor.

(vi) At least monthly, inspect components for integrity, electrical connections for continuity, and mechanical connections for leakage.

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

(a) You must install, operate, and maintain each CEMS to monitor carbon monoxide (CO) or total hydrocarbons (THC) and oxygen (O_2) at the outlet of the exhaust system of the engine test cell/stand or at the outlet of the emission control device.

(b) To comply with the CO or THC percent reduction emission limitation, you may install, operate, and maintain a CEMS to monitor CO or THC and O_2 at both the inlet and the outlet of the emission control device.

(c) To comply with either emission limitations, the CEMS must be installed and operated according to the requirements described in paragraphs (c)(1) through (4) of this section.

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

(2) You must conduct a performance evaluation of each CEMS according to the requirements in 40 CFR 63.8 and according to PS–3 of 40 CFR part 60, appendix B, using Reference Method 3A or 3B for the O_2 CEMS, and according to PS–4A of 40 CFR part 60, appendix B, using Reference Method 10 or 10B for

the CO CEMS. If the fuel used in the engines being tested is natural gas, you may use ASTM D 6522–00, Standard Test Method for Determination of Nitrogen Oxides, Carbon Monoxide and Oxygen Concentrations in Emissions from Natural Gas Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers (incorporated by reference, see § 63.14). As an alternative to Method 3B, you may use ANSI/ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]," (incorporated by reference, see § 63.14).

(3) As specified in § 63.8(c)(4)(ii), each CEMS must complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period. You must have at least two data points, each representing a different 15-minute period within the same hour, to have a valid hour of data.

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

(d) If you have CEMS that are subject to paragraph (a) or (b) of this section, you must properly maintain and operate the monitors continuously according to the requirements described in paragraphs (d)(1) and (2) of this section.

(1) *Proper Maintenance.* You must maintain the monitoring equipment at all times that the engine test cell/stand is operating, including but not limited to, maintaining necessary parts for routine repairs of the monitoring equipment.

(2) *Continued Operation.* You must operate your CEMS according to paragraphs (d)(2)(i) and (ii) of this section.

(i) You must conduct all monitoring in continuous operation at all times that the engine test cell/stand is operating, except for, as applicable, monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration drift checks and required zero and high-level adjustments). Quality assurance or control activities must be performed according to procedure 1 of 40 CFR part 60, appendix F.

(ii) Data recorded during monitoring malfunctions, associated repairs, out-of-control periods, and required quality assurance or control activities must not be used for purposes of calculating data averages. You must use all of the data collected from all other periods in assessing compliance. A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring equipment to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions. Any period for which the monitoring system is out-of-control and data are not available for required calculations constitutes a deviation from the monitoring requirements.

Testing and Initial Compliance Requirements

§ 63.9310 By what date must I conduct the initial compliance demonstrations?

You must conduct the initial compliance demonstrations that apply to you in Table 3 to this subpart within 180 calendar days after the compliance date that is specified for your new or reconstructed affected source in § 63.9295 and according to the provisions in § 63.7(a)(2).

§ 63.9320 What procedures must I use?

(a) You must conduct each initial compliance demonstration that applies to you in Table 3 to this subpart.

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

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

$$C_c = C_{unc}\left(\frac{5.9}{(20.9 - \%O_{2d})}\right) \qquad \text{(Eq. 1)}$$

Where:

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

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

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

(d) The initial demonstration of compliance with the CO or THC percent reduction emission limitation consists of the first 4-hour rolling average percent reduction in CO or THC recorded after completion of the performance evaluation of the capture/control system and/or CEMS. You must complete the actions described in paragraphs (d)(1) through (2) of this section.

(1) Correct the CO or THC concentrations at the inlet and outlet of the emission control device to a dry basis and to 15 percent O_2 content using Equation 1 of this section.

(2) Calculate the percent reduction in CO or THC using Equation 2 of this section:

$$R = \frac{C_i - C_o}{C_i} \times 100 \qquad \text{(Eq. 2)}$$

Where:

R = percent reduction in CO or THC

C_i = corrected CO or THC concentration at inlet of the emission control device

C_o = corrected CO or THC concentration at the outlet of the emission control device.

§ 63.9321 What are the general requirements for performance tests?

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

(1) *Representative engine testing conditions.* You must conduct the performance test under representative operating conditions for the test cell/stand. Operations during periods of SSM, and during periods of nonoperation do not constitute representative conditions. You must record the process information that is necessary to document operating conditions during the test and explain why the conditions represent normal operation.

(2) *Representative emission capture system and add-on control device operating conditions.* You must conduct the performance test when the emission capture system and add-on control device are operating at a representative flow rate, and the add-on control device is operating at a representative inlet concentration. You must record information that is necessary to document emission capture system and add-on control device operating conditions during the test and explain why the conditions represent normal operation.

(b) You must conduct each performance test of an emission capture system according to the requirements in § 63.9322. You must conduct each performance test of an add-on control

device according to the requirements in § 63.9323.

§ 63.9322 How do I determine the emission capture system efficiency?

You must use the procedures and test methods in this section to determine capture efficiency as part of the performance test required by § 63.9310.

(a) *Assuming 100 percent capture efficiency.* You may assume the capture system efficiency is 100 percent if both conditions in paragraphs (a)(1) and (2) of this section are met:

(1) The capture system meets the criteria in Method 204 of appendix M to 40 CFR part 51 for a potential to emit (PTE) and directs all the exhaust gases from the enclosure to an add-on control device.

(2) All engine test operations creating exhaust gases for which the test is applicable are conducted within the capture system.

(b) *Measuring capture efficiency.* If the capture system does not meet the criteria in paragraphs (a)(1) and (2) of this section, then you must use one of the two protocols described in paragraphs (c) and (d) of this section to measure capture efficiency. The capture efficiency measurements use total volatile hydrocarbon (TVH) capture efficiency as a surrogate for organic HAP capture efficiency. For the protocol in paragraph (c) of this section, the capture efficiency measurement must consist of three test runs. Each test run must be at least 3 hours in duration or the length of a production run, whichever is longer, up to 8 hours. For the purposes of this test, a production run means the time required for a single engine test to go from the beginning to the end.

(c) *Gas-to-gas protocol using a temporary total enclosure or a building enclosure.* The gas-to-gas protocol compares the mass of TVH emissions captured by the emission capture system to the mass of TVH emissions not captured. Use a temporary total enclosure or a building enclosure and the procedures in paragraphs (c)(1) through (5) of this section to measure emission capture system efficiency using the gas-to-gas protocol.

(1) Either use a building enclosure or construct an enclosure around the engine test cell/stand and all areas where emissions from the engine testing subsequently occur. The enclosure must meet the applicable definition of a temporary total enclosure or building enclosure in Method 204 of appendix M to 40 CFR part 51.

(2) Use Method 204B or 204C of appendix M to 40 CFR part 51 to measure the total mass, kg, of TVH emissions captured by the emission capture system during each capture efficiency test run as measured at the inlet to the add-on control device. To make the measurement, substitute TVH for each occurrence of the term VOC in the methods.

(i) The sampling points for the Method 204B or 204C of appendix M to 40 CFR part 51 measurement must be upstream from the add-on control device and must represent total emissions routed from the capture system and entering the add-on control device.

(ii) If multiple emission streams from the capture system enter the add-on control device without a single common duct, then the emissions entering the add-on control device must be simultaneously measured in each duct, and the total emissions entering the add-on control device must be determined.

(3) Use Method 204D or 204E of appendix M to 40 CFR part 51 to measure the total mass, kg, of TVH emissions that are not captured by the emission capture system; they are measured as they exit the temporary total enclosure or building enclosure during each capture efficiency test run. To make the measurement, substitute TVH for each occurrence of the term VOC in the methods.

(i) Use Method 204D of appendix M to 40 CFR part 51 if the enclosure is a temporary total enclosure.

(ii) Use Method 204E of appendix M to 40 CFR part 51 if the enclosure is a building enclosure. During the capture efficiency measurement, all organic compound emitting operations inside the building enclosure, other than the engine test cell/stand operation for which capture efficiency is being determined, must be shut down, but all fans and blowers must be operating normally.

(4) For each capture efficiency test run, determine the percent capture efficiency of the emission capture system using Equation 1 of this section:

$$CE = \frac{TVH_{captured}}{\left(TVH_{captured} + TVH_{uncaptured}\right)} \times 100 \qquad \text{(Eq. 1)}$$

Where:

CE = capture efficiency of the emission capture system vented to the add-on control device, percent

$TVH_{captured}$ = total mass of TVH captured by the emission capture system as measured at the inlet to the add-on control device during the emission capture efficiency test run, kg, determined according to paragraph (c)(2) of this section

$TVH_{uncaptured}$ = total mass of TVH that is not captured by the emission capture system and that exits from the temporary total enclosure or building enclosure during the capture efficiency test run, kg, determined according to paragraph (c)(3) of this section.

(5) Determine the capture efficiency the emission capture system as the average of the capture efficiencies measured in the three test runs.

(d) *Alternative capture efficiency protocol.* As an alternative to the procedure specified in paragraph (c) of this section, you may determine capture efficiency using any other capture efficiency protocol and test methods that satisfy the criteria of either the data quality objective or lower control limit approach as described in appendix A to subpart KK of this part.

§ 63.9323 How do I determine the add-on control device emission destruction or removal efficiency?

You must use the procedures and test methods in this section to determine the add-on control device emission destruction or removal efficiency as part of the performance test required by § 63.9310. You must conduct three test runs as specified in § 63.7(e)(3), and each test run must last at least 1 hour.

(a) For all types of add-on control devices, use the test methods specified in paragraphs (a)(1) through (5) of this section.

(1) Use Method 1 or 1A of appendix A to 40 CFR part 60, as appropriate, to select sampling sites and velocity traverse points.

(2) Use Method 2, 2A, 2C, 2D, 2F, or 2G of appendix A to 40 CFR part 60, as appropriate, to measure gas volumetric flow rate.

(3) Use Method 3, 3A, or 3B of appendix A to 40 CFR part 60, as appropriate, for gas analysis to determine dry molecular weight. The ANSI/ASME PTC 19.10–1981 Part 10 is

an acceptable alternative to Method 3B (incorporated by reference, see § 63.14).

(4) Use Method 4 of appendix A to 40 CFR part 60, to determine stack gas moisture.

(5) Methods for determining gas volumetric flow rate, dry molecular weight, and stack gas moisture must be performed, as applicable, during each test run.

(b) Measure total gaseous organic mass emissions as carbon at the inlet and outlet of the add-on control device simultaneously, using either Method 25 or 25A of appendix A to 40 CFR part 60, as specified in paragraphs (b)(1) through (3) of this section. You must use the same method for both the inlet and outlet measurements.

(1) Use Method 25 of appendix A to 40 CFR part 60 if the add-on control device is an oxidizer, and you expect the total gaseous organic concentration as carbon to be more than 50 parts per million at the control device outlet.

(2) Use Method 25A of appendix A to 40 CFR part 60 if the add-on control device is an oxidizer, and you expect the total gaseous organic concentration as carbon to be 50 ppm or less at the control device outlet.

(c) For each test run, determine the total gaseous organic emissions mass flow rates for the inlet and the outlet of the add-on control device, using Equation 1 of this section. If there is more than one inlet or outlet to the add-on control device, you must calculate the total gaseous organic mass flow rate using Equation 1 of this section for each inlet and each outlet and then total all of the inlet emissions and total all of the outlet emissions.

$$M_f = Q_{sd} C_c (12)(0.0416)\left(10^{-6}\right) \qquad \text{(Eq. 1)}$$

Where:

M_f = total gaseous organic emissions mass flow rate, kg/hour (kg/h)

C_c = concentration of organic compounds as carbon in the vent gas, as determined by Method 25 or Method 25A, parts per million by volume (ppmv), dry basis

Q_{sd} = volumetric flow rate of gases entering or exiting the add-on control device, as determined by Method 2, 2A, 2C, 2D, 2F, or 2G, dry standard cubic meters/hour (dscm/h)

0.0416 = conversion factor for molar volume, kg-moles per cubic meter (mol/m^3) (@ 293 Kelvin [K] and 760 millimeters of mercury [mmHg]).

(d) For each test run, determine the add-on control device organic emissions destruction or removal efficiency, using Equation 2 of this section:

$$DRE = 100 \times \frac{M_{fi} - M_{fo}}{M_{fi}} \qquad \text{(Eq. 2)}$$

Where:

DRE = organic emissions destruction or removal efficiency of the add-on control device, percent

M_{fi} = total gaseous organic emissions mass flow rate at the inlet(s) to the add-on control device, using Equation 1 of this section, kg/h

M_{fo} = total gaseous organic emissions mass flow rate at the outlet(s) of the add-on control device, using Equation 1 of this section, kg/h.

(e) Determine the emission destruction or removal efficiency of the add-on control device as the average of the efficiencies determined in the three test runs and calculated in Equation 2 of this section.

§ 63.9324 How do I establish the emission capture system and add-on control device operating limits during the performance test?

During the performance test required by § 63.9310, you must establish the operating limits required by § 63.9302 according to this section, unless you have received approval for alternative monitoring and operating limits under § 63.8(f) as specified in § 63.9302.

(a) *Thermal oxidizers.* If your add-on control device is a thermal oxidizer, establish the operating limits according to paragraphs (a)(1) and (2) of this section.

(1) During the performance test, you must monitor and record the combustion temperature at least once every 15 minutes during each of the three test runs. You must monitor the temperature in the firebox of the thermal oxidizer or immediately downstream of the firebox before any substantial heat exchange occurs.

(2) Use the data collected during the performance test to calculate and record the average combustion temperature maintained during the performance test. This average combustion temperature is the minimum operating limit for your thermal oxidizer.

(b) *Catalytic oxidizers.* If your add-on control device is a catalytic oxidizer, establish the operating limits according to either paragraphs (b)(1) and (2) or paragraphs (b)(3) and (4) of this section.

(1) During the performance test, you must monitor and record the temperature just before the catalyst bed and the temperature difference across the catalyst bed at least once every 15 minutes during each of the three test runs.

(2) Use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed and the average temperature difference across the catalyst bed maintained during the performance test. These are the minimum operating limits for your catalytic oxidizer.

(3) As an alternative to monitoring the temperature difference across the catalyst bed, you may monitor the temperature at the inlet to the catalyst bed and implement a site-specific inspection and maintenance plan for your catalytic oxidizer as specified in paragraph (b)(4) of this section. During the performance test, you must monitor and record the temperature just before the catalyst bed at least once every 15 minutes during each of the three test runs. Use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed during the performance test. This is the minimum operating limit for your catalytic oxidizer.

(4) You must develop and implement an inspection and maintenance plan for your catalytic oxidizer(s) for which you elect to monitor according to paragraph (b)(3) of this section. The plan must address, at a minimum, the elements specified in paragraphs (b)(4)(i) through (iii) of this section.

(i) Annual sampling and analysis of the catalyst activity (*i.e.*, conversion efficiency) following the manufacturer's or catalyst supplier's recommended procedures.

(ii) Monthly inspection of the oxidizer system, including the burner assembly and fuel supply lines for problems and, as necessary, adjust the equipment to assure proper air-to-fuel mixtures.

(iii) Annual internal and monthly external visual inspection of the catalyst bed to check for channeling, abrasion, and settling. If problems are found, you must take corrective action consistent with the manufacturer's recommendation and conduct a new performance test to determine

destruction efficiency according to § 63.9323.

(c) *Emission capture system.* For each capture device that is not part of a PTE that meets the criteria of § 63.9322(a), establish an operating limit for either the gas volumetric flow rate or duct static pressure, as specified in paragraphs (c)(1) and (2) of this section. The operating limit for a PTE is specified in Table 3 to this subpart.

(1) During the capture efficiency determination required by § 63.9310, you must monitor and record either the gas volumetric flow rate or the duct static pressure for each separate capture device in your emission capture system at least once every 15 minutes during each of the three test runs at a point in the duct between the capture device and the add-on control device inlet.

(2) Calculate and record the average gas volumetric flow rate or duct static pressure for the three test runs for each capture device. This average gas volumetric flow rate or duct static pressure is the minimum operating limit for that specific capture device.

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

(a) You must demonstrate initial compliance with the emission limitation that applies to you according to Table 3 to this subpart.

(b) You must submit the Notification of Compliance Status containing results of the initial compliance demonstration according to the requirements in § 63.9345(c).

Continuous Compliance Requirements

§ 63.9335 How do I monitor and collect data to demonstrate continuous compliance?

(a) Except for monitor malfunctions, associated repairs, and required quality assurance or quality control activities (including, as applicable, calibration drift checks and required zero and high-level adjustments of the monitoring system), you must conduct all monitoring in continuous operation at all times the engine test cell/stand is operating.

(b) Do not use data recorded during monitor malfunctions, associated repairs, and required quality assurance or quality control activities for meeting the requirements of this subpart, including data averages and calculations. You must use all the data collected during all other periods in assessing the performance of the emission control device or in assessing emissions from the new or reconstructed affected source.

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

(a) You must demonstrate continuous compliance with the emission limitation in Table 1 to this subpart that applies to you according to methods specified in Table 5 to this subpart.

(b) You must report each instance in paragraphs (b)(1) and (2) of this section. These instances are deviations from the emission limitation in this subpart and must be reported according to the requirements in § 63.9350.

(1) You must report each instance in which you did not meet the emission limitation that applies to you.

(2) You must report each instance in which you did not meet the requirements in Table 7 to this subpart that apply to you.

(c) *Startups, shutdowns, and malfunctions.* During periods of SSM of control device and associated monitoring equipment, you must operate in accordance with your SSMP.

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

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

Notifications, Reports, and Records

§ 63.9345 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.8(e), 63.8(f)(4) and (6), and 63.9(b), (g)(1), (g)(2) and (h) that apply to you by the dates specified.

(b) If you own or operate a new or reconstructed test cell/stand used for testing internal combustion engines, you are required to submit an Initial Notification as specified in paragraphs (b)(1) through (3) of this section.

(1) As specified in § 63.9(b)(2), if you start up your new or reconstructed affected source before the effective date of this subpart, you must submit an Initial Notification not later than 120 calendar days after May 27, 2003.

(2) As specified in § 63.9(b), if you start up your new or reconstructed affected source on or after the effective date of this subpart, you must submit an Initial Notification not later than 120 calendar days after you become subject to this subpart.

(3) If you are required to submit an Initial Notification but are otherwise not affected by the requirements of this subpart, in accordance with § 63.9290(c), your notification should include the information in § 63.9(b)(2)(i) through (v) and a statement that your new or reconstructed engine test cell/stand has no additional requirements and explain the basis of the exclusion (for example, that the test cell/stand is used exclusively for testing internal combustion engines with rated power of less than 25 hp (19 kW)).

(c) If you are required to comply with the emission limitations in Table 1 to this subpart, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii). For each initial compliance demonstration with the emission limitation, you must submit the Notification of Compliance Status before the close of business on the 30th calendar day following the completion of the initial compliance demonstration.

(d) You must submit a notification of initial performance evaluation of your CEMS or performance testing of your control device at least 60 calendar days before the performance testing/evaluation is scheduled to begin as required in § 63.8(e)(2).

§ 63.9350 What reports must I submit and when?

(a) If you own or operate a new or reconstructed affected source that must meet the emission limitation, you must submit a semiannual compliance report according to Table 6 to this subpart by the applicable dates specified in paragraphs (a)(1) through (6) of this section, unless the Administrator has approved a different schedule.

(1) The first semiannual compliance report must cover the period beginning on the compliance date specified in § 63.9295 and ending on June 30 or December 31, whichever date is the first date following the end of the first calendar half after the compliance date specified in § 63.9295.

(2) The first semiannual compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date that is specified in § 63.9295.

(3) Each subsequent semiannual compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent semiannual compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) For each new or reconstructed engine test cell/stand that is subject to permitting regulations pursuant to 40 CFR part 70 or 71, and if the permitting authority has established the date for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (a)(1) through (4) of this section.

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

(b) If there is no deviation from the applicable emission limitation and the CEMS or CPMS was not out-of-control, according to § 63.8(c)(7), the semiannual compliance report must contain the information described in paragraphs (b)(1) through (4) of this section.

(1) Company name and address.

(2) Statement by a responsible official, with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) A statement that no deviation from the emission limit occurred during the reporting period and that no CEMS or CPMS was out-of-control, according to § 63.8(c)(7).

(c) For each deviation from an emission limit, the semiannual compliance report must include the information in paragraphs (b)(1) through (3) of this section and the information included in paragraphs (c)(1) through (4) of this section.

(1) The date and time that each deviation started and stopped.

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

(3) A summary of the total duration of the deviation during the reporting period (recorded in 4-hour periods), and the total duration as a percent of the total operating time during that reporting period.

(4) A breakdown of the total duration of the deviations during the reporting period into those that are due to control equipment problems, process problems, other known causes, and other unknown causes.

(d) For each CEMS or CPMS deviation, the semiannual compliance report must include the information in paragraphs (b)(1) through (3) of this section and the information included in paragraphs (d)(1) through (10) of this section.

(1) The date and time that each CEMS or CPMS was inoperative except for zero (low-level) and high-level checks.

(2) The date and time that each CEMS or CPMS was out-of-control including the information in § 63.8(c)(8).

(3) A summary of the total duration of CEMS or CPMS downtime during the reporting period (reported in 4-hour periods), and the total duration of CEMS or CPMS downtime as a percent of the total engine test cell/stand operating time during that reporting period.

(4) A breakdown of the total duration of CEMS or CPMS downtime during the reporting period into periods that are due to monitoring equipment malfunctions, nonmonitoring equipment malfunctions, quality assurance/quality control calibrations, other known causes and other unknown causes.

(5) The monitoring equipment manufacturer(s) and model number(s) of each monitor.

(6) The date of the latest CEMS or CPMS certification or audit.

(7) The date and time period of each deviation from an operating limit in Table 2 to this subpart; date and time period of any bypass of the add-on control device; and whether each deviation occurred during a period of SSM or during another period.

(8) A summary of the total duration of each deviation from an operating limit in Table 2 to this subpart, each bypass of the add-on control device during the semiannual reporting period, and the total duration as a percent of the total source operating time during that semiannual reporting period.

(9) A breakdown of the total duration of the deviations from the operating limits in Table 2 to this subpart and bypasses of the add-on control device during the semiannual reporting period by identifying deviations due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(10) A description of any changes in CEMS, CPMS, or controls since the last reporting period.

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

§ 63.9355 What records must I keep?

(a) You must keep the records as described in paragraphs (a)(1) through (5) of this section.

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) Records of performance evaluations as required in § 63.10(b)(2)(viii).

(3) Records of the occurrence and duration of each malfunction of the air pollution control equipment, if applicable, as required in § 63.10(b)(2)(ii).

(4) Records of all maintenance on the air pollution control equipment, if applicable, as required in § 63.10(b)(iii).

(5) The calculation of the mass of organic HAP emission reduction by emission capture systems and add-on control devices.

(b) For each CPMS, you must keep the records as described in paragraphs (b)(1) through (7) of this section.

(1) For each deviation, a record of whether the deviation occurred during a period of SSM of the control device and associated monitoring equipment.

(2) The records in § 63.6(e)(3)(iii) through (v) related to SSM.

(3) The records required to show continuous compliance with each operating limit specified in Table 2 to this subpart that applies to you.

(4) For each capture system that is a PTE, the data and documentation you used to support a determination that the capture system meets the criteria in Method 204 of appendix M to 40 CFR part 51 for a PTE and has a capture efficiency of 100 percent, as specified in § 63.9322(a).

(5) For each capture system that is not a PTE, the data and documentation you used to determine capture efficiency according to the requirements specified in §§ 63.9321 and 63.9322(b) through (e), including the records specified in paragraphs (b)(5)(i) and (ii) of this section that apply to you.

(i) Records for a gas-to-gas protocol using a temporary total enclosure or a building enclosure. Records of the mass of TVH emissions captured by the emission capture system as measured by Method 204B or C of appendix M to 40 CFR part 51 at the inlet to the add-on control device, including a copy of the test report. Records of the mass of TVH emissions not captured by the capture system that exited the temporary total enclosure or building enclosure during each capture efficiency test run as measured by Method 204D or E of appendix M to 40 CFR part 51, including a copy of the test report. Records documenting that the enclosure used for the capture efficiency test met the criteria in Method 204 of appendix

M to 40 CFR part 51 for either a temporary total enclosure or a building enclosure.

(ii) Records for an alternative protocol. Records needed to document a capture efficiency determination using an alternative method or protocol as specified in § 63.9322(e), if applicable.

(6) The records specified in paragraphs (b)(6)(i) and (ii) of this section for each add-on control device organic HAP destruction or removal efficiency determination as specified in § 63.9323.

(i) Records of each add-on control device performance test conducted according to §§ 63.9321, 63.9322, and 63.9323.

(ii) Records of the engine testing conditions during the add-on control device performance test showing that the performance test was conducted under representative operating conditions.

(7) Records of the data and calculations you used to establish the emission capture and add-on control device operating limits as specified in § 63.9324 and to document compliance with the operating limits as specified in Table 2 to this subpart.

(c) For each CEMS, you must keep the records as described in paragraphs (c)(1) through (4) of this section.

(1) Records described in § 63.10(b)(2)(vi) through (xi).

(2) Previous (*i.e.*, superceded) versions of the performance evaluation plan as required in § 63.8(d)(3).

(3) Request for alternatives to the relative accuracy test for CEMS as required in § 63.8(f)(6)(i), if applicable.

(4) The records in § 63.6(e)(3)(iii) through (v) related to SSM of the control device and associated monitoring equipment.

(d) You must keep the records required in Table 5 to this subpart to show continuous compliance with each emission limitation that applies to you.

§ 63.9360 In what form and how long must I keep my records?

(a) You must maintain all applicable records in such a manner that they can be readily accessed and are suitable for inspection according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each records for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must retain your records of the most recent 2 years on site, or your records must be accessible on site. Your records of the remaining 3 years may be retained off site.

Other Requirements and Information

§ 63.9365 What parts of the General Provisions apply to me?

Table 7 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

§ 63.9370 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. EPA, or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under section 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are described in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the emission limitations in § 63.9300 under § 63.6(g).

(2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.9375 What definitions apply to this subpart?

Terms used in this subpart are defined in the CAA; in 40 CFR 63.2, and in this section:

CAA means the Clean Air Act (42 U.S.C. 7401 *et seq.*, as amended by Public Law 101–549, 104 Statute 2399).

Area source means any stationary source of HAP that is not a major source as defined in this part.

Combustion turbine engine means a device in which air is compressed in a compressor, enters a combustion chamber, and is compressed further by the combustion of fuel injected into the combustion chamber. The hot compressed combustion gases then expand over a series of curved vanes or blades arranged on a central spindle that rotates.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limitations;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation in this subpart during malfunction, regardless or whether or not such failure is permitted by this subpart.

Engine means any internal combustion engine, any combustion turbine engine, or any rocket engine.

Engine Test Cell/Stand means any apparatus used for testing uninstalled stationary or uninstalled mobile (motive) engines.

Hazardous Air Pollutant (HAP) means any air pollutant listed in or pursuant to section 112(b) of the CAA.

Internal combustion engine means a device in which air enters a combustion chamber, is mixed with fuel, compressed in the chamber, and combusted. Fuel may enter the combustion chamber with the air or be injected into the combustion chamber. Expansion of the hot combustion gases in the chamber rotates a shaft, either through a reciprocating or rotary action. For purposes of this subpart, this definition does not include combustion turbine engines.

Major source, as used in this subpart, shall have the same meaning as in § 63.2.

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

Rated power means the maximum power output of an engine in use.

Potential to emit means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable.

Responsible official means responsible official as defined by 40 CFR 70.2.

Rocket engine means a device consisting of a combustion chamber in which materials referred to as propellants, which provide both the fuel and the oxygen for combustion, are burned. Combustion gases escape through a nozzle, providing thrust.

Uninstalled engine means an engine not installed in, or an integrated part of, the final product.

Tables to Subpart PPPPP of Part 63

TABLE 1 TO SUBPART PPPPP OF PART 63.—EMISSION LIMITATIONS

You must comply with the emission limits that apply to your affected source in the following table as required by § 63.9300:

For each new or reconstructed affected source located at a major source facility that is used in whole or in part for testing . . .	You must meet one of the following emission limitations:
1. internal combustion engines with rated power of 25 hp (19 kW) or more.	a. limit the concentration of CO or THC to 20 ppmvd or less (corrected to 15 percent O_2 content); or b. achieve a reduction in CO or THC of 96 percent or more between the inlet and outlet concentrations (corrected to 15 percent O_2 content) of the emission control device.

TABLE 2 TO SUBPART PPPPP OF PART 63.—OPERATING LIMITS

If you are required to comply with operating limits in § 63.9302, you must comply with the applicable operating limits in the following table:

For the following device . . .	You must meet the following operating limit . . .	and you must demonstrate continuous compliance with the operating limit by . . .
1. Thermal oxidizer	a. The average combustion temperature in any 3-hour period must not fall below the the combustion temperature limit established according to § 63.9324(a).	i. Collecting the combustion temperature data according to § 63.9306(c); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour average combustion temperature at or above the temperature limit.
2. Catalytic oxidizer	a. The average temperature measured just before the catalyst bed in any 3-hour period must not fall below the limit established according to § 63.9324(b).	i. Collecting the temperature data according to § 63.9306(c); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour average temperature before the catalyst bed at or above the temperature limit.
	b. Either ensure that the average temperature difference across the catalyst bed in any 3-hour period does not fall below the temperature difference limit established according to § 63.9324(b)(2) or develop and implement an inspection and maintenance plan according to § 63.9324(b)(3) and (4).	i. Either collecting the temperature data according to § 63.9306(c), reducing the data to 3-hour block averages, and maintaining the 3-hour average temperature difference at or above the temperature difference limit; or ii. Complying with the inspection and maintenance plan developed according to § 63.9324(b)(3) and (4).
3. Emission capture system that is a PTE according to § 63.9322(a).	a. The direction of the air flow at all times must be into the enclosure; and either	i. Collecting the direction of air flow; and either the facial velocity of air through all natural draft openings according to § 63.9306(d)(1) or the pressure drop across the enclosure according to § 63.9306(d)(2); and ii. Maintaining the facial velocity of air flow through all natural draft openings or the pressure drop at or above the facial velocity limit or pressure drop limit, and maintaining the direction of air flow into the enclosure at all times.
	b. The average facial velocity of air through all natural draft openings in the enclosure must be at least 200 feet per minute; or	Follow the requirements in 3ai and ii of this table.
	c. The pressure drop across the enclosure must be at least 0.007 inch H_2O, as established in Method 204 of appendix M to 40 CFR part 51.	Follow the requirements in 3ai and ii of this table.

TABLE 2 TO SUBPART PPPPP OF PART 63.—OPERATING LIMITS—Continued

If you are required to comply with operating limits in § 63.9302, you must comply with the applicable operating limits in the following table:

For the following device . . .	You must meet the following operating limit . . .	and you must demonstrate continuous compliance with the operating limit by . . .
4. Emission capture system that is not a PTE according to § 63.9322(a).	a. The average gas volumetric flow rate or duct static pressure in each duct between a capture device and add-on control device inlet in any 3-hour period must not fall below the average volumetric flow rate or duct static pressure limit established for that capture device according § 63.9306(d).	i. Collecting the gas volumetric flow rate or duct static pressure for each capture device according to § 63.9306(d); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour average gas volumetric flow rate or duct static pressure for each capture device at or above the gas volumetric flow rate or duct static pressure limit.

TABLE 3 TO SUBPART PPPPP OF PART 63.—REQUIREMENTS FOR INITIAL COMPLIANCE DEMONSTRATIONS

As stated in § 63.9321, you must demonstrate initial compliance with each emission limitation that applies to you according to the following table:

For each new or reconstructed affected source complying with . . .	You must . . .	Using . . .	According to the following requirements . . .
1. The CO or THC outlet concentration emission limitation.	a. Demonstrate CO or THC emissions are 20 ppmvd or less.	i. EPA Methods 3A and 10 of appendix A to 40 CFR part 60 for CO measurement or EPA Method 25A of appendix A to 40 CFR part 60 for THC measurement; or	You must demonstrate that the outlet concentration of CO or THC emissions from the test cell/stand or emission control device is 20 ppmvd or less, corrected to 15 percent O_2 content, using the first 4-hour rolling average after a successful performance evaluation.
		ii. A CEMS for CO or THC and O_2 at the outlet of the engine test cell/stand or emission control device.	This demonstration is conducted immediately following a successful performance evaluation of the CEMS as required in § 63.9320(b). The demonstration consists of the first 4-hour rolling average of measurements. The CO or THC concentration must be corrected to 15 percent O_2 content, dry basis using Equation 1 in § 63.9320.
2. The CO or THC percent reduction emission limitation.	a. Demonstrate a reduction in CO or THC of 96 percent or more.	i. You must conduct an initial performance test to determine the capture and control efficiencies of the equipment and to establish operating limits to be achieved on a continuous basis; or	You must demonstrate that the reduction in CO or THC emissions is at least 96 percent using the first 4-hour rolling average after a successful performance evaluation. Your inlet and outlet measurements must be on a dry basis and corrected to 15 percent O_2 content.
		ii. A CEMS for CO or THC and O_2 at both the inlet and outlet of the emission control device.	This demonstration is conducted immediately following a successful performance evaluation of the CEMS as required in § 63.9320(b). The demonstration consists of the first 4-hour rolling average of measurements. The inlet and outlet CO or THC concentrations must be corrected to 15 percent O_2 content using Equation 1 in § 63.9320. The reduction in CO or THC is calculated using Equation 2 in § 63.9320.

TABLE 4 TO SUBPART PPPPP OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS

As stated in § 63.9330, you must demonstrate initial compliance with each emission limitation that applies to you according to the following table:

For the . . .	You have demonstrated initial compliance if . . .
1. CO or THC concentration emission limitation	The first 4-hour rolling average CO or THC concentration is 20 ppmvd or less, corrected to 15 percent O_2 content.
2. CO or THC percent reduction emission limitation	The first 4-hour rolling average reduction in CO or THC is 96 percent or more, dry basis, corrected to 15 percent O_2 content.

TABLE 5 TO SUBPART PPPPP OF PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS

As stated in § 63.9340, you must demonstrate continuous compliance with each emission limitation that applies to you according to the following table:

For the . . .	You must . . .	By . . .
1. CO or THC concentration emission limitation	a. Demonstrate CO or THC emissions are 20 ppmvd or less over each 4-hour rolling averaging period.	i. Collecting the CPMS data according to § 63.9306(a), reducing the measurements to 1-hour averages; or ii. Collecting the CEMS data according to § 63.9307(a), reducing the measurements to 1-hour averages, correcting them to 15 percent O_2 content, dry basis, according to § 63.9320;
2. CO or THC percent reduction emission limitation.	a. Demonstrate a reduction in CO or THC of 96 percent or more over each 4-hour rolling averaging period.	i. Collecting the CPMS data according to § 63.9306(a), reducing the measurements to 1-hour averages; or ii. Collecting the CEMS data according to § 63.9307(b), reducing the measurements to 1-hour averages, correcting them to 15 percent O_2 content, dry basis, calculating the CO or THC percent reduction according to § 63.9320.

TABLE 6 TO SUBPART PPPPP OF PART 63.—REQUIREMENTS FOR REPORTS

As stated in § 63.9350, you must submit each report that applies to you according to the following table:

If you own or operate a new or reconstructed affected source that must comply with emission limitations, you must submit a . . .	The report must contain . . .	You must submit the report . . .
1. Compliance report	a. If there are no deviations from the emission limitations that apply to you, a statement that there were no deviations from the emission limitations during the reporting period.	Semiannually, according to the requirements in § 63.9350.
	b. If there were no periods during which the CEMS or CPMS were out of control as specified in § 63.8(c)(7), a statement that there were no periods during which the CEMS or CPMS was out of control during the reporting period.	Semiannually, according to the requirements in § 63.9350.
	c. If you have a deviation from any emission limitation during the reporting period, the report must contain the information in § 63.9350(c).	Semiannually, according to the requirements in § 63.9350.
	d. If there were periods during which the CEMS or CPMS were out of control, as specified in § 63.8(c)(7), that report must contain the information in § 63.9350(d).	Semiannually, according to the requirements in § 63.9350.
	e. If you had an SSM of a control device or associated monitoring equipment during the reporting period, the report must include the information in § 63.10(d)(5)(i).	Semiannually, according to the requirements in § 63.9350.

TABLE 7 TO SUBPART PPPPP OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPPP

As stated in 63.9365, you must comply with the General Provisions in §§ 63.1 through 63.15 that apply to you according to the following table:

Citation	Subject	Brief description	Applies to subpart PPPPP
§ 63.1(a)(1)	Applicability	General applicability of the General Provisions.	Yes. Additional terms defined in § 63.9375.
§ 63.1(a)(2)–(4)	Applicability	Applicability of source categories	Yes.
§ 63.1(a)(5)	[Reserved].		
§ 63.1(a)(6)–(7)	Applicability	Contact for source category information; extension of compliance through early reduction.	Yes.
§ 63.1(a)(8)	Applicability	Establishment of State rules or programs.	No. Refers to State programs.
§ 63.1(a)(9)	[Reserved].		
§ 63.1(a)(10)–(14)	Applicability	Explanation of time periods, postmark deadlines.	Yes.
§ 63.1(b)(1)	Applicability	Initial applicability	Yes. Subpart PPPPP clarifies applicability at § 63.9285.
§ 63.1(b)(2)	Applicability	Title V operating permit-reference to part 70.	Yes. All major affected sources are required to obtain a Title V permit.
§ 63.1(b)(3)	Applicability	Record of applicability determination.	Yes.
§ 63.1(c)(1)	Applicability	Applicability after standards are set.	Yes. Subpart PPPPP clarifies the applicability of each paragraph of subpart A to sources subject to subpart PPPPP.
§ 63.1(c)(2)	Applicability	Title V permit requirement for area sources.	No. Area sources are not subject to subpart PPPPP.
§ 63.1(c)(3)	[Reserved].		
§ 63.1(c)(4)	Applicability	Extension of compliance for existing sources.	No. Existing sources are not covered by the substantive control requirements of subpart PPPPP.
§ 63.1(c)(5)	Applicability	Notification requirements for an area source becoming a major source.	Yes.
§ 63.1(d)	[Reserved].		
§ 63.1(e)	Applicability	Applicability of permit program before a relevant standard has been set.	Yes.
§ 63.2	Definitions	Definitions for Part 63 standards ..	Yes. Additional definitions are specified in § 63.9375.
§ 63.3	Units and Abbreviations	Units and abbreviations for Part 63 standards.	Yes.
§ 63.4	Prohibited Activities	Prohibited activities; compliance date; circumvention, severability.	Yes.
§ 63.5(a)	Construction/Reconstruction	Construction and reconstruction—applicability.	Yes.
§ 63.5(b)(1)	Construction/Reconstruction	Requirements upon construction or reconstruction.	Yes.
§ 63.5(b)(2)	[Reserved].		

TABLE 7 TO SUBPART PPPPP OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPPP—Continued

As stated in 63.9365, you must comply with the General Provisions in §§ 63.1 through 63.15 that apply to you according to the following table:

Citation	Subject	Brief description	Applies to subpart PPPPP
§ 63.5(b)(3)	Construction/Reconstruction	Approval of construction	Yes.
§ 63.5(b)(4)	Construction/Reconstruction	Notification of construction	Yes.
§ 63.5(b)(5)	Construction/Reconstruction	Compliance	Yes.
§ 63.5(b)(6)	Construction/Reconstruction	Addition of equipment	Yes.
§ 63.5(c)	[Reserved]		
§ 63.5(d)	Construction/Reconstruction	Application for construction reconstruction.	Yes.
§ 63.5(e)	Construction/Reconstruction	Approval of construction or reconstruction.	Yes.
§ 63.5(f)	Construction/Reconstruction	Approval of construction or reconstruction based on prior State review.	Yes.
§ 63.6(a)	Applicability	Applicability of standards and monitoring requirements.	Yes.
§ 63.6(b)(1)–(2)	Compliance Dates for New and Reconstructed Sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for 112(f).	Yes.
§ 63.6(b)(3)	Compliance Dates for New and Reconstructed Sources.	Compliance dates for sources constructed or reconstructed before effective date.	No. Compliance is required by startup or effective date.
§ 63.6(b)(4)	Compliance Dates for New and Reconstructed Sources.	Compliance dates for sources also subject to § 112(f) standards.	Yes.
§ 63.6(b)(5)	Compliance Dates for New and Reconstructed Sources.	Notification	Yes.
§ 63.6(b)(6)	[Reserved].		
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Sources.	Compliance dates for new and reconstructed area sources that become major.	Yes.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources.	Effective date establishes compliance date.	No. Existing sources are not covered by the substantive control requirements of subpart PPPPP.
§ 63.6(c)(3)–(4)	[Reserved].		
§ 63.6(c)(5)	Compliance Dates for Existing Sources.	Compliance dates for existing area sources that becomes major.	Yes. If the area source become a major source by addition or reconstruction, the added or reconstructed portion will be subject to subpart PPPPP.
§ 63.6(d)	[Reserved].		
§ 63.6(e)(1)–(2)	Operation and Maintenance Requirements.	Operation and maintenance	Yes. Except that you are not required to have an SSMP for control devices and associated monitoring equipment.
§ 63.6(e)(3)	SSMP	1. Requirement for SSM and SSMP. 2. Content of SSMP.	Yes.You must develop an SSMP for each control device and associated monitoring equipment.

TABLE 7 TO SUBPART PPPPP OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPPP—Continued

As stated in 63.9365, you must comply with the General Provisions in §§ 63.1 through 63.15 that apply to you according to the following table:

Citation	Subject	Brief description	Applies to subpart PPPPP
§ 63.6(f)(1)	Compliance Except During SSM ..	You must comply with emission standards at all times except during SSM of control devices or associated monitoring equipment.	Yes, but you must comply with emission standards at all times except during SSM of control devices and associated monitoring equipment only.
§ 63.6(f)(2)–(3)	Methods for Determining Compliance.	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes.
§ 63.6(g)(1)–(3)	Alternative Standard	Procedures for getting an alternative standard.	Yes.
§ 63.6(h)	Opacity/Visible Emission (VE) Standards.	Requirements for opacity/VE standards.	No. Subpart PPPPP does not establish opacity/VE standards and does not require continuous opacity monitoring systems (COMS).
§ 63.6(i)(1)–(14)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	No. Compliance extension provisions apply to existing sources, which do not have emission limitations in subpart PPPPP.
§ 63.6(j)	Presidential Compliance Exemption.	President may exempt source category from requirement to comply with rule.	Yes.
§ 63.7(a)(1)–(2)	Performance Test Dates	Dates for conducting initial performance testing and other compliance demonstrations: Must conduct within 180 days after first subject to rule.	Yes.
§ 63.7(a)(3)	Section 114 Authority	Administrator may require a performance test under CAA Section 114 at any time.	Yes.
§ 63.7(b)(1)	Notification Performance Test	Must notify Administrator 60 days before the test.	Yes.
§ 63.7(b)(2)	Notification of Rescheduling	If have to reschedule performance test, must notify Administrator 5 days before schedule date of rescheduled date.	Yes.
§ 63.7(c)	Quality Assurance/Test Plan	1. Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with. 2. Test plan approval procedures 3. Performance audit requirements. 4. Internal and external QA procedures for testing.	Yes. Yes. Yes. Yes.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests.	Performance tests must be conducted under representative conditions; cannot conduct performance tests during SSM; not a violation to exceed standard during SSM.	Yes.
§ 63.7(e)(2)	Conditions for Conducting Performance Tests.	Must conduct according to rule and EPA test methods unless Administrator approves alternative.	Yes.

TABLE 7 TO SUBPART PPPPP OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPPP—Continued

As stated in 63.9365, you must comply with the General Provisions in §§ 63.1 through 63.15 that apply to you according to the following table:

Citation	Subject	Brief description	Applies to subpart PPPPP
§ 63.7(e)(3)	Test Run Duration	1. Must have three test runs of at least 1 hour each. 2. Compliance is based on arithmetic mean of three runs. 3. Conditions when data from an additional test run can be used.	Yes. Yes. Yes.
§ 63.7(e)(4)	Other Performance Testing	Administrator may require other testing under section 114 of the CAA.	Yes.
§ 63.7(f)	Alternative Test Method	Procedures by which Administrator can grant approval to use an alternative test method.	Yes.
§ 63.7(g)	Performance Test Data Analysis	1. Must include raw data in performance test report. 2. Must submit performance test data 60 days after end of test with the Notification of Compliance Status. 3. Keep data for 5 years	Yes. Yes. Yes.
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test.	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements.	Subject to all monitoring requirements in standard.	Yes. Subpart PPPPP contains specific requirements for monitoring at § 63.9325.
§ 63.8(a)(2)	Performance Specifications	Performance Specifications in appendix B of part 60 apply.	Yes.
§ 63.8(a)(3)	[Reserved]		
§ 63.8(a)(4)	Monitoring with Flares	Unless your rule says otherwise, the requirements for flares in 63.11 apply.	No. Subpart PPPPP does not have monitoring requirements for flares.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes.
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Monitoring Systems.	1. Specific requirements for installing monitoring systems. 2. Must install on each effluent before it is combined and before it is released to the atmosphere unless Administrator approves otherwise. 3. If more than one monitoring system on an emission point, must report all monitoring system results, unless one monitoring system is a backup.	Yes. Yes. Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance.	Maintain monitoring system in a manner consistent with good air pollution control practices.	Yes.
§ 63.8(c)(1)(i)	Routine and Predictable CMS Malfunctions.	1. Follow the SSMP for routine repairs of CMS. 2. Keep parts for routine repairs of CMS readily available. 3. Reporting requirements for SSM when action is described in SSMP.	Yes. Yes. Yes.
§ 63.8(c)(1)(ii)	SSM of CMS Not in SSMP	Reporting requirements for SSM of CMS when action is not described in SSMP.	Yes.

TABLE 7 TO SUBPART PPPPP OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPPP—Continued

As stated in 63.9365, you must comply with the General Provisions in §§ 63.1 through 63.15 that apply to you according to the following table:

Citation	Subject	Brief description	Applies to subpart PPPPP
§ 63.8(c)(1)(iii)	Compliance with Operation and Maintenance Requirements.	1. How Administrator determines if source complying with operation and maintenance requirements. 2. Review of source O&M procedures, records, manufacturer's instructions and recommendations, and inspection	Yes.
§ 63.8(c)(2)–(3)	Monitoring System Installation	1. Must install to get representative emission of parameter measurements. 2. Must verify operational status before or at performance test.	Yes. Yes.
§ 63.8(c)(4)	Continuous Monitoring System (CMS) Requirements.	1. CMS must be operating except during breakdown, out of control, repair, maintenance, and high-level calibration drifts. 2. COMS must have a minimum of one cycle of sampling and analysis for each successive 10-second period and one cycle of data recording for each successive 6-minute period. 3. CEMS must have a minimum of one cycle of operation for each successive 15-minute period.	No. Follow specific requirements in § 63.9335(a) and (b) of subpart PPPPP. No. Follow specific requirements in § 63.9335(a) and (b) of subpart PPPP. No. Follow specific requirements in § 63.9335(a) and (b) of subpart PPPPP.
§ 63.8(c)(5)	COMS Minimum Procedures	COMS minimum procedures	No. Subpart PPPPP does not have opacity/VE standards.
§ 63.8(c)(6)–(8)	CMS Requirements	Zero and high-level calibration check requirements, out-of-control periods.	Yes. Except that PPPP does not require COMS.
§ 63.8(d)	CMS Quality Control	1. Requirements for CMS quality control, including calibration, etc. 2. Must keep quality control plan on record for 5 years. Keep old versions for 5 years after revisions.	Yes. Yes.
§ 63.8(e)	CMS Performance Evaluation	Notification, performance evaluation test plan, reports.	Yes. Except for § 63.8(e)(5)(ii), which applies to COMS.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method	Procedures for Administrator to approve alternative monitoring.	Yes.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test.	Procedures for Administrator to approve alternative relative accuracy tests for CEMS.	Yes.
§ 63.8(g)	Data Reduction	1. COMS 6-minute averages calculated over at least 36 evenly spaced data points. 2. CEMS 1-hour averages computed over at least 4 equally spaced data points	Yes. Except that provisions for COMS are not applicable. Averaging periods for demonstrating compliance are specified at § 63.9340.
§ 63.8(g)(5)	Data Reduction	Data that cannot be used in computing averages for CEMS and COMS.	No. Specific language is located at § 63.9335(a).
§ 63.9(a)	Notification Requirements	Applicability and State delegation	Yes.
§ 63.9(b)(1)–(5)	Initial Notifications	1. Submit notification subject 120 days after effective date.	Yes.

TABLE 7 TO SUBPART PPPPP OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPPP—Continued

As stated in 63.9365, you must comply with the General Provisions in §§ 63.1 through 63.15 that apply to you according to the following table:

Citation	Subject	Brief description	Applies to subpart PPPPP
		2. Notification of intent to construct/ reconstruct; notification of commencement of construct/ reconstruct; notification of startup. 3. Contents of each	Yes. Yes.
§ 63.9(c)	Request for Compliance Extension.	Can request if cannot comply by date or if installed BACT/LAER.	No. Compliance extensions do not apply to new or reconstructed sources.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes.
§ 63.9(e)	Notification of Performance Test	Notify Administrator 60 days prior	No. Subpart PPPPP does not require performance testing.
§ 63.9(f)	Notification of Opacity/VE Test	Notify Administrator 30 days prior	No. Subpart PPPPP does not have opacity/VE standards.
§ 63.9(g)(1)	Additional Notifications when Using CMS.	Notification of performance evaluation.	Yes.
§ 63.9(g)(2)	Additional Notifications when Using CMS.	Notification of use of COMS data	No. Subpart PPPPP does not contain opacity or VE standards.
§ 63.9(g)(3)	Additional Notifications when Using CMS.	Notification that exceeded criterion for relative accuracy.	Yes. If alternative is in use.
§ 63.9(h)(1)–(6)	Notification of Compliance Status	1. Contents 2. Due 60 days after end of performance test or other compliance demonstration, except for opacity/VE, which are due 30 days after. 3. When to submit to Federal vs. State authority.	Yes. Yes. Yes.
§ 63.9(i)	Adjustment of Submittal Deadlines.	Procedures for Administrator to approve change in when notifications must be submitted.	Yes.
§ 63.9(j)	Change in Previous Information	Must submit within 15 days after the change.	Yes.
§ 63.10(a)	Recordkeeping/Reporting	1. Applies to all, unless compliance extension. 2. When to submit to Federal vs. State authority. 3. Procedures for owners of more than one source.	Yes. Yes. Yes.
§ 63.10(b)(1)	Recordkeeping/Reporting	1. General requirements 2. Keep all records readily available. 3. Keep for 5 years	Yes. Yes. Yes.
§ 63.10(b)(2)(i)–(v)	Records Related to SSM	1. Occurrence of each of operation (process equipment). 2. Occurrence of each malfunction of air pollution equipment. 3. Maintenance on air pollution control equipment. 4. Actions during SSM 5. All information necessary to demonstrate conformance with the SSMP.	Yes. Yes. Yes. Yes. Yes.

TABLE 7 TO SUBPART PPPPP OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPPP—Continued

As stated in 63.9365, you must comply with the General Provisions in §§63.1 through 63.15 that apply to you according to the following table:

Citation	Subject	Brief description	Applies to subpart PPPPP
§63.10(b)(2)(vi)–(xi)	CMS Records	Malfunctions, inoperative, out of control.	Yes.
§63.10(b)(2)(xii)	Records	Records when under waiver	Yes.
§63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test.	Yes.
§63.10(b)(2)(xiv)	Records	All documentation supporting initial notification and notification of compliance status.	Yes.
§63.10(b)(3)	Records	Applicability determinations	Yes.
§63.10(c)(1)–(6), (9)–(15)	Records	Additional records for CEMS	Yes.
§63.10(c)(7)–(8)	Records	Records of excess emissions and parameter monitoring exceedances for CMS.	No. Specific language is located at §63.9355 of subpart PPPPP.
§63.10(d)(1)	General Reporting Requirements	Requirement to report	Yes.
§63.10(d)(2)	Report of Performance Test Results.	When to submit to Federal or State authority.	Yes.
§63.10(d)(3)	Reporting Opacity or VE Observations.	What to report and when	No. Subpart PPPPP does not have opacity/VE standards.
§63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	No. Compliance extensions do not apply to new or reconstructed sources.
§63.10(d)(5)	SSM Reports	Contents and submission	Yes.
§63.10(e)(1) and (2)(i)	Additional CMS Reports	Additional CMS reports	Yes.
§63.10(e)(2)(ii)	Additional CMS Reports	COMS-related report	No. Subpart PPPPP does not require COMS.
§63.10(e)(3)	Additional CMS Reports	Excess emissions and parameter exceedances reports.	No. Specific language is located in §63.9350 of subpart PPPPP.
§63.10(e)(4)	Additional CMS Reports	Reporting COMS data	No. Subpart PPPPP does not require COMS.
§63.10(f)	Waiver for Recordkeeping/Reporting.	Procedures for Administrator to waive.	Yes.
§63.11	Control Device Requirements	Requirements for flares	No. Subpart PPPPP does not specify use of flares for compliance.
§63.12	State Authority and Delegations	State authority to enforce standards.	Yes.
§63.13	Addresses of State Air Pollution Control Offices and EPA Regional Offices.	Addresses where reports, notifications, and requests are sent.	Yes.
§63.14	Incorporations by Reference	Test methods incorporated by reference.	Yes. ASTM D 6522–00 and ANSI/ASME PTC 19.10–1981 (incorporated by reference-See §63.14).
§63.15	Availability of Information and Confidentiality.	Public and confidential information	Yes.

[FR Doc. 03–5521 Filed 5–23–03; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–1537; MM Docket No. 02–13; RM–10357, RM–10493*]

Radio Broadcasting Services; Bunnell and Palm Coast, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a Notice of Proposed Rule Making, 67 FR 5961 (February 8, 2002) ("Notice"), this Report and Order allots Channel 254A to Palm Coast, Florida, and provides Palm Coast with its first local aural transmission service. This document also denies a mutually exclusive rulemaking request set forth in the Notice to allot the same channel to Bunnell, Florida. The Commission compared the merits of the two rulemaking proposals pursuant to the Commission's Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982), and preferred the Palm Coast rulemaking proposal. The coordinates for Channel 254A at Palm Coast are 29–29–38 North Latitude and 81–09–45 West Longitude. This allotment has a site restriction of 11 kilometers (6.8 miles) southeast of Palm Coast.

DATES: Effective June 23, 2003.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 02–13, adopted May 7, 2003, and released May 9, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. The document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone (202) 863–2893. facsimile (202) 863–2898, or via e-mail *qualexint@aol.com*.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCASTING SERVICES

■ 1. The authority citation for Part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by adding Palm Coast, Channel 254A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–13073 Filed 5–23–03; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–1538; MB Docket No. 03–42, RM–10648; MB Docket No. 03–30, RM–10644; MB Docket No. 03–29, RM–10643; MM Docket No. 03–43, RM–10649]

Radio Broadcasting Services; Daisy, AR; Muldrow, OK; Rattan, OK and Trona, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants four proposals that allot new FM channels to Daisy, Arkansas; Trona, California; Muldrow, Oklahoma; and Rattan, Oklahoma. The Audio Division, at the request of Gray Media Corporation, allots Channel 293C3 at Daisy, Arkansas, as the community's first local aural transmission service. *See* 68 FR 10682, March 6, 2003. Channel 293C3 can be allotted to Daisy, Arkansas, in compliance with the Commission's minimum distance separation requirements with a site restriction of 21.1 km (13.1 miles) northwest of Daisy. The coordinates for Channel 293C3 at Daisy, Arkansas, are 34–21–49 North Latitude and 93–54–48 West Longitude. A filing window for Channel 293C3 at Daisy, Arkansas, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent Order. *See* **SUPPLEMENTARY INFORMATION** *infra*.

DATES: Effective June 23, 2003.

FOR FURTHER INFORMATION CONTACT: Deborah Dupont, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket Nos. 03–42, 03–30, 03–29, and 03–43, adopted May 7, 2003, and released May 9, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com*.

The Audio Division further allots, at the request of Dana J. Puopolos, Channel 255A at Trona, California, as the community's first local aural transmission FM service. *See* 68 FR 7962, February 19, 2003. Channel 255A can be allotted to Trona, California, in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.8 km (4.2 miles) southeast of Trona. The coordinates for Channel 255A at Trona, California, are 35–43–51 North Latitude and 117–18–28 West Longitude. A filing window for Channel 255A at Trona, California, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent Order.

The Audio Division further allots, at the request of David P. Garland, Channel 286A at Muldrow, Oklahoma, as the community's first local aural transmission service. *See* 68 FR 7962, February 19, 2003. Channel 286A can be allotted to Muldrow, Oklahoma, in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.02 km (6.52 miles) north of Muldrow. The coordinates for Channel 286A at Muldrow, Oklahoma, are 35–29–47 North Latitude and 94–36–04 West Longitude. A filing window for Channel 286A at Muldrow, Oklahoma, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent Order.

The Audio Division further allots, at the request of Gray Media Corporation, Channel 258A at Rattan, Oklahoma, as the community's first local aural transmission service. *See* 68 FR 10682, March 6, 2003. Channel 258A can be

Corrections

Federal Register
Vol. 68, No. 102
Wednesday, May 28, 2003

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0054 and OAR–2002–0055, FRL–7459–9]

RIN 2060–A167 and 2060–A168

National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing; and National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing

Correction

In rule document 03–5739 beginning on page 26690 in the issue of Friday, May 16, 2003, make the following corrections:

§63.8395 [Corrected]

On page 26723, in the first column, in §63.8395(b), in the last line "May 16, 2003" should read "May 16, 2006".

§63.8545 [Corrected]

On page 26739, in the third column, in §63.8545(b), in the last line "May 16, 2003" should read "May 16, 2006".

[FR Doc. C3–5739 Filed 5–27–03; 8:45 am]
BILLING CODE 1505–01–D



Federal Register

Wednesday,
May 28, 2003

Part II

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2003–0002—FRL–7462–2]

RIN 2060–AH02

National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for wood building products surface coating operations. The final standards establish emission limitations, operating limits, and work practice requirements for all major sources that apply a surface coating to a wood building product to reduce certain organics listed as hazardous air pollutants (HAP) in section 112 of the Clean Air Act (CAA). These standards implement section 112(d) of the CAA by requiring all major sources to meet the HAP emission standards reflecting the application of the maximum achievable control technology (MACT).

Wood building products surface coating operations emit several HAP, including xylenes, toluene, ethyl benzene, ethylene glycol monobutyl ether (EGBE), other glycol ethers, methyl ethyl ketone (MEK), methyl isobutyl ketone (MIBK), methanol, styrene, and formaldehyde. We do not have the type of current detailed data on each of the facilities covered by the final rule and the people living around the facilities that would be necessary to conduct an analysis to determine the actual population exposures to the HAP emitted from these facilities and potential for resultant health effects. Therefore, we do not know the extent to which the adverse health effects described above occur in the populations surrounding these facilities. However, to the extent the adverse effects do occur, the final rule will reduce emissions and subsequent exposures. The final rule will reduce HAP emissions by approximately 4,400 megagrams per year (Mg/yr) (4,900 tons per year (tpy)) or by 63 percent from baseline.

EFFECTIVE DATE: May 28, 2003. The incorporation by reference of certain publications listed in the final rule is approved by the Director of the Federal Register as of May 28, 2003.

ADDRESSES: *Docket.* Docket ID No. OAR–2003–0002 (formerly Docket No. A–97–52) is located at the EPA Docket Center, EPA West, U.S. EPA (6102T), 1301 Constitution Avenue, NW., Room B–102, Washington, DC 20460.

Background Information Document. A background information document (BID) for the promulgated NESHAP may be obtained from the docket; the U.S. EPA Library (C267–01), Research Triangle Park, NC 27711, telephone (919) 541–2777; or from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, telephone (703) 487–4650. Refer to "National Emission Standards for Hazardous Air Pollutants (NESHAP) for Wood Building Products (Surface Coating) Background Information for Final Standards' (EPA–453/R–03–003). The promulgation BID contains a summary of changes made to the standards since proposal, public comments made on the proposed standards, and EPA responses to the comments.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn Dail, Coatings and Consumer Products Group, Emission Standards Division (C539–03), U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541–2363; facsimile number (919) 541–5689; electronic mail (e-mail) address *dail.lynn@epa.gov.*

SUPPLEMENTARY INFORMATION: *Regulated Entities.* The source category, which is divided into the five subcategories listed in Table 1 of this preamble, includes sources that apply coatings to wood building products. In general, these sources are covered under the North American Industrial Classification System (NAICS) codes listed in Table 1. However, sources classified under other NAICS codes may be subject to the final rule. Not all sources classified under the NAICS codes in Table 1 will be subject to the final rule because some of the classifications cover products outside the scope of the NESHAP for wood building products.

TABLE 1.—SUBCATEGORIES AND ENTITIES POTENTIALLY REGULATED BY THE FINAL RULE

Subcategory	NAICS	Examples of regulated entities include those sources that apply a surface coating to . . .
Exterior Siding and Primed Doorskins	321211, 321219, 321999[a]	Panel siding, trimboard, lap siding, trim associated with siding, and primed doorskins.
Flooring	321918, 321999[a]	Solid wood flooring, engineered wood flooring, and laminated flooring.
Interior Wall Paneling and Tileboard	321211, 321999[a]	Interior wall paneling or tileboard.
Other Interior Panels	321211, 321212, 321219, 321999[a]	Panels used for purposes other than interior wall paneling, such as perforated panels.
Doors, Windows, and Miscellaneous	321911, 321918, 321999[a]	Doors, finished doorskins, finished exterior siding, windows, and other miscellaneous wood products (including moulding and millwork).

[a] The subcategory of the NAICS code depends on the final end use of the product.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding subcategories and entities likely to be regulated by this action. To determine whether your coating operation is regulated by this action, you should examine the applicability criteria in § 63.4681 of the final rule.

Docket. The EPA has established an official public docket for this action under Docket ID No. OAR–2003–0002 (formerly Docket No. A–97–52). The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, EPA West, Room B–102, 1301 Constitution Avenue, NW., Washington, DC 20460. The Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday

through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Docket is (202) 566–1742. A reasonable fee may be charged for copying docket materials.

Electronic Access. You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/edocket/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified above. Once in the system, select "search," then key in the appropriate docket identification number.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of the final rule also will be available on the WWW. Following the Administrator's signature, a copy of this action will be posted at *www.epa.gov/ttn/oarpg* on EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of the final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by July 28, 2003. Under section 307(b)(2) of the CAA, the requirements established by the final rule may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

Outline. The following outline is provided to aid in reading the preamble to the final rule.

I. Background
A. What is the source of authority for development of NESHAP?
B. What criteria did we use in the development of NESHAP?
II. What changes and clarifications have we made for the final standards?
A. Applicability
B. Overlap with other NESHAP
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F. Cost and Economic Assumptions and Impacts
G. Compliance Procedures
H. Control Device Operating Limit Requirements
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III. What are the final standards?
A. What is the source category?
B. What is the affected source?
C. What are the emission limits, operating limits, and work practice standards?
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A. What are the air impacts?
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V. Statutory and Executive Order Reviews
A. Executive Order 12866, Regulatory Planning and Review
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H. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Congressional Review Act

I. Background

A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. The Flatwood Paneling (Surface Coating) category of major sources was listed on July, 16, 1992 (57 FR 31576) under the Surface Coating Processes industry group. The name of the source category was subsequently changed to Wood Building Products (Surface Coating) on November 18, 1999 (64 FR 63025) to reflect more accurately the types of surface coating operations currently used in the industry. Major sources of HAP are those that emit or have the potential to emit equal to or greater than 9.1 Mg/yr (10 tpy) of any one HAP or 22.7 Mg/yr (25 tpy) of any combination of HAP.

B. What Criteria Did We Use in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new or reconstructed and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new or reconstructed sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than standards for new or reconstructed sources, but they cannot be less stringent than the average emission limit achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of the cost of achieving the emission reductions, any non-air quality health and environmental impacts, and energy requirements.

II. What Changes and Clarifications Have We Made for the Final Standards?

In response to the public comments received on the proposed standards, we made several changes for the final rule. The substantive comments, our responses, and associated rule edits are summarized in the following sections. A more detailed summary can be found in the Summary of Public Comments and Responses document, which is available from several sources (see **ADDRESSES** section).

A. Applicability

Several commenters requested a clarification of zero-HAP coatings, thinners, and cleaning solvents. They cited the Occupational Safety and Health Administration (OSHA) *de minimis* level for reporting HAP-containing materials as greater than 1

percent for noncarcinogens or greater than 0.1 percent for carcinogens. The use of this *de minimis* level for HAP reporting was implied because the data used to set the MACT floor was submitted under the same guidelines. Accordingly, language has been included in the final preamble and rule to clarify that coatings with HAP contents below 1 percent for noncarcinogens and 0.1 percent for carcinogens are considered to be zero-HAP materials.

Although affected sources are not required to report detailed HAP content information on these zero-HAP materials, inclusion of these materials could be beneficial to meeting the applicable rolling 12-month emission limit(s). Coatings that contain no HAP usually contain some amount of solid material that will help to lower the organic HAP emission rate for the 12-month compliance period.

Several commenters requested specific exclusions for products or coatings that may have been included in the MACT floor determination but do not fit into the wood building products surface coating source category. Specifically, commenters cited coatings called tempering oils (such as linseed, tall, tung, soy, otaseka, and other drying oils or mixtures of such oils) which would be regulated as part of the proposed plywood and composite wood products NESHAP (68 FR 1275, January 9, 2003). In response to these comments, we excluded drying or tempering oils from the final rule. Please refer to § 68.4681(c)(1) of the final rule which lists processes that will most likely be covered by the proposed plywood and composite wood products NESHAP.

Some commenters referred to specific products that they believed should not be subject to the requirements of the wood building products surface coating source category. These included asphalt-coated fiberboard and cellulosic ceiling tiles. Commenters asserted that neither product is coated with HAP-containing materials and that regulating such products would be burdensome for recordkeeping purposes.

We further evaluated the types of coatings and processes used to make asphalt-coated fiberboard, also called "builders board" or "insulation board," and found that only a few facilities in the United States make these products, with varying manufacturing and coating processes. With regards to the coatings used on fiberboard products, the asphalt material can be included as part of the emulsion used in the fiberboard forming or manufacturing process, or the asphalt (mixed with mineral spirits) can be applied to the fiberboard substrate. Depending on the company and the process, the coating can be applied before the final dryer or after the final dryer with the product allowed to air dry, usually outdoors on racks.

Ceiling tiles are usually coated using slurries of titanium dioxide and various clays. Although non-HAP wetting agents or defoamers are occasionally added, there are no organic solvents used. These coatings cure by drying and not by chemical reaction and are considered durable only for dry, non-contact indoor exposure.

Because of the small number of facilities coating these products and the fact that most of the coatings associated with these types of products are applied during the substrate forming process (*e.g.*, to the wet mat being formed) or prior to the final substrate drying operation, fiberboard coating operations (including those used in the manufacture of asphalt-coated fiberboard and ceiling tiles) would be covered under the proposed plywood and composite wood products NESHAP. For this reason, these products will not be subject to the final rule for the surface coating of wood building products.

Several commenters requested more research concerning the low-coating usage cutoff, suggesting that the cutoff should be higher. The low-usage cutoff was based on the total annual coating usage of the smallest facility in the MACT floor database. All facilities in the database have annual coating usages above 4,170 liters (1,100 gallons). Available data indicate that the coating application processes and control technologies being considered are appropriate for all sources with at least this level of coatings usage. Considering that the surveyed sources in the database included a cross section of various companies, products, and locations, we do not believe that collecting additional data would raise this cutoff. Therefore, no changes have been made to the low-coating usage cutoff.

While we cannot justify raising the low usage amount or establishing low usage cutoffs for individual subcategories, additional language has been included in the final rule to exempt sources that are not commercial manufacturers of wood building products. The final rule is intended to apply only to commercial manufacturers, which are the types of facilities represented in our database.

Several commenters requested exemptions for sources that laminate paper or vinyl to composite wood products. Although we agree with the commenters that HAP emissions from wood laminating processes are typically low at the present time, an exclusion is not justified because future coating technologies could increase HAP emissions. To further clarify applicability, laminates applied prior to pressing of the substrate would be covered by the proposed plywood and composite wood products NESHAP, and the laminates applied after pressing of the substrate are covered by the wood building products (surface coating) NESHAP.

Commenters stated that the proposed definition of "wood building product" excludes the majority of the wooden windows and doors manufactured due to the weight characteristic. In response, we have written the definition of "wood building product" to exclude the weight of glass components. A wood building product is now defined as any product that contains more than 50 percent by weight wood or wood fiber, excluding the weight of glass components, and is used in the construction, either interior or exterior, of a residential, commercial, or institutional building.

As a result of comments received, the application of the rule to antifungal coatings was evaluated. Because these coatings can be applied during many different stages of production, we have clarified the applicability of the final rule to these coatings. Antifungal coatings will be covered by the wood building products surface coating NESHAP if they are applied after the substrate manufacturing process.

Several commenters requested that the final rule be written such that the HAP limits apply only to HAP that are released to the atmosphere, recognizing that some HAP in the coatings are not emitted (*i.e.*, styrene, dibutylphthalate, ethyleneimines (aziridines), and Bis 2-ethylhexyl phthalate (DEHP)). The data collection activities and subsequent MACT floor determinations were made using the assumption that all volatile organic HAP are emitted, *i.e.*, organic HAP content of the coatings is equivalent to HAP emitted.

We realize that in a few cases, such as the four compounds identified by the commenters, our assumption is not totally accurate because a small fraction of the total HAP may be tied up in the coating. However, we believe that the 12-month rolling average emission limits provide an adequate time frame for such special coatings to be used and averaged in with the other coatings and still meet the emission limits.

Due to these reasons, we do not believe special compliance alternatives are warranted for a few compounds used in some coatings. Affected sources can use alternative test procedures to

demonstrate a lower HAP emissions value for a particular coating.

B. Overlap With Other NESHAP

Many commenters were concerned about the large potential for the wood building products surface coating source category to overlap with other NESHAP, specifically the promulgated wood furniture manufacturing NESHAP (60 FR 62930, December 7, 1995) and the proposed miscellaneous metal parts and products coating NESHAP (67 FR 52780, August 13, 2002). Two commenters wanted some way to consolidate all coating operations in order to be subject to only one NESHAP. One of these two commenters stated that 97 percent of the coatings used by his company, a window manufacturing facility, are applied to metal (aluminum) windows, and the remaining 3 percent of the coatings are applied to wood components of the windows. The second commenter said that 95 percent of the coatings used by his facility are applied to wood furniture components, and the remaining 5 percent of the coatings are applied to interior panels.

In response to these comments, we have included a provision to the applicability section of the final rule. This new language states that an affected source that could be subject to more than one coating NESHAP, and that has one type of surface coating operation that accounts for at least 95 percent of the total (annual) coating usage at the source, has the option of complying with the requirements of the predominant coating rule (including all applicable emissions limitations, operating limits, and work practice requirements) for all coating operations that would be subject to a NESHAP.

We are allowing the small amount of coating (less than 5 percent of the total usage) to be regulated at the same level(s) as the majority (at least 95 percent) of coating usage to simplify applicability determinations and recordkeeping and reporting for those sources. With this applicability provision, the two sources described above would be allowed to comply with the emission limits for the proposed miscellaneous metal parts NESHAP and the promulgated wood furniture manufacturing NESHAP, respectively, for all of their coating operations.

According to our data, very few sources will be able to take advantage of this predominant activity option. For this reason, we expect any emissions increase that could occur (where the emission limits in the predominant NESHAP are less stringent than the limits in the other applicable NESHAP) to be very small.

C. Subcategories

Several commenters requested additional guidance on the correct classification of moulding and trim. Originally, mouldings were classified according to the final use of the moulding. Commenters stated that the same moulding or trim could go around windows and doors, be used as baseboards, as trim between ceilings and walls, or as chair railing. To eliminate the classification of different types of moulding and trim into different subcategories, we have included all moulding and trim in one subcategory. However, this classification still excludes moulding and trim associated with wood cabinets and other types of wood furniture (which are subject to the promulgated wood furniture manufacturing NESHAP, subpart JJ). This change also involved the renaming of two subcategories. The proposed "windows and doors" subcategory has become the "doors, windows, and miscellaneous" subcategory and will include all moulding, trim, millwork, and miscellaneous products that do not fit in the other subcategories. The proposed "exterior siding, doorskins, and miscellaneous" subcategory has become the "exterior siding and primed doorskins" subcategory. As a result, the MACT floor emission limits were recalculated and are included in the final rule.

Several commenters were concerned with overlap among subcategories. The commenters described scenarios where facilities are coating multiple products, but did not provide data or specifics on any known facilities. Issues related to coating requirements for various products were considered when we developed the five subcategories and served as the basis for many of those decisions. According to our database, there are no facilities that are potentially subject to more than one subcategory emission limit. Because subcategories were created to accommodate unique differences in performance criteria that indicated a need for different HAP contents (based on the information provided by the various industry segments in the database), we believe it is not appropriate to combine operations under separate subcategories. Therefore, we are not allowing a source to choose one emission limit based on the amount of coating used in a predominant subcategory and apply that same limit to another subcategory.

Several commenters requested additional or reorganized subcategories to simplify enforcement. We do not agree with the commenters and believe the subcategorization scheme adopted for this source category is appropriate and complete. All subcategories were evaluated with respect to product performance requirements, associated coating usage, organic HAP emissions, coating application equipment, and control device applicability. Each subcategory showed technical differences within one or more of these criteria. For additional information, see Docket A–97–52.

Several commenters requested reevaluation of the MACT floors due to the addition of new products such as topcoated doorskins. These products require coatings with a higher level of HAP content or more layers of coatings than products used in the MACT analysis. Although separating these types of topcoated or finished doorskins from the "exterior siding and primed doorskins" subcategory could cause sources that coat doorskins to comply with two separate emission limits, we agree that the additional layers of coatings required for finished doorskins are likely to have higher HAP emissions than primed doorskins. We also agree that finished doorskins have more demanding and stringent performance requirements than primed-only doorskins. In response, we have included finished doorskins in the "doors, windows, and miscellaneous" subcategory where the exterior climate performance requirements associated with all doors and windows have been accounted for with the higher emission limits.

Several commenters also requested subcategories related to color coatings due to the increased use of these coatings since the MACT analysis was begun. Because the commenters offered no explanation for the differences between color and clear coatings, we can only consider the fact that business decisions were made to add color coatings. This alone is not a compelling technical reason to subcategorize differently or to change the MACT floors. The data used to determine subcategories and the applicable MACT floor level of control were the best information available to EPA at the time. Production is updated continuously for various reasons, and changing the MACT floor determination based on constantly changing conditions would not be appropriate.

D. MACT Limits

Several commenters disagreed with the zero HAP emission limits that were established for the NESHAP. Specifically, the commenters felt that the MACT limits should contain at least two significant figures to account for the

presence of a small amount of HAP in what we have described as non-HAP coatings. To address these concerns and to clarify that the MACT limits are not absolute zero for some new sources, the final rule includes a change in the metric units from kilogram HAP/liter solids to grams HAP/liter solids where the value is rounded to the nearest integer.

Several commenters argued that metric units should not be used to demonstrate compliance. The use of metric units instead of English units is based on Federal government policy (the Metric Conversion Act of 1975 as amended by the Omnibus Trade and Competitiveness Act of 1988). While metric units are included, compliance is not required through metric units because the MACT floor determination used English units. Accordingly, we have included language stating that compliance can be demonstrated using either English or metric units.

E. Test Methods

One commenter noticed that some ASTM test methods have been updated. The listed test methods have been updated and incorporated by reference in the final rule.

Several commenters asked for clarification on using methods specified by the NESHAP for determining certain qualities of the coatings, thinners, and cleaning materials. As a result, we included provisions in the final rule that owners or operators are allowed to submit an alternative technique if the test methods specified in the final rule are insufficient to determine the specified qualities. For mass fraction of organic HAP, the final rule has been written to allow resolution of any discrepancies between the test methods for determining the mass fraction of organic HAP versus formulation data through consultation with the regulatory compliance authority.

Many commenters also expressed confusion regarding the use of Method 24 as an alternative to Method 311. According to the commenters, Method 24 requires that the water content of the coating be determined and subtracted from the total volatile content. This determination contains greater variability than the limit in the final rule for existing and new sources that fall into the "other interior panels" and the "exterior siding and primed doorskins" subcategories and new sources that fall into the "interior panels and tileboard" subcategory. Therefore, the final rule includes the provision that Method 24 will not be used for those coatings with a water content that would result in an effective detection limit greater than the applicable emission limit.

Two commenters disagreed with the use of a helium gas pycnometer to determine the volume fraction of coating solids (which is required by ASTM D 6093). Section 63.4741(b) of the proposal provided two options for determining the volume fraction of coating solids (nonvolatiles) for each coating: (1) Use of either of the two referenced ASTM methods (D2697–86 (Reapproved 1998) or D6093–97), or (2) use of information from the supplier or manufacturer of the material. In response to the commenters' concerns, a third option has been included in the final rule that allows the amount of coating solids to be calculated using the total volatile matter content of the coating and the average density of the volatile matter in the coating. If these values cannot be determined using one of the specified methods, the owner or operator may submit an alternative technique for determining their values for approval by the Administrator.

Several commenters asked that the final rule clearly specify whether compliance demonstration calculations are to be rounded or truncated to the number of decimal places specified in the emission limit. The commenters recommended that results be truncated to three digits after the decimal.

In response, language has been included in the final rule that specifies that compliance is demonstrated by rounding the rolling 12-month emission rate (to two decimal places for English units and the nearest integer for metric units), and not by rounding the individual numbers used to determine the rolling 12-month rolling emission rate.

F. Cost and Economic Assumptions and Impacts

Due to changes in the MACT floor emission limits for the "other interior panels" subcategory and changes to the number of estimated affected sources in the "exterior siding and primed doorskins" and "doors, windows, and miscellaneous" subcategories, the overall industry cost impacts have changed to $22.5 million.

G. Compliance Procedures

Several commenters noted a discrepancy between the proposed § 63.4692(b)(ii) and (iii). Section 63.4692(b)(ii) reduces the data to block averages, but § 63.4692(b)(iii) maintains the 3-hour average combustion temperature at or above the limit. We made corresponding changes to Table 3 to Subpart QQQQ to Part 63 to read, "maintain the 3-hour block average" wherever warranted.

Several commenters disagreed with the omission of control devices other than thermal oxidation. The commenters recommended that provisions for biofilters and other innovative technologies be added to compliance Option 3. Compliance Option 3 does not preclude the use of biofilters or other control technologies. You may submit your request for any innovative control technology to the Administrator for approval. Plans for monitoring and recordkeeping requirements should be submitted along with such proposals.

Based on the type and level of HAP emissions at most wood building product surface coating operations, we do not consider biofilters as a likely control technology to be applied to such emission sources. Therefore, specific operating limits and compliance procedures for biofilters have not been included in the final rule. However, the proposed plywood and composite wood products rule (68 FR 1275, January 9, 2003) does include specific operating limits and compliance procedures for biofilters, and these can be used as examples when submitting your request for an alternative control technology.

H. Control Device Operating Limit Requirements

Several commenters stated that the proposed rule does not specify how to account for equipment start ups, shut downs or malfunctions in the calculation of the 3-hour averages used to determine compliance with operating limits for add-on control devices. The commenters suggested that the rule specify that the operating data collected when the control device is "not receiving emissions" not be included in the 3-hour average calculations. We have included language in the final rule to exclude monitoring data from the 3-hour average calculation that was generated during periods when the control device was not receiving emissions.

Several commenters disagreed with the requirement for periodically adjusting the air-to-fuel ratio for catalytic oxidizers. The commenters stated that adding this requirement to the inspection and maintenance plan has no performance benefit. The purpose of the inspection and maintenance plan is to assure that the catalytic oxidizer operates at the conditions that will achieve or exceed the emission destruction efficiency for the control device demonstrated by the performance test. Based on our review, we concluded that a requirement for

periodic adjustment of the air-to-fuel ratio is not needed to assure compliance of a catalytic oxidizer. We have written the final rule to exclude the requirement for periodically adjusting the air-to-fuel ratio in the inspection and maintenance plan.

Several commenters stated that the catalyst test procedures should be worked out between the facility and the catalyst test provider, not the manufacturer or supplier as specified in the inspection and maintenance plan requirements. We agree that the catalyst test providers should be consulted. The catalyst test provider will test the catalyst after the performance test to determine any catalyst degradation that may have occurred in the period after the performance testing. Although this is not required for compliance, it may be beneficial to test the catalyst at the time of the performance test to determine a baseline for future catalyst testing.

I. Startup, Shutdown, and Malfunction (SSM)

One commenter stated that bypass lines are often used in situations that are not considered malfunctions. In certain situations, operation of the control device is not always necessary to meet the emission limit. This situation can occur on a coating line that is used for coating operations covered by different compliance options conducted at different times. If the coatings used on one product comply with the applicable emission limit (*e.g.* compliant coatings option), the source may prefer to bypass the control device to lower annual expenses associated with operating the air pollution control system. This situation is not a malfunction and would not be addressed in the source's SSM plan.

The final rule explicitly states that requirements for the use of bypass lines apply during periods that "controlled" coating operations are being conducted. The language assures continuous compliance with the applicable emission limit at those sources electing to use Option 3 to comply with the emission limit using a capture and control device system that is equipped with a bypass line.

J. Recordkeeping and Reporting

Several commenters requested fewer recordkeeping and calculation requirements for coatings that have no HAP content. We agree that it is not necessary from the perspective of implementing and enforcing the final rule to require an owner or operator to perform all of the compliance calculation, recordkeeping, and reporting requirements specified in the final rule where the result will always be zero organic HAP per liter or gallon of coating solids.

For such zero-HAP materials, we have included a provision in § 63.4741(a)(1)(i) and (a)(4) of the final rule specifying that if the mass fraction of organic HAP in a coating is zero, as determined according to § 63.4741(a), then the source is not required to determine the volume fraction of coating solids and density or to calculate the organic HAP content. The following notification, reporting, and recordkeeping sections of the final rule were written to fully incorporate this provision: §§ 63.4710(c)(8)(i), 63.4720(a)(5)(ii), and 63.4730(c), (c)(2), (f), and (g).

III. What Are the Final Standards?

A. What Is the Source Category?

The final rule applies to you if you own or operate a commercial wood building products surface coating source that uses at least 4,170 liters (1,100 gallons) of coatings per year and is a major source, is located at a major source, or is part of a major source of HAP emissions, whether or not you manufacture the wood building product substrate. Surface coating operations alone are not required to be major sources of HAP emissions in order for the rule to apply. As long as some part of the total source causes it to be a major source (*e.g.*, the wood substrate manufacturing process), the surface coating operations would be subject to the final rule.

We have defined a wood building products surface coating source as any source engaged in the finishing or laminating of a wood building product. A wood building product is any product that contains more than 50 percent by weight wood or wood fiber, excluding the weight of glass components, and is used in the construction, either interior or exterior, of a residential, commercial, or institutional building. As explained later, we have established five subcategories in the wood building products surface coating source category: (1) Exterior siding and primed doorskins; (2) flooring; (3) interior wall paneling and tileboard; (4) other interior panels; and (5) doors, windows, and miscellaneous (see Table 1 of this preamble).

The final NESHAP requirements do not apply to the manufacture or application of surface coatings to prefabricated/premanufactured or mobile/modular homes. You are also not subject to the final rule if your wood building products surface coating operations are located at an area source. An area source of HAP is any source that has the potential to emit HAP but is not a major source. You may establish area source status by limiting the source's potential to emit HAP through appropriate mechanisms available through the permitting authority.

The source category does not include research or laboratory facilities; janitorial, building, and facility construction or maintenance operations; or hobby shops that are operated for personal rather than for commercial purposes. The source category does not include noncommercial coating operations or coating applications using handheld nonrefillable aerosol containers.

If an affected source has surface coating operations subject to the requirements of another NESHAP that account for at least 95 percent of the total (annual) coating usage for the source, the requirements, including all applicable emission limitations, operating limits, and work practices, of the predominant NESHAP can be applied to all coating operations that are subject to a NESHAP.

B. What Is the Affected Source?

We define an affected source as a stationary source, a group of stationary sources, or part of a stationary source to which a specific emission standard applies. The final rule defines the affected source as the collection of all operations associated with the surface coating of wood building products. These operations include preparation of a coating for application (*e.g.*, mixing with thinners); surface preparation of the wood building products; coating application, curing, and drying equipment; equipment cleaning; and storage, transfer, and handling of coatings, thinners, cleaning materials, and waste materials.

C. What Are the Emission Limits, Operating Limits, and Work Practice Standards?

Emission Limits. The final rule limits organic HAP emissions from each new or reconstructed affected source using the emission limits in Table 2 of this preamble. The emission limits for each existing affected source are given in Table 3 of this preamble. Affected sources may comply with the emission limits using either English or metric units. These limits are based on five subcategories that group similar operations and types of coatings. The final rule allows several compliance options to achieve the emission limits. You could comply by applying materials (coatings, thinners, and cleaning materials) that meet the

emission limits, either individually or collectively. You could also use a capture system and add-on control device to meet the emission limits, or you could comply by using a combination of these approaches.

TABLE 2.—EMISSION LIMITS FOR NEW OR RECONSTRUCTED AFFECTED SOURCES

For any affected source applying coating to . . .	The organic HAP emission limit you must meet, in grams (g) HAP/liter solids (pounds (lb) HAP/gallon solids), is:
Exterior siding and primed doorskins.	0 (0.00)
Flooring	0 (0.00)
Interior wall paneling or tileboard.	5 (0.04)
Other interior panels	0 (0.00)
Doors, windows, and miscellaneous.	57 (0.48)

TABLE 3.—EMISSION LIMITS FOR EXISTING AFFECTED SOURCES

For any affected source applying coating to . . .	The organic HAP emission limit you must meet, in g HAP/liter solids (lb HAP/gallon coating solids), is:
Exterior siding and primed doorskins.	7 (0.06)
Flooring	94 (0.78)
Interior wall paneling or tileboard	183 (1.53)
Other interior panels	20 (0.17)
Doors, windows, and miscellaneous.	231 (1.93)

Operating Limits. If you reduce emissions by using a capture system and add-on control device (other than a solvent recovery system for which you conduct a liquid-liquid material balance), the operating limits apply to you. These limits are site-specific parameter limits you determine during the initial performance test of the system. For capture systems that are not permanent total enclosures (PTE), you must establish average volumetric flow rates or duct static pressure limits for each capture device (or enclosure) in each capture system. For capture systems that are PTE, you must establish limits on average facial velocity or pressure drop across openings in the enclosure.

For thermal oxidizers, you must monitor the combustion temperature. For catalytic oxidizers, you must monitor the temperature immediately before and after the catalyst bed, or you must monitor the temperature before the catalyst bed and implement a site-specific inspection and maintenance plan for the catalytic oxidizer. For carbon adsorbers for which you do not conduct a liquid-liquid material balance, you must monitor the carbon bed temperature and the amount of steam or nitrogen used to desorb the bed. For condensers, you must monitor the outlet gas temperature from the condenser. For concentrators, you must monitor the temperature of the desorption concentrate stream and the pressure drop of the dilute stream across the concentrator.

All site-specific parameter limits that you establish must reflect operation of the capture system and control devices during a performance test that demonstrates achievement of the emission limit during representative operating conditions.

Work Practice Standards. If you use an emission capture system and control device for compliance, you must develop and implement a work practice plan to minimize organic HAP emissions from mixing operations, storage tanks and other containers, and handling operations for coatings, thinners, cleaning materials, and waste materials. The work practice plan must include steps to ensure that, at a minimum, all organic HAP coatings, thinners, cleaning materials, and waste materials are stored in closed containers; spills of organic HAP coatings, thinners, cleaning materials, and waste materials are minimized; organic HAP coatings, thinners, cleaning materials, and waste materials are conveyed from one location to another in closed containers or pipes; mixing vessels that contain organic HAP coatings and other materials are closed except when adding to, removing, or mixing the contents; and emissions of organic HAP are minimized during cleaning of storage, mixing, and conveying equipment.

If your affected source has an existing documented plan that incorporates steps taken to minimize emissions from the aforementioned sources, then your existing plan could be used to satisfy the requirement for a work practice plan.

If you use a capture system and control device for compliance, you must develop and operate according to a startup, shutdown, and malfunction plan (SSMP) during periods of SSM of the capture system and control device.

The General Provisions (40 CFR part 63, subpart A) also apply to you as indicated in the final rule. The General Provisions codify certain procedures and criteria for all 40 CFR part 63 NESHAP. The General Provisions contain administrative procedures, preconstruction review procedures for new sources, and procedures for conducting compliance-related activities such as notifications, reporting and recordkeeping, performance testing, and monitoring. The final rule refers to individual sections of the General Provisions to emphasize key sections that are relevant. However, unless specifically overridden in the final rule, all of the applicable General Provisions requirements apply to you.

D. What Are the Testing and Initial Compliance Requirements?

New or reconstructed affected sources must be in compliance upon initial startup of the affected source or by May 28, 2003, whichever is later. Existing affected sources must be in compliance with the final standards no later than May 29, 2006.

Compliance with the emission limits is based on a rolling 12-month organic HAP emission rate that is determined each month. Each 12-month period is a compliance period. The initial compliance period, therefore, is the 12-month period beginning on the compliance date. If the compliance date occurs on any day other than the first day of a month, then the initial compliance period begins on the compliance date and extends through the end of that month plus the following 12 months. We have defined "month" as a calendar month or a pre-specified period of 28 to 35 days to allow for flexibility at sources where data are based on a business accounting period.

Being "in compliance" means that the owner or operator of the affected source meets the requirements to achieve the emission limitations during the initial compliance period. At the end of the initial compliance period, the owner or operator must use the data and records generated to determine whether or not the affected source is in compliance with the organic HAP emission limit and other applicable requirements for that period. If the affected source does not meet the applicable limits and other requirements, it is out of compliance for the entire initial compliance period.

Emission Limits. There are several options for complying with the emission limits, and the testing and initial compliance requirements vary

accordingly. You may use different compliance options for different coating operations within the affected source and also for the same coating operation at different times.

Option 1: Compliance based on compliant materials. If you demonstrate compliance based on the use of compliant materials, you must determine the mass of organic HAP in each coating, thinner, and cleaning material used and the volume fraction of coating solids in each coating used each month during the compliance period. You must demonstrate that the organic HAP content of each coating meets the applicable emission limit, and that you use no thinners or cleaning materials that contain organic HAP.

To determine the mass fraction of organic HAP in coatings, thinners, and cleaning materials and the volume fraction of coating solids, you may either rely on manufacturer's data or on test results using the test methods listed below. You may use alternative test methods provided you get EPA approval in accordance with the General Provisions in 40 CFR 63.7(f).

- For mass fraction of organic HAP, use Method 311 of 40 CFR part 63, appendix A. If there are discrepancies between the methods for determining the mass fraction of organic HAP, they must be resolved through consultation with the regulatory compliance authority.
- The promulgated rule allows you to use non-aqueous volatile matter as a surrogate for organic HAP, which includes all organic HAP plus all other organic compounds, and excluding water. If you choose this option, then you must use Method 24 of 40 CFR part 60, appendix A.
- For volume fraction of coating solids, use one of these options: (1) Use either of the two referenced ASTM methods (D2697–86, 1998, or D6093–97); or (2) calculate using the total volatile matter content of the coating and the average density of the volatile matter in the coating. If the mass fraction of organic HAP in a coating is zero, as determined through test results or manufacturer's formulation data, then the source is not required to determine the volume fraction of coating solids and density or to calculate the organic HAP content.

To demonstrate initial compliance based on the material used, you must demonstrate that the organic HAP content of each coating meets the applicable emission limit, and that you use no organic HAP thinners or cleaning materials.

Option 2: Compliance based on the emission rate without add-on controls. If you demonstrate compliance based on the emission rate without add-on controls option, you must determine the mass fraction of organic HAP in all coatings, thinners, and cleaning materials and the volume fraction of coating solids used each month during the compliance period. You would use the same methods as described above for Option 1. You would also do the following.

- Determine the quantity of each coating, thinner, and cleaning material used.
- Calculate the total mass of organic HAP in all materials and total volume of coating solids used each month. You may subtract the total mass of organic HAP contained in waste materials you send to a hazardous waste treatment, storage, and disposal facility regulated under 40 CFR part 262, 264, 265, or 266.
- Calculate the total mass of organic HAP emissions and total volume of coating solids for the compliance period by adding together all the monthly values for mass of organic HAP and for volume of coating solids for the 12 months in the compliance period.
- Calculate the ratio of the total mass of organic HAP for the materials used to the total volume of coating solids used for the compliance period.
- Record the calculations and results and include them in your Notification of Compliance Status.

Option 3: Compliance based on the emission rate with add-on controls. If you use a capture system and add-on control device, other than a solvent recovery system for which you conduct a liquid-liquid material balance, you must meet the following testing and compliance requirements.

- Conduct an initial performance test to determine the capture and control efficiencies of the equipment and to establish operating limits to be achieved on a continuous basis. The performance test would have to be completed by the compliance date for existing sources and no later than 180 days after the compliance date for new or reconstructed affected sources.
- Determine the mass fraction of organic HAP in each material and the volume fraction of coating solids for each coating used each month of the compliance period.
- Calculate the total mass of organic HAP in all materials and total volume of coating solids used each month in the coating operation or group of coating operations. You may subtract from the total mass of organic HAP the amount contained in waste materials you send to a hazardous waste treatment, storage, and disposal facility regulated under 40 CFR part 262, 264, 265, or 266.
- Calculate the organic HAP emission reductions for the controlled coating operations using the capture and control efficiencies determined during the performance test and the total mass of organic HAP in materials used in controlled coating operations.
- Calculate the total mass of organic HAP emissions and total volume of coating solids for the compliance period by adding together all monthly values for mass of organic HAP and for volume of coating solids for the 12 months in the compliance period.
- Calculate the ratio of the total mass of organic HAP emissions to the total volume of coating solids used during the compliance period.
- Record the calculations and results and include them in the Notification of Compliance Status.

If you use a capture system and add-on control device, other than a solvent recovery system for which you conduct liquid-liquid material balances, you must determine both the efficiency of the capture system and the destruction or removal efficiency of the control device. To determine the capture efficiency, you must either verify the presence of a PTE using EPA Method 204 of 40 CFR part 51, appendix M (and all materials must be applied and dried within the enclosure); or use one of the protocols in § 63.4765 of the final rule to measure capture efficiency. If you have a PTE and all the materials are applied and dried within the enclosure and you route all exhaust gases from the enclosure to a control device, then you must assume 100 percent capture.

To determine the destruction or removal efficiency of the control device, you must conduct measurements of the inlet and outlet gas streams. The test would consist of three runs, each run lasting at least 1 hour, using the following EPA Methods in 40 CFR part 60, appendix A:

- Method 1 or 1A for selection of the sampling sites.
- Method 2, 2A, 2C, 2D, 2F, or 2G to determine the gas volumetric flow rate.
- Method 3, 3A, or 3B for gas analysis to determine dry molecular weight.
- Method 4 to determine stack moisture.
- Method 25 or 25A to determine organic volatile matter concentration. Alternatively, any other test method or data that have been validated according to the applicable procedures in Method 301 of 40 CFR part 63, appendix A, and approved by the Administrator, may be used.

If you use a solvent recovery system, you could determine the overall control efficiency using a liquid-liquid material balance instead of conducting an initial

performance test. If you use the material balance alternative, you must measure the amount of all materials used in the coating operations served by the solvent recovery system during each month of the compliance period and determine the volatile matter contained in these materials. You must measure the amount of volatile matter recovered by the solvent recovery system each month of the compliance period. Then you must compare the amount recovered for the 12-month compliance period to the amount used to determine the overall control efficiency, and apply this efficiency to the ratio of organic HAP to coating solids for the materials used. You must record the calculations and results and include them in your Notification of Compliance Status.

Operating Limits. As mentioned above, you must establish operating limits as part of the initial performance test of a capture system and control device, other than a solvent recovery system for which you conduct liquid-liquid material balances. The operating limits are the minimum or maximum (as applicable) values achieved for capture systems and control devices during the most recent performance test that demonstrated compliance with the emission limits.

The final rule specifies the parameters to monitor for the types of emission control systems commonly used in the industry. You must install, calibrate, maintain, and continuously operate all monitoring equipment according to the manufacturer's specifications and ensure that the continuous parameter monitoring systems (CPMS) meet the requirements in § 63.4768 of the final rule. If you use control devices other than those identified in the final rule, you must submit the operating parameters to be monitored to the Administrator for approval. The authority to approve the parameters to be monitored is retained by EPA and is not delegated to States.

If you use a thermal oxidizer, you must continuously monitor the appropriate temperature and record it at least every 15 minutes. The temperature monitor is placed in the firebox or in the duct immediately downstream of the firebox before any substantial heat exchange occurs. The operating limit would be the average temperature measured during the performance test and, for each consecutive 3-hour period, the average temperature would have to be at or above this limit.

If you use a catalytic oxidizer, you may choose from two methods to determine operating limits. In the first method, you must continuously monitor the temperature immediately before and after the catalyst bed and record it at least every 15 minutes. The operating limits would be the average temperature before the catalyst bed and the average temperature difference across the catalyst bed during the performance test and, for each 3-hour period, the average temperature and the average temperature difference would have to be at or above these limits. In the alternative method, you must continuously monitor the temperature immediately before the catalyst bed and record it at least every 15 minutes. The operating limit would be the average temperature before the catalyst bed during the performance test and, for each 3-hour period, the average temperature would have to be at or above these limits. As part of the alternative method, you must also develop and implement an inspection and maintenance plan for your catalytic oxidizer.

If you use a carbon adsorber and do not conduct liquid-liquid material balances to demonstrate compliance, you must monitor the carbon bed temperature after each regeneration and the total amount of steam or nitrogen used to desorb the bed for each regeneration. The operating limits would be the carbon bed temperature (not to be exceeded) and the amount of steam or nitrogen used for desorption (to be met as a minimum).

If you use a condenser, you must monitor the outlet gas temperature to ensure that the air stream is being cooled to a low enough temperature. The operating limit would be the average condenser outlet gas temperature measured during the performance test and, for each consecutive 3-hour period, the average temperature would have to be at or below this limit.

If you use a concentrator, you must monitor the desorption concentrate stream gas temperature and the pressure drop of the dilute stream across the concentrator. The operating limits would be the desorption concentrate gas stream temperature (to be met as a minimum) and the dilute stream pressure drop (not to be exceeded).

For each capture system that is not a PTE, you must establish operating limits for gas volumetric flow rate or duct static pressure for each enclosure or capture device. The operating limit would be the average volumetric flow rate or duct static pressure during the performance test, to be met as a minimum. For each capture system that is a PTE, the operating limit would require the average facial velocity of air through all natural draft openings to be at least 200 feet per minute or the pressure drop across the enclosure to be at least 0.007 inches water.

Work Practices. If you use the emission rate with add-on controls option, you must develop and implement on an ongoing basis a work practice plan for minimizing organic HAP emissions from storage, mixing, material handling, and waste handling operations. You must make the plan available for inspection if the Administrator requests to see it. We believe work practice standards are appropriate to further reduce emissions.

If your affected source has an existing documented plan that incorporates steps taken to minimize emissions from the aforementioned sources, then your existing plan may be used to satisfy the requirement for a work practice plan.

If you use a capture system and control device for compliance, you must develop and operate according to a SSMP during periods of SSM of the capture system and control device.

E. What Are the Continuous Compliance Requirements?

Emission Limits.

Option 1: Compliance based on compliant materials. If you demonstrate compliance with the emission limits based on compliant materials, you must demonstrate continuous compliance if, for each 12-month compliance period, the organic HAP content of each coating used does not exceed the applicable emission limit and you use no thinner or cleaning material that contains organic HAP. You must follow the same procedures for determining compliance that you used for the initial compliance period.

Option 2: Compliance based on the emission rate without add-on controls. If you demonstrate compliance with this option, you must demonstrate continuous compliance if, for each 12-month compliance period, the rolling 12-month emission rate is less than or equal to the applicable emission limit. You must follow the same procedures for calculating the rolling 12-month emission rate that you used for the initial compliance period.

Option 3: Compliance based on the emission rate with add-on controls. For each coating operation on which you use a capture system and control device other than a solvent recovery system for which you conduct a liquid-liquid material balance, the continuous parameter monitoring results for each month would affect your compliance determination. If the monitoring results indicate no deviations from the operating limits and bypass line requirements, you would assume the capture system and control device are

achieving the same percentage destruction or removal efficiency as they did during the most recent performance test when compliance was demonstrated. You would then apply this percentage reduction to the total mass of organic HAP in materials used in controlled coating operations to determine the rolling 12-month emission rate for those operations. If there were any deviations from the operating limits during the month or any bypasses of the control device, you must account for them in the calculation of the monthly emissions by assuming the capture system and control device were achieving zero emission reduction during the periods of deviation. Then, you would determine the rolling 12-month emission rate by dividing the total mass of organic HAP emissions by the total volume of coating solids used during the 12-month compliance period. Every month, you must calculate the emission rate for the previous 12-month period.

For each coating operation on which you use a solvent recovery system and conduct a liquid-liquid material balance each month, you must use the liquid-liquid material balance to determine control efficiency. To determine the overall control efficiency, you must measure the amount of all materials used during each month and determine the volatile matter content of these materials. You must also measure the amount of volatile matter recovered by the solvent recovery system during the month, calculate the overall control efficiency, and apply it to the total mass of organic HAP in the materials used to determine total organic HAP emissions. Then, you must determine the 12-month organic HAP emission rate in the same manner as described above.

Operating Limits. If you use an emission capture system and control device, the final rule requires you to achieve, on a continuous basis, the operating limits you establish during the performance test. If the continuous monitoring shows that the capture system and control device are operating outside the range of values established during the performance test, you have deviated from the established operating limits.

If you operate a capture and control system that is equipped with a bypass line, you must demonstrate that organic HAP emissions collected by the capture system are being routed to the control device at all times while controlled coating operations are being conducted. This demonstration is accomplished by monitoring for potential bypass of the control device. You may choose from the following four monitoring procedures:

- Flow control position indicator to provide a record of whether the exhaust stream is directed to the control device;
- Car-seal or lock-and-key valve closures to secure the bypass line valve in the closed position when the control device is operating;
- Valve closure monitoring to ensure any bypass line valve or damper is closed when the control device is operating; or
- Automatic shutdown system to stop the coating operation when flow is diverted from the control device.

If the bypass monitoring procedures indicate that emissions are not routed to the control device, you have deviated from the emission limits.

Work Practices. If you use the emission rate with add-on controls option, you must implement, on an ongoing basis, the work practice plan you developed during the initial compliance period. If you did not develop a plan for reducing organic HAP emissions or you do not implement the plan, this would be a deviation from the work practice standard.

If your affected source has an existing documented plan that incorporates steps taken to minimize emissions from the aforementioned sources, then your existing plan may be used to satisfy the requirement for a work practice plan.

If you use a capture system and control device for compliance, you must operate according to your SSMP during periods of SSM of the capture system and control device.

F. What Are the Notification, Recordkeeping, and Reporting Requirements?

You are required to comply with the applicable requirements in the NESHAP General Provisions, subpart A of 40 CFR part 63, as described in the final rule. The General Provisions notification requirements include: initial notifications, notification of performance test if you are complying using a capture system and control device, notification of compliance status, and additional notifications required for affected sources with continuous monitoring systems. The General Provisions also require certain records and periodic reports.

Initial Notifications. If the final rule applies to you, you must send a notification to the EPA Regional Office in the region where your source is located, and to your State agency, within 120 days after the date of initial startup or September 25, 2003, whichever is later. The report notifies us and your State agency that you have constructed a new source, reconstructed an existing source, or you have an existing source that is subject to the final rule. Thus, it allows you and the permitting authority to plan for compliance activities. You will also need to send a notification of planned construction or reconstruction of a source that would be subject to the final rule and apply for approval to construct or reconstruct.

Notification of Performance Test. If you demonstrate compliance by using a capture system and control device for which you do not conduct a liquid-liquid material balance, you must conduct a performance test. The performance test must be no later than 180 days after initial startup or November 24, 2003, whichever is later for a new or reconstructed affected source and no later than the compliance date for an existing affected source (May 29, 2006). You must notify us (or the delegated State or local agency) at least 60 calendar days before the performance test is scheduled to begin, as indicated in the General Provisions for the NESHAP.

Notification of Compliance Status. You must send us a Notification of Compliance Status within 30 days after the end of the initial compliance period. Your compliance procedures would depend on which compliance option you choose. In the notification, you must certify whether the affected source has complied with the promulgated standards, identify the option(s) you used to demonstrate initial compliance, and provide calculations supporting the compliance demonstration.

If you elect to comply by using a capture system and control device for which you conduct performance tests, you must provide the results of the tests. Your notification would also include the measured range of each monitored parameter and the operating limits established during the performance test, and information showing whether the source has complied with its operating limits during the initial compliance period.

Recordkeeping Requirements. You must keep records of reported information and all other information necessary to document compliance with the promulgated rule for 5 years. As required under the General Provisions, records for the 2 most recent years must be kept on-site; the other 3 years may be kept off-site. Records pertaining to the design and operation of the control and monitoring equipment must be kept for the life of the equipment.

Depending on the compliance option that you choose, you may need to keep

records of the organic HAP content, volatile matter content, coating solids content, and quantity of the coatings, thinners, and cleaning materials used during each compliance period.

If you demonstrate compliance by using a capture system and control device, you must keep records of the following:

- All required measurements, calculations, and supporting documentation needed to demonstrate compliance with the standards;
- All results of performance tests and parameter monitoring;
- All information necessary to demonstrate conformance with the requirements for minimizing emissions from mixing, storage, and handling operations for coatings, thinners, and cleaning materials;
- All information necessary to demonstrate conformance with the affected source's SSMP when the plan procedures are followed;
- The occurrence and duration of each SSM of the emission capture system and control device;
- Actions taken during SSM that are different from the procedures specified in the affected source's SSMP; and
- Each period during which a CPMS is malfunctioning or inoperative (including out-of-control periods).

The final rule requires you to collect and keep records according to certain minimum data requirements for the CPMS. Failure to collect and keep the specified minimum data would be a deviation that is separate from any emission limits, operating limits, or work practice standards.

Deviations, as determined from these records, must be recorded and also reported. A deviation is any instance when any requirement or obligation established by the final rule is not met, including but not limited to the emission limits, operating limits, and work practice standards.

If you use a capture system and control device to reduce organic HAP emissions, you must make your SSMP available upon request for inspection by the Administrator. The plan will stay in your records for the life of the affected source or until the affected source is no longer subject to the promulgated standards. If you revise the plan, you must keep the previous superceded versions on record for 5 years following the revision.

Periodic Reports. Each reporting year is divided into two semiannual reporting periods. If no deviations occur during a semiannual reporting period, you must submit a semiannual report stating that the affected source has been in continuous compliance. If deviations occur, you must include them in the report as follows:

- Report each deviation from the emission limits.
- Report each deviation from the work practice standards if you use an emission capture system and control device.
- If you use an emission capture system and control device other than a solvent recovery system for which you conduct liquid-liquid material balances, report each deviation from an operating limit and each time a bypass line diverts emissions from the control device to the atmosphere during a controlled coating operation.
- Report other specific information on the periods of time and details of deviations that occurred.

You must include in each semiannual report an identification of the compliance option(s) you used and of time periods when you changed to another option.

Other Reports. You must submit reports for periods of SSM of the capture system and control device. If the procedures you follow during any SSM are inconsistent with your plan, you must report those procedures with your semiannual reports in addition to immediate reports required by § 63.10(d)(5)(ii) of the NESHAP General Provisions.

IV. What Are the Environmental, Energy, Cost, and Economic Impacts?

A. What Are the Air Impacts?

The final rule will reduce nationwide organic HAP emissions from existing major sources by approximately 4,400 Mg/yr (4,900 tpy). This represents a reduction of 63 percent from the baseline organic HAP emissions of 7,000 Mg/yr (7,800 tpy).

B. What Are the Non-Air Health, Environmental, and Energy Impacts?

Based on information from the industry survey responses, we found no indication that the use of low- or no-organic-HAP content coatings, thinners, and cleaning materials at existing sources would result in any increase or decrease in non-air health, environmental, and energy impacts. There would be no change in utility requirements associated with the use of these materials, so there would be no change in the amount of energy consumed as a result of the material conversion. Also, there would be no significant change in the amount of materials used or the amount of waste produced.

C. What Are the Cost and Economic Impacts?

Total annual cost of compliance for the estimated 215 existing major sources was projected to be $22.5 million. Due to consolidation throughout the industry, there is not expected to be any net growth within the wood building products surface coating industry during the next 5 years. Therefore, there are no projected impacts for new sources.

We performed an economic impact assessment (EIA) to provide an estimate of the facility and market impacts of the final rule as well as the social costs. In general, we expect the economic impacts of the promulgated standards to be minimal, with expected price increases for affected wood building products surface coating facilities of only 0.04 percent.

For affected sources, the median profit margin will remain unchanged, with small entities being slightly more affected by the final rule. The median profit margin for small entities is expected to decrease from 2.8 percent to 2.7 percent while the median profit margin for large entities is expected to decrease from 3.1 percent to 3.0 percent. Therefore, we do not expect an adverse economic impact on the industry as a whole.

The distribution of costs across wood building products surface coating facilities is slanted toward the lower impact levels with many facilities incurring costs related only to annually recurring monitoring, recordkeeping, and reporting, and for only a few sources that choose to use their existing add-on controls, initial performance testing and parameter monitoring. The EIA indicates that these regulatory costs are expected to represent only 0.2 percent of the value of coating services, which should not cause producers to cease or alter their current operations. Hence, no firms or facilities are at risk of closure because of the promulgated standards. For more information, refer to the "Economic Impact Analysis for the Wood Building Products NESHAP" in the docket.

V. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory

action" as one that is likely to result in standards that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that the final rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review."

B. Paperwork Reduction Act

The information collection requirements in the final rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 2034.02) and a copy may be obtained from Susan Auby by mail at the Collection Strategies Division (MD–2822T), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at *auby.susan@epa.gov,* or by calling (202) 566–1672. A copy may also be downloaded from the internet at *http://www.epa.gov/icr.* The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. 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.

The final rule requires record maintenance of all coatings, thinners, and cleaning materials data and calculations used to demonstrate compliance. This information includes the volume of coatings and other materials used during each compliance period, mass fraction of organic HAP, density, and, for coatings only, volume fraction of coating solids (as applicable).

If an add-on control device is used, records will be kept of the capture efficiency of the capture device, destruction or removal efficiency of the control device, and the monitored operating parameters. In addition, records will be kept of each calculation of the affected sourcewide emissions for each compliance period and all data, calculations, test results, and other supporting information.

The monitoring, recordkeeping, and reporting burden for this collection (averaged over the first 3 years after the effective date of the final rule) is estimated to be approximately 2,200 labor hours per year at a total annual cost of $128,000. For sources assumed to use existing add-on control devices, this estimate includes a one-time performance test and report (with repeat tests where needed) and a one-time submission of a SSMP with semiannual reports for any event when the procedures in the plan were not followed. For all sources, this estimate includes training, reading the regulation, and recordkeeping. There are no capital/startup costs associated with the monitoring 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 purpose 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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final rule. The EPA has also determined that the rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business whose parent company has a maximum of 500 employees according to Small Business Administration (SBA) size standards; (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.

After considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant impact on a substantial number of small entities. We have conducted an assessment of the standards on small businesses within the wood building products industries. Based on SBA size definitions for the affected industries (NAICS 321211—Hardwood Veneer and Plywood Manufacturing, NAICS 321212—Softwood Veneer and Plywood Manufacturing, NAICS 321219—Reconstituted Wood Product Manufacturing, NAICS 321911—Wood Window and Door Manufacturing, NAICS 321918—Other Millwork (including Flooring), NAICS 321999—All Other Miscellaneous Wood Product Manufacturing) and reported sales and employment data, EPA's survey identified four out of the 42 known facilities (four out of the 17 known companies) as being owned by small businesses that will be affected by the final rule. Small businesses own 10 percent of the facilities and 24 percent of the companies within the source category that will be affected by the final rule and are expected to incur 10 percent of the total industry compliance costs of $22.5 million. There are no small firms with compliance costs equal to or greater than 1 percent of their sales. The EPA believes the sample of firms included in this small entity analysis is representative of the small firms that may be affected by the promulgated rule.

The EPA also notes that, while economies of scale will require individual small firms to pay a somewhat higher proportion of revenues than large firms for compliance, the burden on most small firms is quite low nevertheless. The median compliance cost is well below 1 percent of sales for both small and large firms affected by the promulgated standards (0.18 percent and 0.02 percent of sales for small and large firms, respectively). For more information, please consult the report, "Economic Impact Analysis for the

Wood Building Products NESHAP," (Docket ID No. OAR–2003–0002, formerly Docket No. A–97–52).

Although the 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 the final rule on small entities, consistent with our obligations under the CAA. Along with soliciting input from small entities during the data-gathering phase of the rulemaking, three separate small business outreach activities were conducted. First, the Western States Air Resources Council was contacted about small business participation in a meeting held on October 12, 1999. (For more information, see the docket.) The second activity was a random screening of approximately 250 affected companies within the wood building products surface coating industry. Internet searches led to a list of ten possible affected small entities. These small entities were then invited to join a small business panel to assist in the development of the wood building products (surface coating) NESHAP. The third outreach program was conducted through SCOPe, which is a cooperative agreement between the EPA and the National Association of Schools of Public Affairs and Administration. Meetings are facilitated by local public affairs and administration faculty and are used to inform small entities of pending regulations. The informal meetings allow potentially affected facilities to voice concerns which are then communicated to the EPA prior to the rulemaking. According to outreach in Georgia, Oregon, North Carolina, and Pennsylvania, small entities are aware of low- or no-HAP coatings that have the potential to reduce HAP emissions. Many of the small entities currently use low- or no-HAP coatings and agree that they are often less expensive than higher-HAP options, do not affect the quality of the final product, and the choices are becoming more widespread. Therefore, small entities will not be adversely affected by the use of low- or no-HAP coatings.

Another aspect of the small business outreach was the participation in meetings that focus on impacts on small entities. The EPA representatives for the wood building products (surface coating) NESHAP have attended conferences and trade association meetings that have included small entities. By attending conferences sponsored by the Center for Advanced Wood Processing, the Laminating Materials Association, and RadTech International North America, and being involved in coatings-related industry and trade association meetings, information about the wood building products NESHAP has been shared with other communities concerned with impacts on small entities.

We believe these actions will significantly reduce the compliance burden for small entities, thereby mitigating potential impacts and preventing any duplication of effort. In addition, the final rule contains compliance options which give small entities flexibility in choosing the most cost effective and least burdensome alternative for their operations. For example, a facility could purchase and use low- or no-HAP coatings, thinners, and cleaning materials (*i.e.*, pollution prevention) that meet the standards rather than being required to purchase add-on control systems. The low- or no-HAP option can be demonstrated with minimum burden by using already-maintained purchase and usage records. No testing of materials is required, as the facility owners could show that their coatings meet the emission limits by providing formulation data supplied by the manufacturer. Furthermore, the final rule includes the minimum monitoring, recordkeeping, and reporting requirements needed for enforcement and compliance assurance.

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 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.

The EPA has determined that the final rule does not contain a Federal mandate that may result in expenditures of $100 million or more to State, local, and tribal governments, in the aggregate, or the private sector in any 1 year nor does the final rule significantly or uniquely impact small governments, because it contains no requirements that apply to such governments or impose obligations upon them. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132, Federalism

Executive Order 13132, 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" 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."

The 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. None of the affected sources are owned or operated by State governments. Thus, the requirements of section 6 of the Executive Order do not apply to the final rule.

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

Executive Order 13175, 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 rule does not have tribal implications, as specified in Executive Order 13175, because tribal governments do not own or operate any sources subject to the amendments. Thus, Executive Order 13175 does not apply to the final rule.

G. Executive Order 13045, Protection of Children From Environmental Health Risks 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.

The 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. The 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

The final rule 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 it is not a significant regulatory action under Executive Order 12866.

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. No. 104–113, (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, 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.

This rulemaking involves technical standards. The EPA cites the following standards in this final rule: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 24, 25, 25A, 204, 204A-F, and 311. Consistent with the NTTAA, EPA conducted searches to identify VCS in addition to these EPA methods. No applicable VCS were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 204, 204A-F, and 311. The search and review results have been documented and are available in the docket (Docket ID No. OAR–2003–0002, formerly Docket No. A–97–52) of the final rule.

The three VCS were identified as acceptable alternatives to EPA test methods for the purposes of the rule.

The VCS ANSI/ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]," is cited in this rule for its manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas. This part of ANSI/ASME PTC 19.10–1981, Part 10, is an acceptable alternative to Method 3B.

The two VCS, ASTM D2697–86 (Reapproved 1998), "Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings," and ASTM D6093–97, "Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer," are cited in this rule as acceptable alternatives to EPA Method 24 for measuring volume of solids in coatings. Currently, Method 24 does not have a procedure for determining the volume of solids in coatings. These standards fill a void in EPA Method 24 which directs that volume solids content be calculated from the coating manufacturer's formulation. The final rule does allow for the use of the volume solids content values calculated from the coating manufacturer's formulation; however, test results (if available) will take precedence if the test results do not agree with the calculated values.

Six VCS: ASTM D1475–90, ASTM D2369–95, ASTM D3792–91, ASTM D4017–96a, ASTM D4457–85 (Reapproved 1991), and ASTM D5403–93, are already incorporated by reference (IBR) in EPA Method 24. In addition, we are separately specifying the use of ASTM D1475–90 for measuring the density of individual coating components, such as organic solvents.

Five VCS: ASTM D1979–91, ASTM D3432–89, ASTM D4747–87, ASTM D4827–93, and ASTM PS 9–94 are IBR in EPA Method 311.

In addition to the VCS we are using in the final rule, the search for emissions measurement procedures identified 14 other VCS. We determined that 11 of these 14 standards identified for measuring emissions of the HAP or surrogate subject to emission standards in the final rule were impractical alternatives to EPA test methods for the purposes of the final rule. Therefore, EPA does not intend to adopt these standards. (See Docket ID No. OAR–2003–0002, formerly Docket No. A–97–52, for further information on the methods.)

Sections 63.4730, 63.4741, 63.4761, 63.4765, 63.4766, and Table 3 to promulgated subpart QQQQ lists the EPA testing methods included in the final rule. Under § 63.8 of subpart A of the General Provisions, a source may apply to EPA for permission to use alternative monitoring in place of any of the EPA testing methods.

J. 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. The EPA will submit a report containing the 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**. The final rule is not a "major rule" as defined by 5 U.S.C. 804(2). The rule will be effective May 28, 2003.

List of Subjects in 40 CFR Part 63

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

Dated: February 28, 2003.

Christine Todd Whitman,

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, *et seq.*

■ 2. Section 63.14 is amended by revising paragraphs (b)(24) and (25) and (i)(3) to read as follows:

§ 63.14 Incorporations by reference

* * * * *

(b) * * *

(24) ASTM D2697–86 (Reapproved 1998), "Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings," IBR approved for §§ 63.4141(b)(1), 63.4741(b)(1), 63.4941(b)(1), and 63.5160(c).

(25) ASTM D6093–97, "Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer," IBR approved for §§ 63.4141(b)(1), 63.4741(b)(1), 63.4941(b)(1), and 63.5160(c).

* * * * *

(i) * * *

(3) ANSI/ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]," IBR approved for §§ 63.865(b), 63.3360(e)(1)(iii), 63.4166(a)(3), 63.4766(a)(3), 63.4965(a)(3), 63.5160(d)(1)(iii), 63.9307(c)(2), and 63.9323(a)(3).

* * * * *

■ 3. Part 63 is amended by adding subpart QQQQ to read as follows:

Subpart QQQQ—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products

Sec.

What This Subpart Covers

63.4680 What is the purpose of this subpart?
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63.4683 When do I have to comply with this subpart?

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63.4690 What emission limits must I meet?
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Compliance Requirements for the Compliant Material Option

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Compliance Requirements for the Emission Rate With Add-On Controls Option

63.4760 By what date must I conduct performance tests and other initial compliance demonstrations?
63.4761 How do I demonstrate initial compliance?
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63.4763 How do I demonstrate continuous compliance with the emission limitations?
63.4764 What are the general requirements for performance tests?
63.4765 How do I determine the emission capture system efficiency?
63.4766 How do I determine the add-on control device emission destruction or removal efficiency?
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Other Requirements and Information

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Tables to Subpart QQQQ of Part 63

Table 1 to Subpart QQQQ of Part 63—Emission Limits for New or Reconstructed Affected Sources
Table 2 to Subpart QQQQ of Part 63—Emission Limits for Existing Affected Sources
Table 3 to Subpart QQQQ of Part 63—Operating Limits if Using the Emission Rate with Add-on Controls Option
Table 4 to Subpart QQQQ of Part 63—Applicability of General Provisions to Subpart QQQQ of Part 63
Table 5 to Subpart QQQQ of Part 63—Default Organic HAP Mass Fraction for Solvents and Solvent Blends
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Subpart QQQQ—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products

What This Subpart Covers

§ 63.4680 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for wood building products surface coating sources. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations.

§ 63.4681 Am I subject to this subpart?

(a) Except as provided in paragraphs (c) and (d) of this section, the source category to which this subpart applies is surface coating of wood building products, which means the application of coatings using, for example, roll coaters or curtain coaters in the finishing or laminating of any wood building product that contains more than 50 percent by weight wood or wood fiber excluding the weight of any glass components, and is used in the construction, either interior or exterior, of a residential, commercial, or institutional building. The wood building products source category includes the subcategories listed in paragraphs (a)(1) through (5) of this section.

(1) *Doors, windows, and miscellaneous.* The doors, windows, and miscellaneous subcategory includes doors, windows, finished doorskins, and door and window components such as millwork, moulding, or trim, and other miscellaneous wood building products including, but not limited to, all moulding and trim, shingles, and shutters.

(2) *Flooring.* The flooring subcategory includes solid wood flooring, engineered wood flooring, and wood laminate flooring.

(3) *Interior wall paneling and tileboard.* The interior wall paneling and tileboard subcategory includes interior wall paneling products. Tileboard is a premium interior wall paneling product.

(4) *Other interior panels.* The other interior panel subcategory includes panels that are sold for uses other than interior wall paneling, such as coated particleboard, hardboard, and perforated panels.

(5) *Exterior siding and primed doorskins.* The exterior siding and primed doorskins subcategory includes lap or panel siding, trimboard, and primed doorskins. Doorskins that are coated with more than primer are included in the doors, windows, and miscellaneous subcategory.

(b) You are subject to this subpart if you own or operate a new, reconstructed, or existing affected source, as defined in § 63.4682, that uses 4,170 liters (1,100 gallons) per year, or more, of coatings in the source category defined in paragraph (a) of this section and that is a major source, is located at a major source, or is part of a major source of emissions of hazardous air pollutants (HAP). A major source of HAP emissions is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (Mg) (10 tons) or more per year or any combination of HAP at a rate of 22.68 Mg (25 tons) or more per year.

(c) This subpart does not apply to surface coating and other operations that meet the criteria of paragraphs (c)(1) through (5) of this section.

(1) Surface coating in the processes identified in paragraphs (c)(1)(i) through (xi) of this section that are part of plywood and composite wood product manufacturing and would be subject to subpart DDDD of this part when promulgated:

(i) Edge seals applied to a reconstituted wood product or plywood.

(ii) Anti-skid coatings applied to reconstituted wood products.

(iii) Primers applied to waferboard or oriented strand board (OSB) siding at the site of manufacture of the waferboard or OSB siding.

(iv) Surface coating that occurs during the manufacture of fiberboard, including application of clay slurry, titanium dioxide, or asphalt coatings to fiberboard.

(v) Painting of company logo information on plywood or reconstituted wood products.

(vi) Application of trademarks and grade stamp to reconstituted wood products or plywood.

(vii) Application of nail lines to reconstituted wood products.

(viii) Synthetic patches, wood patches, and wood putty applied to plywood.

(ix) Application of concrete forming and other drying or tempering oils to wood building products.

(x) Veneer composing.

(xi) Application of shelving edge fillers to reconstituted wood products.

(2) Surface coating of wood furniture subject to subpart JJ of this part, including finishing, gluing, cleaning, and washoff operations associated with the production of wood furniture or wood furniture components. The surface coating of millwork and trim associated with cabinet manufacturing is also subject to subpart JJ of this part and not to this subpart.

(3) Surface coating that occurs during the manufacture of prefabricated homes and mobile/modular homes.

(4) Surface coating that occurs at research or laboratory facilities; janitorial, building, and facility construction or maintenance operations; or hobby shops that are operated for personal rather than for commercial purposes. The source category also does not include non-commercial coating operations or coating applications using handheld nonrefillable aerosol containers.

(5) Wood treatment or fire retardant operations located at wood building products sources that involve impregnating the wood product with the wood treatment chemicals or fire retardant by using a retort or other pressure vessel.

(d) If you have an affected source with surface coating operations subject to the requirements of another subpart of this part that account for at least 95 percent of the total (annual) coating usage for the affected source, you may demonstrate compliance with the requirements, including all applicable emission limit(s), for that subpart for the entire affected source.

§ 63.4682 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, and existing affected source.

(b) The affected source is the collection of all of the items listed in paragraphs (b)(1) through (4) of this section that are used for surface coating of wood building products:

(1) All coating operations as defined in § 63.4781;

(2) All storage containers and mixing vessels in which coatings, thinners, and cleaning materials are stored or mixed;

(3) All manual and automated equipment and containers used for conveying coatings, thinners, and cleaning materials; and

(4) All storage containers and all manual and automated equipment and containers used for conveying waste materials generated by a coating operation.

(c) An affected source is a new affected source if its construction commenced after June 21, 2002, and the construction is of a completely new wood building products surface coating source where previously no wood building products surface coating source had existed.

(d) An affected source is reconstructed if you meet the criteria as defined in § 63.2.

(e) An affected source is existing if it is not new or reconstructed.

§ 63.4683 When do I have to comply with this subpart?

The date by which you must comply with this subpart is called the compliance date. The compliance date for each type of affected source is specified in paragraphs (a) through (c) of this section. The compliance date begins the initial compliance period during which you conduct the initial compliance demonstration described in §§ 63.4740, 63.4750, and 63.4760.

(a) For a new or reconstructed affected source, the compliance date is the applicable date in paragraph (a)(1) or (2) of this section:

(1) If the initial startup of your new or reconstructed affected source is before May 28, 2003, the compliance date is May 28, 2003.

(2) If the initial startup of your new or reconstructed affected source occurs after May 28, 2003, the compliance date is the date of initial startup of your affected source.

(b) For an existing affected source, the compliance date is the date 3 years after May 28, 2003.

(c) For an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP emissions, the compliance date is specified in paragraphs (c)(1) and (2) of this section.

(1) For any portion of the source that becomes a new or reconstructed affected source subject to this subpart, the compliance date is the date of initial startup of the affected source or May 28, 2003, whichever is later.

(2) For any portion of the source that becomes an existing affected source subject to this subpart, the compliance date is the date 1 year after the area source becomes a major source or 3 years after May 28, 2003, whichever is later.

(d) You must meet the notification requirements in § 63.4710 according to the dates specified in that section and in subpart A of this part. Some of the notifications must be submitted before the compliance dates described in paragraphs (a) through (c) of this section.

Emission Limitations

§ 63.4690 What emission limits must I meet?

(a) For a new or reconstructed affected source, you must limit organic HAP emissions to the atmosphere to no more than the applicable emission limit(s) in Table 1 to this subpart, determined according to the requirements in §§ 63.4741, 63.4751, or 63.4761.

(b) For an existing affected source, you must limit organic HAP emissions to the atmosphere to no more than the applicable emission limit(s) in Table 2 to this subpart, determined according to the requirements in § 63.4741, § 63.4751, or § 63.4761.

(c) If the affected source applies coatings to products that are in different subcategories as described in § 63.4681(a), then you must demonstrate initial and continuous compliance by selecting one of the approaches described in paragraphs (c)(1) and (2) of this section.

(1) Conduct separate compliance demonstrations for each applicable subcategory emission limit and reflect these separate determinations in notifications, reports, and records required by §§ 63.4710, 63.4720, and 63.4730, respectively.

(2) Demonstrate compliance with the most stringent of the applicable subcategory emission limits.

§ 63.4691 What are my options for meeting the emission limits?

You must include all coatings, thinners, and cleaning materials used in the affected source when determining whether the organic HAP emission rate is equal to or less than the applicable emission limit in § 63.4690. To make this determination, you must use at least one of the three compliance options listed in paragraphs (a) through (c) of this section. You may apply any of the compliance options to an individual coating operation or to multiple coating operations as a group or to the entire affected source. You may use different compliance options for different coating operations or at different times on the same coating operation. However, you may not use different compliance options at the same time on the same coating operation. If you switch between compliance options for any coating operation or group of coating operations, you must document this switch as required by § 63.4730(c), and you must report it in the next semiannual compliance report required in § 63.4720.

(a) *Compliant material option.* Demonstrate that the organic HAP content of each coating used in the coating operation(s) is less than or equal to the applicable emission limit(s) in § 63.4690, and that each thinner and each cleaning material used contains no organic HAP. You must meet all the requirements of §§ 63.4740, 63.4741, and 63.4742 to demonstrate compliance with the emission limit using this option.

(b) *Emission rate without add-on controls option.* Demonstrate that, based on the coatings, thinners, and cleaning materials used in the coating operation(s), the organic HAP emission rate for the coating operation(s) is less than or equal to the applicable emission limit(s) in § 63.4690, calculated as a rolling 12-month emission rate and determined on a monthly basis. You must meet all the requirements of §§ 63.4750, 63.4751, and 63.4752 to demonstrate compliance with the emission limit using this option.

(c) *Emission rate with add-on controls option.* Demonstrate that, based on the coatings, thinners, and cleaning materials used in the coating operation(s) and the emission reductions achieved by emission capture systems and add-on controls, the organic HAP emission rate for the coating operation(s) is less than or equal to the applicable emission limit(s) in § 63.4690, calculated as a rolling 12-month emission rate and determined on a monthly basis. If you use this compliance option, you must also demonstrate that all emission capture systems and add-on control devices for the coating operation(s) meet the operating limits required in § 63.4692, except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4761(j), and that you meet the work practice standards required in § 63.4693. You must meet all the requirements of §§ 63.4760 through 63.4768 to demonstrate compliance with the emission limits, operating limits, and work practice standards using this option.

§ 63.4692 What operating limits must I meet?

(a) For any coating operation(s) on which you use the compliant material option or the emission rate without add-on controls option, you are not required to meet any operating limits.

(b) For any controlled coating operation(s) on which you use the emission rate with add-on controls option, except those for which you use a solvent recovery system and conduct a liquid-liquid material balance according to § 63.4761(j), you must meet the operating limits specified in Table 3 to this subpart. These operating limits apply to the emission capture and control systems on the coating operation(s) for which you use this option, and you must establish the operating limits during the performance test according to the requirements in § 63.4767. You must meet the operating limits at all times after you establish them.

(c) If you use an add-on control device other than those listed in Table 3 to this subpart, or wish to monitor an alternative parameter and comply with a different operating limit, you must apply to the Administrator for approval of alternative monitoring under § 63.8(f).

§ 63.4693 What work practice standards must I meet?

(a) For any coating operation(s) on which you use the compliant material option or the emission rate without add-on controls option, you are not required to meet any work practice standards.

(b) If you use the emission rate with add-on controls option, you must develop and implement a work practice plan to minimize organic HAP emissions from the storage, mixing, and conveying of coatings, thinners, and cleaning materials used in, and waste materials generated by, the coating operation(s); or you must meet an alternative standard as provided in paragraph (d) of this section. The plan must specify practices and procedures to ensure that, at a minimum, the elements specified in paragraphs (b)(1) through (5) of this section are implemented. You must make the plan available upon request for inspection by the Administrator.

(1) All organic-HAP coatings, thinners, cleaning materials, and waste materials must be stored in closed containers.

(2) Spills of organic-HAP coatings, thinners, cleaning materials, and waste materials must be minimized.

(3) Organic-HAP coatings, thinners, cleaning materials, and waste materials must be conveyed from one location to another in closed containers or pipes.

(4) Mixing vessels that contain organic-HAP coatings and other materials must be closed except when adding to, removing, or mixing the contents.

(5) Emissions of organic-HAP must be minimized during cleaning of storage, mixing, and conveying equipment.

(c) If your affected source has an existing documented plan that incorporates steps taken to minimize emissions from the sources specified in paragraphs (b)(1) through (5) of this section, then your existing plan can be used to meet the requirement for a work

practice plan as specified in paragraph (b) of this section.

(d) As provided in § 63.6(g), we, the U.S. Environmental Protection Agency (U.S. EPA), may choose to grant you permission to use an alternative to the work practice standards in this section.

General Compliance Requirements

§ 63.4700 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations in this subpart as specified in paragraphs (a)(1) and (2) of this section.

(1) Any coating operation(s) for which you use the compliant material option or the emission rate without add-on controls option, as specified in § 63.4691(a) and (b), must be in compliance with the applicable emission limit in § 63.4690 at all times.

(2) Any coating operation(s) for which you use the emission rate with add-on controls option, as specified in § 63.4691(c), must be in compliance with the emission limitations as specified in paragraphs (a)(2)(i) through (iii) of this section.

(i) The coating operation(s) must be in compliance with the applicable emission limit in § 63.4690 at all times, except during periods of startup, shutdown, and malfunction (SSM).

(ii) The coating operation(s) must be in compliance with the operating limits for emission capture systems and add-on control devices required by § 63.4692 at all times, except during periods of SSM, and except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4761(j).

(iii) The coating operation(s) must be in compliance with the work practice standards in § 63.4693 at all times.

(b) You must always operate and maintain your affected source, including all air pollution control and monitoring equipment you use for purposes of complying with this subpart, according to the provisions in § 63.6(e)(1)(i).

(c) If your affected source uses an emission capture system and add-on control device, you must maintain a log detailing the operation and maintenance of the emission capture system, add-on control device, and continuous parameter monitors during the period between the compliance date specified for your affected source in § 63.4683 and the date when the initial emission capture system and add-on control device performance tests have been completed, as specified in § 63.4760. This requirement does not apply to a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4761(j) in lieu of conducting performance tests.

(d) If your affected source uses an emission capture system and add-on control device, you must develop and implement a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3). The SSMP must address startup, shutdown, and corrective actions in the event of a malfunction of the emission capture system or the add-on control device. The SSMP must also address any coating operation equipment that may cause increased emissions or that would affect capture efficiency if the process equipment malfunctions, such as conveyors that move parts among enclosures.

§ 63.4701 What parts of the General Provisions apply to me?

Table 4 to this subpart indicates which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

Notifications, Reports, and Records

§ 63.4710 What notifications must I submit?

(a) *General.* You must submit the notifications in §§ 63.7(b) and (c), 63.8(f)(4), and 63.9(b) through (e) and (h) that apply to you by the dates specified in those sections, except as provided in paragraphs (b) and (c) of this section.

(b) *Initial Notification.* You must submit the Initial Notification required by § 63.9(b) for a new or reconstructed affected source no later than 120 days after initial startup or 120 days after May 28, 2003, whichever is later. For an existing affected source, you must submit the Initial Notification no later than 120 days after May 28, 2003.

(c) *Notification of Compliance Status.* You must submit the Notification of Compliance Status required by § 63.9(h) no later than 30 calendar days following the end of the initial compliance period described in § 63.4740, § 63.4750, or § 63.4760 that applies to your affected source. The Notification of Compliance Status must contain the information specified in paragraphs (c)(1) through (9) of this section and in § 63.9(h).

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of the report and beginning and ending dates of the reporting period. The reporting period is the initial compliance period described in § 63.4740, § 63.4750, or § 63.4760 that applies to your affected source.

(4) Identification of the compliance option or options specified in § 63.4691 that you used on each coating operation in the affected source during the initial compliance period.

(5) Statement of whether or not the affected source achieved the emission limitations for the initial compliance period.

(6) If you had a deviation, include the information in paragraphs (c)(6)(i) and (ii) of this section.

(i) A description and statement of the cause of the deviation.

(ii) If you failed to meet the applicable emission limit in § 63.4690, include all the calculations you used to determine the grams organic HAP emitted per liter of coating solids used (pounds (lb) organic HAP emitted per gallon of coating solids used). You do not need to submit information provided by the materials suppliers or manufacturers, or test reports.

(7) For each of the data items listed in paragraphs (c)(7)(i) through (iv) of this section that is required by the compliance option(s) you used to demonstrate compliance with the emission limit, include an example of how you determined the value, including calculations and supporting data. Supporting data can include a copy of the information provided by the supplier or manufacturer of the example coating or material or a summary of the results of testing conducted according to § 63.4741(a), (b), or (c). You do not need to submit copies of any test reports.

(i) Mass fraction of organic HAP for one coating, for one thinner, and for one cleaning material.

(ii) Volume fraction of coating solids for one coating.

(iii) Density for one coating, one thinner, and one cleaning material, except that if you use the compliant material option, only the example coating density is required.

(iv) The amount of waste materials and the mass of organic HAP contained in the waste materials for which you are claiming an allowance in Equation 1 of § 63.4751.

(8) The calculation of grams organic HAP emitted per liter coating solids used (lb organic HAP emitted per gallon coating solids used) for the compliance option(s) you used, as specified in paragraphs (c)(8)(i) through (iii) of this section.

(i) For the compliant material option, provide an example calculation of the organic HAP content for one coating, using Equation 2 of § 63.4741.

(ii) For the emission rate without add-on controls option, provide the calculation of the total mass of organic HAP emissions for each month; the

calculation of the total volume of coating solids used each month; and the calculation of the 12-month organic HAP emission rate, using Equations 1 and 1A through 1C, 2, and 3, respectively, of § 63.4751.

(iii) For the emission rate with add-on controls option, provide the calculation of the total mass of organic HAP emissions for the coatings, thinners, and cleaning materials used each month, using Equations 1 and 1A through 1C of § 63.4751; the calculation of the total volume of coating solids used each month, using Equation 2 of § 63.4751; the calculation of the mass of organic HAP emission reduction each month by emission capture systems and add-on control devices, using Equations 1, 1A through 1D, 2, 3, and 3A through 3C of § 63.4761, as applicable; the calculation of the total mass of organic HAP emissions each month, using Equation 4 of § 63.4761; and the calculation of the 12-month organic HAP emission rate, using Equation 5 of § 63.4761.

(9) For the emission rate with add-on controls option, you must include the information specified in paragraphs (c)(9)(i) through (iv) of this section, except that the requirements in paragraphs (c)(9)(i) through (iii) of this section do not apply to solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4761(j).

(i) For each emission capture system, a summary of the data and copies of the calculations supporting the determination that the emission capture system is a permanent total enclosure (PTE) or a measurement of the emission capture system efficiency. Include a description of the protocol followed for measuring capture efficiency, summaries of any capture efficiency tests conducted, and any calculations supporting the capture efficiency determination. If you use the data quality objective (DQO) or lower confidence limit (LCL) approach, you must also include the statistical calculations to show you meet the DQO or LCL criteria in appendix A to subpart KK of this part. You do not need to submit complete test reports.

(ii) A summary of the results of each add-on control device performance test. You do not need to submit complete test reports.

(iii) A list of each emission capture system and add-on control device operating limits and a summary of the data used to calculate those limits.

(iv) A statement of whether or not you developed and implemented the work practice plan required by § 63.4693.

§ 63.4720 What reports must I submit?

(a) *Semiannual compliance reports.* You must submit semiannual compliance reports for each affected source according to the requirements of paragraphs (a)(1) through (7) of this section. The semiannual compliance reporting requirements may be satisfied by reports required under other parts of the Clean Air Act (CAA), as specified in paragraph (a)(2) of this section.

(1) *Dates.* Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must prepare and submit each semiannual compliance report according to the dates specified in paragraphs (a)(1)(i) through (iv) of this section. Note that the information reported for each of the months in the reporting period will be based on the last 12 months of data prior to the date of each monthly calculation.

(i) The first semiannual compliance report must cover the first semiannual reporting period which begins the day after the end of the initial compliance period described in § 63.4740, § 63.4750, or § 63.4760 that applies to your affected source and ends on June 30 or December 31, whichever occurs first following the end of the initial compliance period.

(ii) Each subsequent semiannual compliance report must cover the subsequent semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(iii) Each semiannual compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(iv) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the date specified in paragraph (a)(1)(iii) of this section.

(2) *Inclusion with title V report.* Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 40 CFR part 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If an affected source submits a semiannual compliance report pursuant to this section along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the semiannual compliance report includes all required information concerning deviations from any emission limitation in this subpart, its submission shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a semiannual compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permitting authority.

(3) *General requirements.* The semiannual compliance report must contain the information specified in paragraphs (a)(3)(i) through (v) of this section, and the information specified in paragraphs (a)(4) through (7) and (c)(1) of this section that is applicable to your affected source.

(i) Company name and address.

(ii) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(iii) Date of report and beginning and ending dates of the reporting period. The reporting period is the 6-month period ending on June 30 or December 31. Note that the information reported for each of the 6 months in the reporting period will be based on the last 12 months of data prior to the date of each monthly calculation.

(iv) Identification of the compliance option or options specified in § 63.4691 that you used on each coating operation during the reporting period. If you switched between compliance options during the reporting period, you must report the beginning and ending dates you used each option.

(v) If you used the emission rate without add-on controls or the emission rate with add-on controls compliance option (§ 63.4691(b) or (c)), the calculation results for each rolling 12-month organic HAP emission rate during the 6-month reporting period.

(4) *No deviations.* If there were no deviations from the emission limitations in §§ 63.4690, 63.4692, and 63.4693 that apply to you, the semiannual compliance report must include a statement that there were no deviations from the emission limitations during the reporting period. If you used the emission rate with add-on controls option and there were no periods during which the continuous parameter monitoring systems (CPMS) were out-of-control as specified in § 63.8(c)(7), the semiannual compliance report must include a statement that there were no periods during which the CPMS were

out-of-control during the reporting period.

(5) *Deviations: compliant material option.* If you used the compliant material option, and there was a deviation from the applicable emission limit in § 63.4690, the semiannual compliance report must contain the information in paragraphs (a)(5)(i) through (iv) of this section.

(i) Identification of each coating used that deviated from the emission limit, each thinner and cleaning material used that contained organic HAP, and the dates and time periods each was used.

(ii) The calculation of the organic HAP content (using Equation 2 of § 63.4741) for each coating identified in paragraph (a)(5)(i) of this section. You do not need to submit background data supporting this calculation (*e.g.*, information provided by coating suppliers or manufacturers, or test reports).

(iii) The determination of mass fraction of organic HAP for each coating, thinner, and cleaning material identified in paragraph (a)(5)(i) of this section. You do not need to submit background data supporting this calculation (*e.g.*, information provided by material suppliers or manufacturers, or test reports).

(iv) A statement of the cause of each deviation.

(6) *Deviations: emission rate without add-on controls option.* If you used the emission rate without add-on controls option and there was a deviation from the applicable emission limit in § 63.4690, the semiannual compliance report must contain the information in paragraphs (a)(6)(i) through (iii) of this section.

(i) The beginning and ending dates of each compliance period during which the 12-month organic HAP emission rate exceeded the applicable emission limit in § 63.4690.

(ii) The calculations used to determine the 12-month organic HAP emission rate for the compliance period in which the deviation occurred. You must provide the calculations for Equations 1, 1A through 1C, 2, and 3 in § 63.4751; and if applicable, the calculation used to determine mass of organic HAP in waste materials according to § 63.4751(e)(4). You do not need to submit background data supporting these calculations (*e.g.*, information provided by materials suppliers or manufacturers, or test reports).

(iii) A statement of the cause of each deviation.

(7) *Deviations: emission rate with add-on controls option.* If you used the emission rate with add-on controls option and there was a deviation from an emission limitation (including any periods when emissions bypassed the add-on control device and were diverted to the atmosphere), the semiannual compliance report must contain the information in paragraphs (a)(7)(i) through (xiv) of this section. This includes periods of SSM during which deviations occurred.

(i) The beginning and ending dates of each compliance period during which the 12-month organic HAP emission rate exceeded the applicable emission limit in § 63.4690.

(ii) The calculations used to determine the 12-month organic HAP emission rate for each compliance period in which a deviation occurred. You must provide the calculation of the total mass of organic HAP emissions for the coatings, thinners, and cleaning materials used each month, using Equations 1 and 1A through 1C of § 63.4751; and, if applicable, the calculation used to determine mass of organic HAP in waste materials according to § 63.4751(e)(4); the calculation of the total volume of coating solids used each month, using Equation 2 of § 63.4751; the calculation of the mass of organic HAP emission reduction each month by emission capture systems and add-on control devices, using Equations 1 and 1A through 1D of § 63.4761, and Equations 2, 3, and 3A through 3C of § 63.4761, as applicable; the calculation of the total mass of organic HAP emissions each month, using Equation 4 of § 63.4761; and the calculation of the 12-month organic HAP emission rate, using Equation 5 of § 63.4761. You do not need to submit the background data supporting these calculations (*e.g.*, information provided by materials suppliers or manufacturers, or test reports).

(iii) The date and time that each malfunction started and stopped.

(iv) A brief description of the CPMS.

(v) The date of the latest CPMS certification or audit.

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

(vii) The date, time, and duration that each CPMS was out-of-control, including the information in § 63.8(c)(8).

(viii) The date and time period of each deviation from an operating limit in Table 3 to this subpart, date and time period of any bypass of the add-on control device, and whether each deviation occurred during a period of SSM or during another period.

(ix) A summary of the total duration of each deviation from an operating limit in Table 3 to this subpart, each bypass of the add-on control device during the semiannual reporting period, and the total duration as a percent of the total source operating time during that semiannual reporting period.

(x) A breakdown of the total duration of the deviations from the operating limits in Table 3 to this subpart and bypasses of the add-on control device during the semiannual reporting period by identifying deviations due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(xi) A summary of the total duration of CPMS downtime during the semiannual reporting period and the total duration of CPMS downtime as a percent of the total source operating time during that semiannual reporting period.

(xii) A description of any changes in the CPMS, coating operation, emission capture system, or add-on control device since the last semiannual reporting period.

(xiii) For each deviation from the work practice standards, a description of the deviation, the date and time period of the deviation, and the actions you took to correct the deviation.

(xiv) A statement of the cause of each deviation.

(b) *Performance test reports.* If you use the emission rate with add-on controls option, you must submit reports of performance test results for emission capture systems and add-on control devices no later than 60 days after completing the tests as specified in § 63.10(d)(2).

(c) *SSM reports.* If you used the emission rate with add-on controls option and you had an SSM during the semiannual reporting period, you must submit the reports specified in paragraphs (c)(1) and (2) of this section.

(1) If your actions were consistent with your SSMP, you must include the information specified in § 63.10(d) in the semiannual compliance report required by paragraph (a) of this section.

(2) If your actions were not consistent with your SSMP, you must submit an immediate SSM report as described in paragraphs (c)(2)(i) and (ii) of this section.

(i) You must describe the actions taken during the event in a report delivered by facsimile, telephone, or other means to the Administrator within 2 working days after starting actions that are inconsistent with the plan.

(ii) You must submit a letter to the Administrator within 7 working days after the end of the event, unless you have made alternative arrangements with the Administrator as specified in

§ 63.10(d)(5)(ii). The letter must contain the information specified in § 63.10(d)(5)(ii).

§ 63.4730 What records must I keep?

You must collect and keep records of the data and information specified in this section. Failure to collect and keep these records is a deviation from the applicable standard.

(a) A copy of each notification and report that you submitted to comply with this subpart, and the documentation supporting each notification and report.

(b) A current copy of information provided by materials suppliers or manufacturers, such as manufacturer's formulation data, or test data used to determine the mass fraction of organic HAP and density for each coating, thinner, and cleaning material and the volume fraction of coating solids for each coating. If you conducted testing to determine mass fraction of organic HAP, density, or volume fraction of coating solids, you must keep a copy of the complete test report. If you use information provided to you by the manufacturer or supplier of the material that was based on testing, you must keep the summary sheet of results provided to you by the manufacturer or supplier. You are not required to obtain the test report or other supporting documentation from the manufacturer or supplier.

(c) For each compliance period, the records specified in paragraphs (c)(1) through (4) of this section.

(1) A record of the coating operations at which you used each compliance option and the time periods (beginning and ending dates and times) you used each option.

(2) For the compliant material option, a record of the calculation of the organic HAP content for each coating, using Equation 2 of § 63.4741.

(3) For the emission rate without add-on controls option, a record of the calculation of the total mass of organic HAP emissions for the coatings, thinners, and cleaning materials used each month, using Equations 1, 1A through 1C, and 2 of § 63.4751; and, if applicable, the calculation used to determine mass of organic HAP in waste materials according to § 63.4751(e)(4); the calculation of the total volume of coating solids used each month, using Equation 2 of § 63.4751; and the calculation of each 12-month organic HAP emission rate, using Equation 3 of § 63.4751.

(4) For the emission rate with add-on controls option, records of the calculations specified in paragraphs (c)(4)(i) through (v) of this section.

(i) The calculation of the total mass of organic HAP emissions for the coatings, thinners, and cleaning materials used each month, using Equations 1 and 1A through 1C of § 63.4751; and, if applicable, the calculation used to determine mass of organic HAP in waste materials according to § 63.4751(e)(4).

(ii) The calculation of the total volume of coating solids used each month, using Equation 2 of § 63.4751.

(iii) The calculation of the mass of organic HAP emission reduction by emission capture systems and add-on control devices, using Equations 1 and 1A through 1D of § 63.4761, and Equations 2, 3, and 3A through 3C of § 63.4761, as applicable.

(iv) The calculation of the total mass of organic HAP emissions each month, using Equation 4 of § 63.4761.

(v) The calculation of each 12-month organic HAP emission rate, using Equation 5 of § 63.4761.

(d) A record of the name and volume of each coating, thinner, and cleaning material used during each compliance period.

(e) A record of the mass fraction of organic HAP for each coating, thinner, and cleaning material used during each compliance period.

(f) A record of the volume fraction of coating solids for each coating used during each compliance period.

(g) A record of the density for each coating used during each compliance period; and, if you use either the emission rate without add-on controls or the emission rate with add-on controls compliance option, the density for each thinner and cleaning material used during each compliance period.

(h) If you use an allowance in Equation 1 of § 63.4751 for organic HAP contained in waste materials sent to or designated for shipment to a treatment, storage, and disposal facility (TSDF) according to § 63.4751(e)(4), you must keep records of the information specified in paragraphs (h)(1) through (3) of this section.

(1) The name and address of each TSDF to which you sent waste materials for which you use an allowance in Equation 1 of § 63.4751; a statement of which subparts under 40 CFR parts 262, 264, 265, and 266 apply to the facility; and the date of each shipment.

(2) Identification of the coating operations producing waste materials included in each shipment and the month or months in which you used the allowance for these materials in Equation 1 of § 63.4751.

(3) The methodology used in accordance with § 63.4751(e)(4) to determine the total amount of waste materials sent to or the amount collected, stored, and designated for transport to a TSDF each month; and the methodology to determine the mass of organic HAP contained in these waste materials. This must include the sources for all data used in the determination, methods used to generate the data, frequency of testing or monitoring, and supporting calculations and documentation, including the waste manifest for each shipment.

(i) [Reserved]

(j) You must keep records of the date, time, and duration of each deviation.

(k) If you use the emission rate with add-on controls option, you must keep the records specified in paragraphs (k)(1) through (8) of this section.

(1) For each deviation, a record of whether the deviation occurred during a period of SSM.

(2) The records in § 63.6(e)(3)(iii) through (v) related to SSM.

(3) The records required to show continuous compliance with each operating limit specified in Table 3 to this subpart that applies to you.

(4) For each capture system that is a PTE, the data and documentation you used to support a determination that the capture system meets the criteria in Method 204 of appendix M to 40 CFR part 51 for a PTE and has a capture efficiency of 100 percent, as specified in § 63.4765(a).

(5) For each capture system that is not a PTE, the data and documentation you used to determine capture efficiency according to the requirements specified in §§ 63.4764 and 63.4765(b) through (e), including the records specified in paragraphs (k)(5)(i) through (iii) of this section that apply to you.

(i) *Records for a liquid-to-uncaptured-gas protocol using a temporary total enclosure or building enclosure.* Records of the mass of total volatile hydrocarbon (TVH) as measured by Method 204A or F of appendix M to 40 CFR part 51 for each material used in the coating operation, and the total TVH for all materials used during each capture efficiency test run, including a copy of the test report. Records of the mass of TVH emissions not captured by the capture system that exited the temporary total enclosure or building enclosure during each capture efficiency test run as measured by Method 204D or E of appendix M to 40 CFR part 51, including a copy of the test report. Records documenting that the enclosure used for the capture efficiency test met the criteria in Method 204 of appendix M to 40 CFR part 51 for either a temporary total enclosure or a building enclosure.

(ii) *Records for a gas-to-gas protocol using a temporary total enclosure or a*

building enclosure. Records of the mass of TVH emissions captured by the emission capture system as measured by Method 204B or C of appendix M to 40 CFR part 51 at the inlet to the add-on control device, including a copy of the test report. Records of the mass of TVH emissions not captured by the capture system that exited the temporary total enclosure or building enclosure during each capture efficiency test run as measured by Method 204D or E of appendix M to 40 CFR part 51, including a copy of the test report. Records documenting that the enclosure used for the capture efficiency test met the criteria in Method 204 of appendix M to 40 CFR part 51 for either a temporary total enclosure or a building enclosure.

(iii) *Records for an alternative protocol*. Records needed to document a capture efficiency determination using an alternative method or protocol as specified in § 63.4765(e), if applicable.

(6) The records specified in paragraphs (k)(6)(i) and (ii) of this section for each add-on control device organic HAP destruction or removal efficiency determination as specified in § 63.4766.

(i) Records of each add-on control device performance test conducted according to §§ 63.4764 and 63.4766.

(ii) Records of the coating operation conditions during the add-on control device performance test showing that the performance test was conducted under representative operating conditions.

(7) Records of the data and calculations you used to establish the emission capture and add-on control device operating limits as specified in § 63.4767 and to document compliance with the operating limits as specified in Table 3 to this subpart.

(8) A record of the work practice plan required by § 63.4693, and documentation that you are implementing the plan on a continuous basis.

§ 63.4731 In what form and for how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1). Where appropriate, the records may be maintained as electronic spreadsheets or as a database.

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on-site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You may keep the records off-site for the remaining 3 years.

Compliance Requirements for the Compliant Material Option

§ 63.4740 By what date must I conduct the initial compliance demonstration?

You must complete the initial compliance demonstration for the initial compliance period according to the requirements in § 63.4741. The initial compliance period begins on the applicable compliance date specified in § 63.4683 and ends on the last day of the 12th month following the compliance date. If the compliance date occurs on any day other than the first day of a month, then the initial compliance period extends through the end of that month plus the next 12 months. The initial compliance demonstration includes the calculations according to § 63.4741 and supporting documentation showing that during the initial compliance period, you used no coating with an organic HAP content that exceeded the applicable emission limit in § 63.4690, and that you used no thinners or cleaning materials that contained organic HAP.

§ 63.4741 How do I demonstrate initial compliance with the emission limitations?

You may use the compliant material option for any individual coating operation, for any group of coating operations in the affected source, or for all the coating operations in the affected source. You must use either the emission rate without add-on controls option or the emission rate with add-on controls option for any coating operation in the affected source for which you do not use this option. To demonstrate initial compliance using the compliant material option, the coating operation or group of coating operations must use no coating with an organic HAP content that exceeds the applicable emission limit in § 63.4690 and must use no thinner or cleaning material that contains organic HAP as determined according to this section. Any coating operation for which you use the compliant material option is not required to meet the operating limits or work practice standards required in §§ 63.4692 and 63.4693, respectively. To demonstrate initial compliance with the emission limitations using the compliant material option, you must meet all the requirements of this section for the coating operation or group of coating operations using this option. Use the procedures in this section on each coating, thinner, and cleaning material in the condition it is in when it is received from its manufacturer or supplier and prior to any alteration. You do not need to redetermine the mass of organic HAP in coatings, thinners, or cleaning materials that have been reclaimed onsite and reused in the coating operation(s) for which you use the compliant material option, provided these materials in their condition as received were demonstrated to comply with the compliant material option. If the mass fraction of organic HAP of a coating equals zero, determined according to paragraph (a) of this section, and you use the compliant material option, you are not required to comply with paragraphs (b) and (c) of this section for that coating.

(a) *Determine the mass fraction of organic HAP for each material used*. You must determine the mass fraction of organic HAP for each coating, thinner, and cleaning material used during the compliance period by using one of the options in paragraphs (a)(1) through (5) of this section.

(1) *Method 311 (appendix A to 40 CFR part 63)*. You may use Method 311 for determining the mass fraction of organic HAP. Use the procedures specified in paragraphs (a)(1)(i) and (ii) of this section when performing a Method 311 test. If these values cannot be determined using Method 311, the owner or operator shall submit an alternative technique for determining their values for approval by the Administrator.

(i) Count each organic HAP that is measured to be present at 0.1 percent by mass or more for OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4), and at 1.0 percent by mass or more for other organic HAP compounds. For example, if toluene (not an OSHA carcinogen) is measured to be 0.5 percent of the material by mass, you do not have to count it. Express the mass fraction of each organic HAP you count as a value truncated to four places after the decimal point (*e.g.*, 0.379178412 truncates to 0.3791).

(ii) Calculate the total mass fraction of organic HAP in the test material by adding up the individual organic HAP mass fractions and truncating the result to three places after the decimal point (*e.g.*, 0.763).

(2) *Method 24 (appendix A to 40 CFR part 60)*. For coatings, you may use Method 24 to determine the mass fraction of nonaqueous volatile matter and use that value as a substitute for mass fraction of organic HAP. (Note: Method 24 is not appropriate for those coatings with a water content that would result in an effective detection

limit greater than the applicable emission limit.)

(3) *Alternative method.* You may use an alternative test method for determining the mass fraction of organic HAP once the Administrator has approved it. You must follow the procedure in § 63.7(f) to submit an alternative test method for approval.

(4) *Information from the supplier or manufacturer of the material.* You may rely on information other than that generated by the test methods specified in paragraphs (a)(1) through (3) of this section, such as manufacturer's formulation data, if it represents each organic HAP that is present at 0.1 percent by mass or more for OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4), and at 1.0 percent by mass or more for other organic HAP compounds. For example, if toluene (not an OSHA carcinogen) is 0.5 percent of the material by mass, you do not have to count it. If there is a disagreement between such information and results of a test conducted according to paragraphs (a)(1) through (3) of this section, then the test method results will take precedence unless, after consultation, a regulated source could demonstrate to the satisfaction of the enforcement agency that the formulation data were correct.

(5) *Solvent blends.* Solvent blends may be listed as single components for some materials in data provided by manufacturers or suppliers. Solvent blends may contain organic HAP which must be counted toward the total organic HAP mass fraction of the materials. When test data and manufacturer's data for solvent blends are not available, you may use the default values for the mass fraction of organic HAP in these solvent blends listed in Table 5 or Table 6 to this subpart. If you use the tables, you must use the values in Table 5 for all solvent blends that match Table 5 entries, and you may only use Table 6 if the solvent blends in the materials you use do not match any of the solvent blends in Table 5 and you only know whether the blend is aliphatic or aromatic. However, if the results of a Method 311 (40 CFR part 63, appendix A) test indicate higher values than those listed on Table 5 or Table 6 to this subpart, the Method 311 results will take precedence.

(b) *Determine the volume fraction of coating solids for each coating.* You must determine the volume fraction of coating solids (liters of coating solids per liter of coating) for each coating used during the compliance period by one of the methods specified in paragraph (b)(1), (2), or (3) of this section.

(1) *ASTM Method D2697–86 (Reapproved 1998) or D6093–97.* You may use ASTM Method D2697–86 (Reapproved 1998), "Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings' (incorporated by reference, see § 63.14), or D6093–97, "Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer" (incorporated by reference, see § 63.14), to determine the volume fraction of coating solids for each coating. Divide the nonvolatile volume percent obtained with the methods by 100 to calculate volume fraction of coating solids. If these values cannot be determined using these methods, the owner operator may submit an alternative technique for determining their values for approval by the Administrator.

(2) *Information from the supplier or manufacturer of the material.* You may obtain the volume fraction of coating solids for each coating from the supplier or manufacturer.

(3) *Calculation of volume fraction of coating solids.* If the volume fraction of coating solids cannot be determined using the options in paragraphs (b)(1) and (2) of this section, you must determine it using Equation 1 of this section:

$$V_s = 1 - \left(\frac{m_{volatiles}}{D_{avg}} \right) \qquad \text{(Eq. 1)}$$

Where:

V_s = Volume fraction of coating solids, liters coating solids per liter coating.

$m_{volatiles}$ = Total volatile matter content of the coating, including HAP, volatile organic compounds (VOC), water, and exempt compounds, determined according to Method 24 in appendix A of 40 CFR part 60, grams volatile matter per liter coating.

D_{avg} = Average density of volatile matter in the coating, grams volatile matter per liter volatile matter, determined from test results using ASTM Method D1475–90 information from the supplier or manufacturer of the material, or reference sources providing density or specific gravity data for pure materials. If there is disagreement between ASTM Method D1475–90 test results and other information sources, the test results will take precedence.

(c) *Determine the density of each coating.* Determine the density of each coating used during the compliance period from test results using ASTM Method D1475–90 or information from the supplier or manufacturer of the material. If there is disagreement between ASTM Method D1475–90 test results and the supplier's or manufacturer's information, the test results will take precedence.

(d) *Calculate the organic HAP content of each coating.* Calculate the organic HAP content, grams organic HAP per liter coating solids, of each coating used during the compliance period, using Equation 2 of this section:

$$H_c = \frac{(D_c)(W_c)}{V_s} \qquad \text{(Eq. 2)}$$

Where:

H_c = Organic HAP content of the coating, grams organic HAP per liter coating solids.

D_c = Density of coating, grams coating per liter coating, determined according to paragraph (c) of this section.

W_c = Mass fraction of organic HAP in the coating, grams organic HAP per gram coating, determined according to paragraph (a) of this section.

V_s = Volume fraction of coating solids, liter coating solids per liter coating, determined according to paragraph (b) of this section.

(e) *Compliance demonstration.* The organic HAP content for each coating used during the initial compliance period, determined using Equation 2 of this section, must be less than or equal to the applicable emission limit in § 63.4690; and each thinner and cleaning material used during the initial compliance period must contain no organic HAP, determined according to paragraph (a) of this section. You must keep all records required by §§ 63.4730 and 63.4731. As part of the Notification of Compliance Status required in § 63.4710, you must identify the coating operation(s) for which you used the compliant material option and submit a statement that the coating operation(s) was (were) in compliance with the emission limitations during the initial compliance period because you used no coatings for which the organic HAP content exceeded the applicable emission limit in § 63.4690, and you used no thinners or cleaning materials that contained organic HAP, determined according to paragraph (a) of this section.

§ 63.4742 How do I demonstrate continuous compliance with the emission limitations?

(a) For each compliance period to demonstrate continuous compliance, you must use no coating for which the organic HAP content determined using Equation 2 of § 63.4741 exceeds the

applicable emission limit in § 63.4690; and use no thinner or cleaning material that contains organic HAP, determined according to § 63.4741(a). A compliance period consists of 12 months. Each month after the end of the initial compliance period described in § 63.4740 is the end of a compliance period consisting of that month and the preceding 11 months.

(b) If you choose to comply with the emission limitations by using the compliant material option, the use of any coating, thinner, or cleaning material that does not meet the criteria specified in paragraph (a) of this section is a deviation from the emission limitations that must be reported as specified in §§ 63.4710(c)(6) and 63.4720(a)(5).

(c) As part of each semiannual compliance report required by § 63.4720, you must identify the coating operation(s) for which you used the compliant material option. If there were no deviations from the emission limitations in § 63.4690, submit a statement that the coating operation(s) was (were) in compliance with the emission limitations during the reporting period because you used no coating for which the organic HAP content exceeded the applicable emission limit in § 63.4690, and you used no thinner or cleaning material that contained organic HAP, determined according to § 63.4741(a).

(d) You must maintain records as specified in §§ 63.4730 and 63.4731.

Compliance Requirements for the Emission Rate Without Add-On Controls Option

§ 63.4750 By what date must I conduct the initial compliance demonstration?

You must complete the initial compliance demonstration for the initial compliance period according to the requirements of § 63.4751. The initial compliance period begins on the applicable compliance date specified in § 63.4683 and ends on the last day of the 12th month following the compliance date. If the compliance date occurs on any day other than the first day of a month, then the initial compliance period extends through the end of that month plus the next 12 months. You must determine the mass of organic HAP emissions and volume of coating solids used each month and then calculate a 12-month organic HAP emission rate at the end of the initial 12-month compliance period. The initial compliance demonstration includes the calculations according to § 63.4751 and supporting documentation showing that during the initial compliance period the organic HAP emission rate was equal to or less than the applicable emission limit in § 63.4690.

§ 63.4751 How do I demonstrate initial compliance with the emission limitations?

You may use the emission rate without add-on controls option for any individual coating operation, for any group of coating operations in the affected source, or for all the coating operations in the affected source. You must use either the compliant material option or the emission rate with add-on controls option for any coating operation in the affected source for which you do not use this option. To demonstrate initial compliance using the emission rate without add-on controls option, the coating operation or group of coating operations must meet the applicable emission limit in § 63.4690. Any coating operation for which you use the emission rate without add-on controls option is not required to meet the operating limits or work practice standards required in §§ 63.4692 and 63.4693, respectively. You must meet all the requirements of this section to demonstrate initial compliance with the applicable emission limit in § 63.4690 for the coating operation(s). When calculating the organic HAP emission rate according to this section, do not include any coatings, thinners, or cleaning materials used on coating operations for which you use the compliant material option or the emission rate with add-on controls option. You do not need to redetermine the mass of organic HAP in coatings, thinners, or cleaning materials that have been reclaimed onsite and reused in the coating operation(s) for which you use the emission rate without add-on controls option.

(a) *Determine the mass fraction of organic HAP for each material.* Determine the mass fraction of organic HAP for each coating, thinner, and cleaning material used during each month according to the requirements in § 63.4741(a).

(b) *Determine the volume fraction of coating solids for each coating.* Determine the volume fraction of coating solids for each coating used during each month according to the requirements in § 63.4741(b).

(c) *Determine the density of each material.* Determine the density of each coating, thinner, and cleaning material used during each month from test results using ASTM Method D1475–90, information from the supplier or manufacturer of the material, or reference sources providing density or specific gravity data for pure materials. If there is disagreement between ASTM Method D1475–90 test results and such other information sources, the test results will take precedence.

(d) *Determine the volume of each material used.* Determine the volume (liters) of each coating, thinner, and cleaning material used during each month by measurement or usage records.

(e) *Calculate the mass of organic HAP emissions.* The mass of organic HAP emissions is the combined mass of organic HAP contained in all coatings, thinners, and cleaning materials used during each month minus the organic HAP in certain waste materials. Calculate it using Equation 1 of this section.

$$H_e = A + B + C - R_w \qquad \text{(Eq. 1)}$$

Where:

H_e = Total mass of organic HAP emissions during the month, grams.

A = Total mass of organic HAP in the coatings used during the month, grams, as calculated in Equation 1A of this section.

B = Total mass of organic HAP in the thinners used during the month, grams, as calculated in Equation 1B of this section.

C = Total mass of organic HAP in the cleaning materials used during the month, grams, as calculated in Equation 1C of this section.

R_w = Total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste TSDF for treatment or disposal during the month, grams, determined according to paragraph (e)(4) of this section. (You may assign a value of zero to R_w if you do not wish to use this allowance.)

(1) Calculate the mass of organic HAP in the coatings used during the month, using Equation 1A of this section:

$$A = \sum_{i=1}^{m} \left(Vol_{c,i}\right)\left(D_{c,i}\right)\left(W_{c,i}\right) \qquad \text{(Eq. 1A)}$$

Where:

A = Total mass of organic HAP in the coatings used during the month, grams.

$Vol_{c,i}$ = Total volume of coating, i, used during the month, liters.

$D_{c,i}$ = Density of coating, i, grams coating per liter coating.

$W_{c,i}$ = Mass fraction of organic HAP in coating, i, grams organic HAP per gram coating.

m = Number of different coatings used during the month.

(2) Calculate the mass of organic HAP in the thinners used during the month, using Equation 1B of this section:

$$B = \sum_{j=1}^{n} (Vol_{t,j})(D_{t,j})(W_{t,j}) \qquad \text{(Eq. 1B)}$$

Where:

B = Total mass of organic HAP in the thinners used during the month, grams.

$Vol_{t,j}$ = Total volume of thinner, j, used during the month, liters.

$D_{t,j}$ = Density of thinner, j, grams per liter.

$W_{t,j}$ = Mass fraction of organic HAP in thinner, j, grams organic HAP per gram thinner.

n = Number of different thinners used during the month.

(3) Calculate the mass of organic HAP in the cleaning materials used during the month using Equation 1C of this section:

$$C = \sum_{k=1}^{p} (Vol_{s,k})(D_{s,k})(W_{s,k}) \qquad \text{(Eq. 1C)}$$

Where:

C = Total mass of organic HAP in the cleaning materials used during the month, grams.

$Vol_{s,k}$ = Total volume of cleaning material, k, used during the month, liters.

$D_{s,k}$ = Density of cleaning material, k, grams per liter.

$W_{s,k}$ = Mass fraction of organic HAP in cleaning material, k, grams organic HAP per gram material.

p = Number of different cleaning materials used during the month.

(4) If you choose to account for the mass of organic HAP contained in waste materials sent or designated for shipment to a hazardous waste TSDF in Equation 1 of this section, then you must determine it according to paragraphs (e)(4)(i) through (iv) of this section.

(i) You may include in the determination only waste materials that are generated by coating operations for which you use Equation 1 of this section and that will be treated or disposed of by a facility regulated as a TSDF under 40 CFR part 262, 264, 265, or 266. The TSDF may be either off-site or on-site. You may not include organic HAP contained in wastewater.

(ii) You must determine either the amount of the waste materials sent to a TSDF during the month or the amount collected and stored during the month and designated for future transport to a TSDF. Do not include in your determination any waste materials sent to a TSDF during a month if you have already included them in the amount collected and stored during that month or a previous month.

(iii) Determine the total mass of organic HAP contained in the waste materials specified in paragraph (e)(4)(ii) of this section.

(iv) You may use any reasonable methodology to determine the amount of waste materials and the total mass of organic HAP they contain, and you must document your methodology as required in § 63.4730(h). To the extent that waste manifests include this information, they may be used as part of the documentation of the amount of waste materials and mass of organic HAP contained in them.

(f) *Calculate the total volume of coating solids used.* Determine the total volume of coating solids used which is the combined volume of coating solids for all the coatings used during each month, using Equation 2 of this section:

$$V_{st} = \sum_{i=1}^{m} (Vol_{c,i})(V_{s,i}) \qquad \text{(Eq. 2)}$$

Where:

V_{st} = Total volume of coating solids used during the month, liters.

$Vol_{c,i}$ = Total volume of coating, i, used during the month, liters.

$V_{s,i}$ = Volume fraction of coating solids for coating, i, liter solids per liter coating, determined according to § 63.4741(b).

m = Number of coatings used during the month.

(g) *Calculate the organic HAP emission rate.* Calculate the organic HAP emission rate for the 12-month compliance period, grams organic HAP per liter coating solids used, using Equation 3 of this section:

$$H_{yr} = \frac{\sum_{y=1}^{12} H_e}{\sum_{y=1}^{12} V_{st}} \qquad \text{(Eq. 3)}$$

Where:

H_{yr} = Organic HAP emission rate for the 12-month compliance period, grams organic HAP per liter coating solids.

H_e = Total mass of organic HAP emissions, grams, from all materials used during month, y, as calculated by Equation 1 of this section.

V_{st} = Total volume of coating solids used during month, y, liters, as calculated by Equation 2 of this section.

y = Identifier for months.

(h) *Compliance demonstration.* The organic HAP emission rate for the initial 12-month compliance period, calculated using Equation 3 of this section, must be less than or equal to the applicable emission limit in § 63.4690. You must keep all records as required by §§ 63.4730 and 63.4731. As part of the Notification of Compliance Status required by § 63.4710, you must identify the coating operation(s) for which you used the emission rate without add-on controls option and submit a statement that the coating operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the organic HAP emission rate was less than or equal to the applicable emission limit in § 63.4690, determined according to this section.

§ 63.4752 How do I demonstrate continuous compliance with the emission limitations?

(a) To demonstrate continuous compliance, the organic HAP emission rate for each compliance period, calculated using Equation 3 of § 63.4751, must be less than or equal to the applicable emission limit in § 63.4690. A compliance period consists of 12 months. Each month after the end of the initial compliance period described in § 63.4750 is the end of a compliance period consisting of that month and the preceding 11 months. You must perform the calculations in § 63.4751(a) through (g) on a monthly basis using data from the previous 12 months of operation.

(b) If the organic HAP emission rate for any 12-month compliance period exceeded the applicable emission limit in § 63.4690, this is a deviation from the emission limitations for that compliance period and must be reported as specified in §§ 63.4710(c)(6) and 63.4720(a)(6).

(c) As part of each semiannual compliance report required by § 63.4720, you must identify the coating operation(s) for which you used the emission rate without add-on controls option. If there were no deviations from the emission limitations, you must submit a statement that the coating operation(s) was (were) in compliance with the emission limitations during the reporting period because the organic HAP emission rate for each compliance period was less than or equal to the applicable emission limit in § 63.4690, determined according to § 63.4751(a) through (g).

(d) You must maintain records as specified in §§ 63.4730 and 63.4731.

Compliance Requirements for the Emission Rate With Add-On Controls Option

§ 63.4760 By what date must I conduct performance tests and other initial compliance demonstrations?

(a) *New and reconstructed affected sources.* For a new or reconstructed affected source, you must meet the requirements of paragraphs (a)(1) through (4) of this section.

(1) All emission capture systems, add-on control devices, and CPMS must be installed and operating no later than the applicable compliance date specified in § 63.4683. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4761(j), you must conduct a performance test of each capture system and add-on control device according to §§ 63.4764, 63.4765, and 63.4766, and establish the operating limits required by § 63.4692 no later than 180 days after the applicable compliance date specified in § 63.4683. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4761(j), you must initiate the first material balance no later than 180 days after the applicable compliance date specified in § 63.4683.

(2) You must develop and begin implementing the work practice plan required by § 63.4693 no later than the compliance date specified in § 63.4683.

(3) You must complete the initial compliance demonstration for the initial compliance period according to the requirements of § 63.4761. The initial compliance period begins on the applicable compliance date specified in § 63.4683 and ends on the last day of the 12th month following the compliance date. If the compliance date occurs on any day other than the first day of a month, then the initial compliance period extends through the end of that month plus the next 12 months. You must determine the mass of organic HAP emissions and volume of coating solids used each month and then calculate a 12-month organic HAP emission rate at the end of the initial 12-month compliance period. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 63.4764, 63.4765, and 63.4766; results of liquid-liquid material balances conducted according to § 63.4761(j); calculations according to § 63.4761 and supporting documentation showing that during the initial compliance period, the organic HAP emission rate was equal to or less than the emission limit in § 63.4690(a); the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 63.4768; and documentation of whether you developed and implemented the work practice plan required by § 63.4693.

(4) You do not need to comply with the operating limits for the emission capture system and add-on control device required by § 63.4692 until after you have completed the performance tests specified in paragraph (a)(1) of this section. Instead, you must maintain a log detailing the operation and maintenance of the emission capture system, add-on control device, and continuous parameter monitors during the period between the compliance date and the performance test. You must begin complying with the operating limits for your affected source on the date you complete the performance tests specified in paragraph (a)(1) of this section. The requirements in this paragraph (a)(4) do not apply to solvent recovery systems for which you conduct liquid-liquid material balances according to the requirements in § 63.4761(j).

(b) *Existing affected sources.* For an existing affected source, you must meet the requirements of paragraphs (b)(1) through (3) of this section.

(1) All emission capture systems, add-on control devices, and CPMS must be installed and operating no later than the applicable compliance date specified in § 63.4683. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4761(j), you must conduct a performance test of each capture system and add-on control device according to the procedures in §§ 63.4764, 63.4765, and 63.4766 and establish the operating limits required by § 63.4692 no later than the applicable compliance date specified in § 63.4683. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4761(j), you must initiate the first material balance no later than the compliance date specified in § 63.4683.

(2) You must develop and begin implementing the work practice plan required by § 63.4693 no later than the compliance date specified in § 63.4683.

(3) You must complete the initial compliance demonstration for the initial compliance period according to the requirements of § 63.4761. The initial compliance period begins on the applicable compliance date specified in § 63.4683 and ends on the last day of the 12th month following the compliance date. If the compliance date occurs on any day other than the first day of a month, then the initial compliance period extends through the end of that month plus the next 12 months. You must determine the mass of organic HAP emissions and volume of coating solids used each month and then calculate a 12-month organic HAP emission rate at the end of the initial 12-month compliance period. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 63.4764, 63.4765, and 63.4766; results of liquid-liquid material balances conducted according to § 63.4761(j); calculations according to § 63.4761 and supporting documentation showing that during the initial compliance period the organic HAP emission rate was equal to or less than the emission limit in § 63.4690(b); the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 63.4768; and

documentation of whether you developed and implemented the work practice plan required by § 63.4693.

§ 63.4761 How do I demonstrate initial compliance?

(a) You may use the emission rate with add-on controls option for any coating operation, for any group of coating operations in the affected source, or for all of the coating operations in the affected source. You may include both controlled and uncontrolled coating operations in a group for which you use this option. You must use either the compliant material option or the emission rate without add-on controls option for any coating operation in the affected source for which you do not use the emission rate with add-on controls option. To demonstrate initial compliance, the coating operation(s) for which you use the emission rate with add-on controls option must meet the applicable emission limitations in §§ 63.4690, 63.4692, and 63.4693. You must meet all the requirements of this section to demonstrate initial compliance with the emission limitations. When calculating the organic HAP emission rate according to this section, do not include any coatings, thinners, or cleaning materials used on coating operations for which you use the compliant material option or the emission rate without add-on controls option. You do not need to redetermine the mass of organic HAP in coatings, thinners, or cleaning materials that have been reclaimed and reused in the coating operation(s) for which you use the emission rate with add-on controls option.

(b) *Compliance with operating limits.* Except as provided in § 63.4760(a)(4), and except for solvent recovery systems for which you conduct liquid-liquid material balances according to the requirements of § 63.4761(j), you must establish and demonstrate continuous compliance during the initial compliance period with the operating limits required by § 63.4692, using the procedures specified in §§ 63.4767 and 63.4768.

(c) *Compliance with work practice requirements.* You must develop, implement, and document your implementation of the work practice plan required by § 63.4693 during the initial compliance period, as specified in § 63.4730.

(d) *Compliance with emission limits.* You must follow the procedures in paragraphs (e) through (n) of this section to demonstrate compliance with the applicable emission limit in § 63.4690.

(e) *Determine the mass fraction of organic HAP, density, volume used, and volume fraction of coating solids.* Follow the procedures specified in § 63.4751(a) through (d) to determine the mass fraction of organic HAP, density, and volume of each coating, thinner, and cleaning material used during each month; and the volume fraction of coating solids for each coating used during each month.

(f) *Calculate the total mass of organic HAP emissions before add-on controls.* Using Equation 1 of § 63.4751, calculate the total mass of organic HAP emissions before add-on controls from all coatings, thinners, and cleaning materials used during each month in the coating operation or group of coating operations for which you use the emission rate with add-on controls option.

(g) *Calculate the organic HAP emission reduction for each controlled coating operation.* Determine the mass of organic HAP emissions reduced for each controlled coating operation during each month. The emission reduction determination quantifies the total organic HAP emissions that pass through the emission capture system and are destroyed or removed by the add-on control device. Use the procedures in paragraph (h) of this section to calculate the mass of organic HAP emission reduction for each controlled coating operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances. For each controlled coating operation using a solvent recovery system for which you conduct a liquid-liquid material balance, use the procedures in paragraph (j) of this section to calculate the organic HAP emission reduction.

(h) *Calculate the organic HAP emission reduction for each controlled coating operation not using liquid-liquid material balances.* For each controlled coating operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances, calculate the organic HAP emission reduction, using Equation 1 of this section. The calculation applies the emission capture system efficiency and add-on control device efficiency to the mass of organic HAP contained in the coatings, thinners, and cleaning materials that are used in the coating operation served by the emission capture system and add-on control device during each month. For any period of time a deviation specified in § 63.4763(c) or (d) occurs in the controlled coating operation, including a deviation during a period of SSM, you must assume zero efficiency for the emission capture system and add-on control device. Equation 1 of this section treats the materials used during such a deviation as if they were used on an uncontrolled coating operation for the time period of the deviation.

$$H_c = (A_c + B_c + C_c - H_{unc})\left(\frac{CE}{100} \times \frac{DRE}{100}\right) \qquad \text{(Eq. 1)}$$

Where:

H_c = Mass of organic HAP emission reduction for the controlled coating operation during the month, grams.

A_c = Total mass of organic HAP in the coatings used in the controlled coating operation during the month, grams.

B_c = Total mass of organic HAP in the thinners used in the controlled coating operation during the month, grams, as calculated in Equation 1B of this section.

C_c = Total mass of organic HAP in the cleaning materials used in the controlled coating operation during the month, grams, as calculated in Equation 1C of this section.

H_{unc} = Total mass of organic HAP in the coatings, thinners, and cleaning materials used during all deviations specified in § 63.4763(c) and (d) that occurred during the month in the controlled coating operation, grams, as calculated in Equation 1D of this section.

CE = Capture efficiency of the emission capture system vented to the add-on control device, percent. Use the test methods and procedures specified in §§ 63.4764 and 63.4765 to measure and record capture efficiency.

DRE = Organic HAP destruction or removal efficiency of the add-on control device, percent. Use the test methods and procedures in §§ 63.4764 and 63.4766 to measure and record the organic HAP destruction or removal efficiency.

(1) Calculate the mass of organic HAP in the coatings used in the controlled coating operation, grams, using Equation 1A of this section:

$$A_c = \sum_{i=1}^{m} (Vol_{c,i})(D_{c,i})(W_{c,i}) \qquad \text{(Eq. 1A)}$$

Where:

A_c = Total mass of organic HAP in the coatings used in the controlled coating operation, grams.

$Vol_{c,i}$ = Total volume of coating, i, used during the month, liters.

$D_{c,i}$ = Density of coating, i, grams per liter.

$W_{c,i}$ = mass fraction of organic HAP in coating, i, grams per gram.

m = Number of different coatings used.

(2) Calculate the mass of organic HAP in the thinners used in the controlled coating operation, grams, using Equation 1B of this section:

$$B_c = \sum_{j=1}^{n} (Vol_{t,j})(D_{t,j})(W_{t,j}) \qquad \text{(Eq. 1B)}$$

Where:

B_c = Total mass of organic HAP in the thinners used in the controlled coating operation during the month, grams.

$Vol_{t,j}$ = Total volume of thinner, j, used during the month, liters.

$D_{t,j}$ = Density of thinner, j, grams per liter.

$W_{t,j}$ = Mass fraction of organic HAP in thinner, j, grams per gram.

n = Number of different thinners used.

(3) Calculate the mass of organic HAP in the cleaning materials used in the controlled coating operation during the month, grams, using Equation 1C of this section:

$$C_c = \sum_{k=1}^{p} (Vol_{s,k})(D_{s,k})(W_{s,k}) \qquad \text{(Eq. 1C)}$$

Where:

C_c = Total mass of organic HAP in the cleaning materials used in the controlled coating operation during the month, grams.

$Vol_{s,k}$ = Total volume of cleaning material, k, used during the month, liters.

$D_{s,k}$ = Density of cleaning material, k, grams per liter.

$W_{s,k}$ = Mass fraction of organic HAP in cleaning material, k, grams per gram.

p = Number of different cleaning materials used.

(4) Calculate the mass of organic HAP in the coatings, thinners, and cleaning materials used in the controlled coating operation during deviations specified in § 63.4763(c) and (d), using Equation 1D of this section:

$$H_{unc} = \sum_{h=1}^{q} (Vol_h)(D_h)(W_h) \qquad \text{(Eq. 1D)}$$

Where:

H_{unc} = Total mass of organic HAP in the coatings, thinners, and cleaning materials used during all deviations specified in § 63.4763(c) and (d) that occurred during the month in the controlled coating operation, grams.

Vol_h = Total volume of coating, thinner, or cleaning material, h, used in the controlled coating operation during deviations, liters.

D_h = Density of coating, thinner, or cleaning material, h, grams per liter.

W_h = mass fraction of organic HAP in coating, thinner, or cleaning material, h, grams organic HAP per gram coating.

q = Number of different coatings, thinners, or cleaning materials.

(i) [Reserved]

(j) *Calculate the organic HAP emission reduction for each controlled coating operation using liquid-liquid material balances.* For each controlled coating operation using a solvent recovery system for which you conduct liquid-liquid material balances, calculate the organic HAP emission reduction by applying the volatile organic matter collection and recovery efficiency to the mass of organic HAP contained in the coatings, thinners, and cleaning materials that are used in the coating operation controlled by the solvent recovery system during each month. Perform a liquid-liquid material balance for each month as specified in paragraphs (j)(1) through (6) of this section. Calculate the mass of organic HAP emission reduction by the solvent recovery system as specified in paragraph (j)(7) of this section.

(1) For each solvent recovery system, install, calibrate, maintain, and operate according to the manufacturer's specifications, a device that indicates the cumulative amount of volatile organic matter recovered by the solvent recovery system each month. The device must be initially certified by the manufacturer to be accurate to within ±2.0 percent of the mass of volatile organic matter recovered.

(2) For each solvent recovery system, determine the mass of volatile organic matter recovered for the month, grams, based on measurement with the device required in paragraph (j)(1) of this section.

(3) Determine the mass fraction of volatile organic matter for each coating, thinner, and cleaning material used in the coating operation controlled by the solvent recovery system during the month, grams volatile organic matter per gram coating. You may determine the volatile organic matter mass fraction using Method 24 of 40 CFR part 60, appendix A, or an EPA approved alternative method, or you may use information provided by the manufacturer or supplier of the coating. In the event of any inconsistency between information provided by the manufacturer or supplier and the results of Method 24 of 40 CFR part 60, appendix A, or an approved alternative method, the test method results will take precedence unless after consultation, a regulated source could demonstrate to the satisfaction of the enforcement agency that the formulation data were correct.

(4) Determine the density of each coating, thinner, and cleaning material used in the coating operation controlled by the solvent recovery system during the month, grams per liter, according to § 63.4751(c).

(5) Measure the volume of each coating, thinner, and cleaning material used in the coating operation controlled by the solvent recovery system during the month, liters.

(6) Each month, calculate the solvent recovery system's volatile organic matter collection and recovery efficiency, using Equation 2 of this section:

$$R_v = 100 \times \frac{M_{vr}}{\sum_{i=1}^{m}(Vol_i)(D_i)(WV_{c,i}) + \sum_{j=1}^{n}(Vol_j)(D_j)(WV_{t,j}) + \sum_{k=1}^{p}(Vol_k)(D_k)(WV_{s,k})} \qquad \text{(Eq. 2)}$$

Where:

R_v = Volatile organic matter collection and recovery efficiency of the solvent recovery system during the month, percent.

M_{vr} = Mass of volatile organic matter recovered by the solvent recovery system during the month, grams.

Vol_i = Volume of coating, i, used in the coating operation controlled by the solvent recovery system during the month, liters.

D_i = Density of coating, i, grams per liter.

$WV_{c,i}$ = Mass fraction of volatile organic matter for coating, i, grams volatile organic matter per gram coating.

Vol_j = Volume of thinner, j, used in the coating operation controlled by the solvent recovery system during the month, liters.

D_j = Density of thinner, j, grams per liter.

$WV_{t,j}$ = Mass fraction of volatile organic matter for thinner, j, grams volatile organic matter per gram thinner.

Vol_k = Volume of cleaning material, k, used in the coating operation controlled by the solvent recovery system during the month, liters.

D_k = Density of cleaning material, k, grams per liter.

$WV_{s,k}$ = Mass fraction of volatile organic matter for cleaning material, k, grams volatile organic matter per gram cleaning material.

m = Number of different coatings used in the coating operation controlled by the solvent recovery system during the month.

n = Number of different thinners used in the coating operation controlled by the solvent recovery system during the month.

p = Number of different cleaning materials used in the coating operation controlled by the solvent recovery system during the month.

(7) Calculate the mass of organic HAP emission reduction for the coating operation controlled by the solvent recovery system during the month, using Equation 3 of this section:

$$H_{CSR} = (A_{CSR} + B_{CSR} + C_{CSR})\left(\frac{R_v}{100}\right) \qquad \text{(Eq. 3)}$$

Where:

H_{CSR} = Mass of organic HAP emission reduction for the coating operation controlled by the solvent recovery system during the month, grams.

A_{CSR} = Total mass of organic HAP in the coatings used in the coating operation controlled by the solvent recovery system, grams, calculated using Equation 3A of this section.

B_{CSR} = Total mass of organic HAP in the thinners used in the coating operation controlled by the solvent recovery system, grams, calculated using Equation 3B of this section.

C_{CSR} = Total mass of organic HAP in the cleaning materials used in the coating operation controlled by the solvent recovery system, grams, calculated using Equation 3C of this section.

R_V = Volatile organic matter collection and recovery efficiency of the solvent recovery system, percent, from Equation 2 of this section.

(i) Calculate the mass of organic HAP in the coatings used in the coating operation controlled by the solvent recovery system, grams, using Equation 3A of this section:

$$A_{CSR} = \sum_{i=1}^{m}(Vol_{c,i})(D_{c,i})(W_{c,i}) \qquad \text{(Eq. 3A)}$$

Where:

A_{CSR} = Total mass of organic HAP in the coatings used in the coating operation controlled by the solvent recovery system during the month, grams.

$Vol_{c,i}$ = Total volume of coating, i, used during the month in the coating operation controlled by the solvent recovery system, liters.

$D_{c,i}$ = Density of coating, i, grams per liter.

$W_{c,i}$ = Mass fraction of organic HAP in coating, i, grams per gram.
m = Number of different coatings used.

(ii) Calculate the mass of organic HAP in the thinners used in the coating operation controlled by the solvent recovery system, grams, using Equation 3B of this section:

$$B_{CSR} = \sum_{j=1}^{n} (Vol_{t,j})(D_{t,j})(W_{t,j}) \qquad \text{(Eq. 3B)}$$

Where:

B_{CSR} = Total mass of organic HAP in the thinners used in the coating operation controlled by the solvent recovery system during the month, grams.
$Vol_{t,j}$ = Total volume of thinner, j, used during the month in the coating operation controlled by the solvent recovery system, liters.
$D_{t,j}$ = Density of thinner, j, grams per liter.
$W_{t,j}$ = Mass fraction of organic HAP in thinner, j, grams per gram.
n = Number of different thinners used.

(iii) Calculate the mass of organic HAP in the cleaning materials used in the coating operation controlled by the solvent recovery system during the month, grams, using Equation 3C of this section.

$$C_{CSR} = \sum_{k=1}^{p} (Vol_{s,k})(D_{s,k})(W_{s,k}) \qquad \text{(Eq. 3C)}$$

Where:

C_{CSR} = Total mass of organic HAP in the cleaning materials used in the coating operation controlled by the solvent recovery system during the month, grams.
$Vol_{s,k}$ = Total volume of cleaning material, k, used during the month in the coating operation controlled by the solvent recovery system, liters.
$D_{s,k}$ = Density of cleaning material, k, grams per liter.
$W_{s,k}$ = Mass fraction of organic HAP in cleaning material, k, grams per gram.
p = Number of different cleaning materials used.

(k) *Calculate the total volume of coating solids used.* Determine the total volume of coating solids used, liters, which is the combined volume of coating solids for all the coatings used during each month in the coating operation or group of coating operations for which you use the emission rate with add-on controls option, using Equation 2 of § 63.4751.

(l) *Calculate the mass of organic HAP emissions for each month.* Determine the mass of organic HAP emissions, grams, during each month, using Equation 4 of this section.

$$H_{HAP} = H_e - \sum_{i=1}^{q} (H_{c,i}) - \sum_{j=1}^{r} (H_{CSR,j}) \qquad \text{(Eq. 4)}$$

Where:

H_{HAP} = Total mass of organic HAP emissions for the month, grams.
H_e = Total mass of organic HAP emissions before add-on controls from all the coatings, thinners, and cleaning materials used during the month, grams, determined according to paragraph (f) of this section.
$H_{c,i}$ = Total mass of organic HAP emission reduction for controlled coating operation, i, not using a liquid-liquid material balance, during the month, grams, from Equation 1 of this section.
$H_{CSR,j}$ = Total mass of organic HAP emission reduction for coating operation, j, controlled by a solvent recovery system using a liquid-liquid material balance, during the month, grams, from Equation 3 of this section.
q = Number of controlled coating operations not using a liquid-liquid material balance.
r = Number of coating operations controlled by a solvent recovery system using a liquid-liquid material balance.

(m) *Calculate the organic HAP emission rate for the 12-month compliance period.* Determine the organic HAP emission rate for the 12-month compliance period, grams organic HAP per liter coating solids used, using Equation 5 of this section:

$$H_{annual} = \frac{\sum_{y=1}^{12} H_{HAP,y}}{\sum_{y=1}^{12} V_{st,y}} \qquad \text{(Eq. 5)}$$

Where:

H_{annual} = Organic HAP emission rate for the 12-month compliance period, grams organic HAP per liter coating solids.
$H_{HAP,y}$ = Organic HAP emission rate for month, y, determined according to Equation 4 of this section.
$V_{st,y}$ = Total volume of coating solids, liters, used during month, y, from Equation 2 of § 63.4751.
y = Identifier for months.

(n) *Compliance demonstration.* To demonstrate initial compliance with the emission limit, the organic HAP emission rate, calculated using Equation 5 of this section, must be less than or equal to the applicable emission limit in § 63.4690. You must keep all records as required by §§ 63.4730 and 63.4731. As part of the Notification of Compliance Status required by § 63.4710, you must identify the coating operation(s) for which you used the emission rate with add-on controls option and submit a statement that the coating operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the organic HAP emission rate was less than or equal to the applicable emission limit in § 63.4690, and you achieved the operating limits required by § 63.4692

and the work practice standards required by § 63.4693.

§ 63.4762 [Reserved]

§ 63.4763 How do I demonstrate continuous compliance with the emission limitations?

(a) To demonstrate continuous compliance with the applicable emission limit in § 63.4690, the organic HAP emission rate for each compliance period, calculated using Equation 5 of § 63.4761, must be equal to or less than the applicable emission limit in § 63.4690. A compliance period consists of 12 months. Each month after the end of the initial compliance period described in § 63.4760 is the end of a compliance period consisting of that month and the preceding 11 months. You must perform the calculations in § 63.4761 on a monthly basis using data from the previous 12 months of operation.

(b) If the organic HAP emission rate for any 12-month compliance period exceeded the applicable emission limit in § 63.4690, this is a deviation from the emission limitation for that compliance period and must be reported as specified in §§ 63.4710(c)(6) and 63.4720(a)(7).

(c) You must demonstrate continuous compliance with each operating limit required by § 63.4692 that applies to you, as specified in Table 3 to this subpart.

(1) If an operating parameter is out of the allowed range specified in Table 3 to this subpart, this is a deviation from the operating limit that must be reported as specified in §§ 63.4710(c)(6) and 63.4720(a)(7).

(2) If an operating parameter deviates from the operating limit specified in Table 3 to this subpart, then you must assume that the emission capture system and add-on control device were achieving zero efficiency during the time period of the deviation. For the purposes of completing the compliance calculations specified in § 63.4761(h), you must treat the materials used during a deviation on a controlled coating operation as if they were used on an uncontrolled coating operation for the time period of the deviation, as indicated in Equation 1 of § 63.4761.

(d) You must meet the requirements for bypass lines in § 63.4768(b) for controlled coating operations for which you do not conduct liquid-liquid material balances. If any bypass line is opened and emissions are diverted to the atmosphere when a controlled coating operation is running, this is a deviation that must be reported as specified in §§ 63.4710(c)(6) and 63.4720(a)(7). For the purposes of completing the compliance calculations specified in § 63.4761(h), you must treat the materials used during a deviation on a controlled coating operation as if they were used on an uncontrolled coating operation for the time period of the deviation, as indicated in Equation 1 of § 63.4761.

(e) You must demonstrate continuous compliance with the work practice standards in § 63.4693. If you did not develop a work practice plan, or you did not implement the plan, or you did not keep the records required by § 63.4730(k)(8), this is a deviation from the work practice standards that must be reported as specified in §§ 63.4710(c)(6) and 63.4720(a)(7).

(f) As part of each semiannual compliance report required in § 63.4720, you must identify the coating operation(s) for which you used the emission rate with add-on controls option. If there were no deviations from the emission limitations, submit a statement that you were in compliance with the emission limitations during the reporting period because the organic HAP emission rate for each compliance period was less than or equal to the applicable emission limit in § 63.4690, and you achieved the operating limits required by § 63.4692 and the work practice standards required by § 63.4693 during each compliance period.

(g) During periods of SSM of the emission capture system, add-on control device, or coating operation that may affect emission capture or control device efficiency, you must operate in accordance with the SSMP required by § 63.4700(d).

(h) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of SSM of the emission capture system, add-on control device, or coating operation that may affect emission capture or control device efficiency are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the SSMP. The Administrator will determine whether deviations that occur during a period you identify as an SSM are violations, according to the provisions in § 63.6(e).

(i) [Reserved]

(j) You must maintain records as specified in §§ 63.4730 and 63.4731.

§ 63.4764 What are the general requirements for performance tests?

(a) You must conduct each performance test required by § 63.4760 according to the requirements in § 63.7(e)(1) and under the conditions in this section unless you obtain a waiver of the performance test according to the provisions in § 63.7(h).

(1) *Representative coating operation operating conditions.* You must conduct the performance test under representative operating conditions for the coating operation. Operations during periods of SSM, and during periods of nonoperation do not constitute representative conditions. You must record the process information that is necessary to document operating conditions during the test and explain why the conditions represent normal operation.

(2) *Representative emission capture system and add-on control device operating conditions.* You must conduct the performance test when the emission capture system and add-on control device are operating at a representative flow rate, and the add-on control device is operating at a representative inlet concentration. You must record information that is necessary to document emission capture system and add-on control device operating conditions during the test and explain why the conditions represent normal operation.

(b) You must conduct each performance test of an emission capture system according to the requirements in § 63.4765. You must conduct each performance test of an add-on control device according to the requirements in § 63.4766.

§ 63.4765 How do I determine the emission capture system efficiency?

You must use the procedures and test methods in this section to determine capture efficiency as part of the performance test required by § 63.4760.

(a) *Assuming 100 percent capture efficiency.* You may assume the capture system efficiency is 100 percent if both of the conditions in paragraphs (a)(1) and (2) of this section are met:

(1) The capture system meets the criteria in Method 204 of appendix M to 40 CFR part 51 for a PTE and directs all the exhaust gases from the enclosure to an add-on control device.

(2) All coatings, thinners, and cleaning materials used in the coating operation are applied within the capture system; coating solvent flash-off and coating, curing, and drying occurs within the capture system; and the removal or evaporation of cleaning materials from the surfaces they are applied to occurs within the capture system. For example, this criterion is not met if parts enter the open shop environment when being moved between a spray booth and a curing oven.

(b) *Measuring capture efficiency.* If the capture system does not meet both of the criteria in paragraphs (a)(1) and (2) of this section, then you must use one of the three protocols described in paragraphs (c), (d), and (e) of this section to measure capture efficiency. The capture efficiency measurements use TVH capture efficiency as a surrogate for organic HAP capture efficiency. For the protocols in paragraphs (c) and (d) of this section, the capture efficiency measurement must consist of three test runs. Each test run must be at least 3 hours in duration or the length of a production run, whichever is longer, up to 8 hours. For the purposes of this test, a production run means the time required for a single part to go from the beginning to the end of production, which includes surface preparation activities and drying or curing time.

(c) *Liquid-to-uncaptured-gas protocol using a temporary total enclosure or building enclosure.* The liquid-to-uncaptured-gas protocol compares the mass of liquid TVH in materials used in the coating operation to the mass of TVH emissions not captured by the emission capture system. Use a temporary total enclosure or a building enclosure and the procedures in paragraphs (c)(1) through (6) of this section to measure emission capture system efficiency using the liquid-to-uncaptured-gas protocol.

(1) Either use a building enclosure or construct an enclosure around the coating operation where coatings, thinners, and cleaning materials are applied, and all areas where emissions from these applied coatings and materials subsequently occur, such as flash-off, curing, and drying areas. The areas of the coating operation where capture devices collect emissions for routing to an add-on control device, such as the entrance and exit areas of an oven or spray booth, must also be inside the enclosure. The enclosure must meet the applicable definition of a temporary total enclosure or building enclosure in Method 204 of appendix M to 40 CFR part 51.

(2) Use Method 204A or 204F of appendix M to 40 CFR part 51 to determine the mass fraction of TVH liquid input from each coating, thinner, and cleaning material used in the coating operation during each capture efficiency test run. To make the determination, substitute TVH for each occurrence of the term volatile organic compounds (VOC) in the methods.

(3) Use Equation 1 of this section to calculate the total mass of TVH liquid input from all the coatings, thinners, and cleaning materials used in the coating operation during each capture efficiency test run.

$$TVH_{used} = \sum_{i=1}^{n} (TVH_i)(Vol_i)(D_i) \qquad \text{(Eq. 1)}$$

Where:

TVH_{used} = Mass of liquid TVH in materials used in the coating operation during the capture efficiency test run, grams.

TVH_i = Mass fraction of TVH in coating, thinner, or cleaning material, i, that is used in the coating operation during the capture efficiency test run, grams TVH per gram material.

Vol_i = Total volume of coating, thinner, or cleaning material, i, used in the coating operation during the capture efficiency test run, liters.

D_i = Density of coating, thinner, or cleaning material, i, grams material per liter material.

n = Number of different coatings, thinners, and cleaning materials used in the coating operation during the capture efficiency test run.

(4) Use Method 204D or E of appendix M to 40 CFR part 51 to measure the total mass, grams, of TVH emissions that are not captured by the emission capture system; they are measured as they exit the temporary total enclosure or building enclosure during each capture efficiency test run. To make the measurement, substitute TVH for each occurrence of the term VOC in the methods.

(i) Use Method 204D of appendix M to 40 CFR part 51 if the enclosure is a temporary total enclosure.

(ii) Use Method 204E of appendix M to 40 CFR part 51 if the enclosure is a building enclosure. During the capture efficiency measurement, all organic compound emitting operations inside the building enclosure, other than the coating operation for which capture efficiency is being determined, must be shut down, but all fans and blowers must be operating normally.

(5) For each capture efficiency test run, determine the percent capture efficiency of the emission capture system using Equation 2 of this section:

$$CE = \frac{(TVH_{used} - TVH_{uncaptured})}{TVH_{used}} \times 100 \qquad \text{(Eq. 2)}$$

Where:

CE = Capture efficiency of the emission capture system vented to the add-on control device, percent.

TVH_{used} = Total mass of TVH liquid input used in the coating operation during the capture efficiency test run, grams.

$TVH_{uncaptured}$ = Total mass of TVH that is not captured by the emission capture system and that exits from the temporary total enclosure or building enclosure during the capture efficiency test run, grams, determined according to paragraph (c)(4) of this section.

(6) Determine the capture efficiency of the emission capture system as the average of the capture efficiencies measured in the three test runs.

(d) *Gas-to-gas protocol using a temporary total enclosure or a building enclosure.* The gas-to-gas protocol compares the mass of TVH emissions captured by the emission capture system to the mass of TVH emissions not captured. Use a temporary total enclosure or a building enclosure and the procedures in paragraphs (d)(1) through (5) of this section to measure emission capture system efficiency using the gas-to-gas protocol.

(1) Either use a building enclosure or construct an enclosure around the coating operation where coatings, thinners, and cleaning materials are applied, and all areas where emissions from these applied coatings and materials subsequently occur, such as

flash-off, curing, and drying areas. The areas of the coating operation where capture devices collect emissions generated by the coating operation for routing to an add-on control device, such as the entrance and exit areas of an oven or a spray booth, must also be inside the enclosure. The enclosure must meet the applicable definition of a temporary total enclosure or building enclosure in Method 204 of appendix M to 40 CFR part 51.

(2) Use Method 204B or 204C of appendix M to 40 CFR part 51 to measure the total mass, grams, of TVH emissions captured by the emission capture system during each capture efficiency test run as measured at the inlet to the add-on control device. To make the measurement, substitute TVH for each occurrence of the term VOC in the methods.

(i) The sampling points for the Method 204B or 204C of appendix M to 40 CFR part 51 measurement must be upstream from the add-on control device and must represent total emissions routed from the capture system and entering the add-on control device.

(ii) If multiple emission streams from the capture system enter the add-on control device without a single common duct, then the emissions entering the add-on control device must be simultaneously measured in each duct, and the total emissions entering the add-on control device must be determined.

(3) Use Method 204D or 204E of appendix M to 40 CFR part 51 to measure the total mass, grams, of TVH emissions that are not captured by the emission capture system; they are measured as they exit the temporary total enclosure or building enclosure during each capture efficiency test run. To make the measurement, substitute TVH for each occurrence of the term VOC in the methods.

(i) Use Method 204D of appendix M to 40 CFR part 51 if the enclosure is a temporary total enclosure.

(ii) Use Method 204E of appendix M to 40 CFR part 51 if the enclosure is a building enclosure. During the capture efficiency measurement, all organic compound emitting operations inside the building enclosure, other than the coating operation for which capture efficiency is being determined, must be shut down, but all fans and blowers must be operating normally.

(4) For each capture efficiency test run, determine the percent capture efficiency of the emission capture system using Equation 3 of this section:

$$CE = \frac{TVH_{captured}}{\left(TVH_{captured} + TVH_{uncaptured}\right)} \times 100 \qquad \text{(Eq. 3)}$$

Where:

CE = Capture efficiency of the emission capture system vented to the add-on control device, percent.

$TVH_{captured}$ = Total mass of TVH captured by the emission capture system as measured at the inlet to the add-on control device during the emission capture efficiency test run, grams, determined according to paragraph (d)(2) of this section.

$TVH_{uncaptured}$ = Total mass of TVH that is not captured by the emission capture system and that exits from the temporary total enclosure or building enclosure during the capture efficiency test run, grams, determined according to paragraph (d)(3) of this section.

(5) Determine the capture efficiency of the emission capture system as the average of the capture efficiencies measured in the three test runs.

(e) *Alternative capture efficiency protocol.* As an alternative to the procedures specified in paragraphs (c) and (d) of this section, you may determine capture efficiency using any other capture efficiency protocol and test methods that satisfy the criteria of either the DQO or LCL approach as described in appendix A to subpart KK of this part.

§ 63.4766 How do I determine the add-on control device emission destruction or removal efficiency?

You must use the procedures and test methods in this section to determine the add-on control device emission destruction or removal efficiency as part of the performance test required by § 63.4760. You must conduct three test runs as specified in § 63.7(e)(3), and each test run must last at least 1 hour.

(a) For all types of add-on control devices, use the test methods specified in paragraphs (a)(1) through (5) of this section.

(1) Use Method 1 or 1A of appendix A to 40 CFR part 60, as appropriate, to select sampling sites and velocity traverse points.

(2) Use Method 2, 2A, 2C, 2D, 2F, or 2G of appendix A to 40 CFR part 60, as appropriate, to measure gas volumetric flow rate.

(3) Use Method 3, 3A, or 3B of appendix A to 40 CFR part 60, as appropriate, for gas analysis to determine dry molecular weight. You may also use as an alternative to Method 3B, the manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas in ANSI/ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]" (incorporated by reference, see § 63.14).

(4) Use Method 4 of appendix A to 40 CFR part 60 to determine stack gas moisture.

(5) Methods for determining gas volumetric flow rate, dry molecular weight, and stack gas moisture must be performed, as applicable, during each test run.

(b) Measure total gaseous organic mass emissions as carbon at the inlet and outlet of the add-on control device simultaneously, using either Method 25 or 25A of appendix A to 40 CFR part 60, as specified in paragraphs (b)(1) through (3) of this section. You must use the same method for both the inlet and outlet measurements.

(1) Use Method 25 of appendix A to 40 CFR part 60 if the add-on control device is an oxidizer, and you expect the total gaseous organic concentration as carbon to be more than 50 parts per million (ppm) at the control device outlet.

(2) Use Method 25A of appendix A to 40 CFR part 60 if the add-on control device is an oxidizer, and you expect the total gaseous organic concentration as carbon to be 50 ppm or less at the control device outlet.

(3) Use Method 25A of appendix A to 40 CFR part 60 if the add-on control device is not an oxidizer.

(c) If two or more add-on control devices are used for the same emission stream, then you must measure emissions at the outlet of each device. For example, if one add-on control device is a concentrator with an outlet for the high-volume, dilute stream that has been treated by the concentrator, and a second add-on control device is an oxidizer with an outlet for the low-volume, concentrated stream that is treated with the oxidizer, you must measure emissions at the outlet of the

oxidizer and the high volume dilute stream outlet of the concentrator.

(d) For each test run, determine the total gaseous organic emissions mass flow rates for the inlet and the outlet of the add-on control device, using Equation 1 of this section. If there is more than one inlet or outlet to the add-on control device, you must calculate the total gaseous organic mass flow rate using Equation 1 of this section for each inlet and each outlet and then total all of the inlet emissions and total all of the outlet emissions.

$$M_f = Q_{sd} C_c (12)(41.6)\left(10^{-6}\right) \qquad \text{(Eq. 1)}$$

Where:

M_f = Total gaseous organic emissions mass flow rate, grams per hour (h).

C_c = Concentration of organic compounds as carbon in the vent gas, as determined by Method 25 or Method 25A, parts per million by volume (ppmv), dry basis.

Q_{sd} = Volumetric flow rate of gases entering or exiting the add-on control device, as determined by Method 2, 2A, 2C, 2D, 2F, or 2G, dry standard cubic meters/hour (dscm/h).

41.6 = Conversion factor for molar volume, gram-moles per cubic meter (mol/m^3) (@ 293 Kelvin (K) and 760 millimeters of mercury (mmHg)).

(e) For each test run, determine the add-on control device organic emissions destruction or removal efficiency, using Equation 2 of this section:

$$DRE = 100 \times \frac{M_{fi} - M_{fo}}{M_{fi}} \qquad \text{(Eq. 2)}$$

Where:

DRE = Organic emissions destruction or removal efficiency of the add-on control device, percent.

M_{fi} = Total gaseous organic emissions mass flow rate at the inlet(s) to the add-on control device, using Equation 1 of this section, grams/h.

M_{fo} = total gaseous organic emissions mass flow rate at the outlet(s) of the add-on control device, using Equation 1 of this section, grams/h.

(f) Determine the emission destruction or removal efficiency of the add-on control device as the average of the efficiencies determined in the three test runs and calculated in Equation 2 of this section.

§ 63.4767 How do I establish the emission capture system and add-on control device operating limits during the performance test?

During the performance test required by § 63.4760 and described in §§ 63.4764, 63.4765, and 63.4766, you must establish the operating limits required by § 63.4692 according to this section, unless you have received approval for alternative monitoring and operating limits under § 63.8(f) as specified in § 63.4692.

(a) *Thermal oxidizers.* If your add-on control device is a thermal oxidizer, establish the operating limits according to paragraphs (a)(1) and (2) of this section.

(1) During the performance test, you must monitor and record the combustion temperature at least once every 15 minutes during each of the three test runs. You must monitor the temperature in the firebox of the thermal oxidizer or immediately downstream of the firebox before any substantial heat exchange occurs.

(2) Use the data collected during the performance test to calculate and record the average combustion temperature maintained during the performance test. This average combustion temperature is the minimum operating limit for your thermal oxidizer.

(b) *Catalytic oxidizers.* If your add-on control device is a catalytic oxidizer, establish the operating limits according to either paragraphs (b)(1) and (2) or paragraphs (b)(3) and (4) of this section.

(1) During the performance test, you must monitor and record the temperature before the catalyst bed and the temperature difference across the catalyst bed at least once every 15 minutes during each of the three test runs.

(2) Use the data collected during the performance test to calculate and record the average temperature difference across the catalyst bed maintained during the performance test. This is the minimum operating limit for your catalytic oxidizer.

(3) As an alternative to monitoring the temperature difference across the catalyst bed, you may monitor the temperature at the inlet to the catalyst bed and implement a site-specific inspection and maintenance plan for your catalytic oxidizer as specified in paragraph (b)(4) of this section. During the performance test, you must monitor and record the temperature before the catalyst bed at least once every 15 minutes during each of the three test runs. Use the data collected during the performance test to calculate and record the average temperature before the catalyst bed during the performance test. This is the minimum operating limit for your catalytic oxidizer. (Note: For regenerative catalytic oxidizers, the inlet to the catalyst is defined as the general zone between the inlets to the catalyst beds located in the multiple regeneration towers; select either a monitoring location or multiple monitoring locations. If multiple monitoring locations are selected, either establish separate operating limits for each location or calculate an average of the multiple measurements and set a single operating limit.)

(4) You must develop and implement an inspection and maintenance plan for your catalytic oxidizer(s) for which you elect to monitor according to paragraph (b)(3) of this section. The plan must address, at a minimum, the elements specified in paragraphs (b)(4)(i) through (iii) of this section.

(i) Annual sampling and analysis of the catalyst activity (*i.e,* conversion efficiency) following the recommended procedures from the manufacturer, the catalyst supplier, or the catalyst test provider.

(ii) Monthly inspection of the oxidizer system, including the burner assembly and fuel supply lines for problems and, as necessary, adjust the equipment to assure proper air-to-fuel mixtures.

(iii) Annual internal and monthly external visual inspection of the catalyst bed to check for channeling, abrasion, and settling. If problems are found, you must take corrective action consistent with the manufacturer's recommendation and conduct a new performance test to determine destruction efficiency according to § 63.4766.

(c) *Carbon adsorbers.* If your add-on control device is a carbon adsorber, establish the operating limits according to paragraphs (c)(1) and (2) of this section.

(1) You must monitor and record the total regeneration desorbing gas (*e.g.,* steam or nitrogen) mass flow for each regeneration cycle, and the carbon bed temperature after each carbon bed regeneration and cooling cycle for the regeneration cycle either immediately preceding or immediately following the performance test.

(2) The operating limits for your carbon adsorber are the minimum total desorbing gas mass flow recorded

during the regeneration cycle, and the maximum carbon bed temperature recorded after the cooling cycle.

(d) *Condensers.* If your add-on control device is a condenser, establish the operating limits according to paragraphs (d)(1) and (2) of this section.

(1) During the performance test, you must monitor and record the condenser outlet (product side) gas temperature at least once every 15 minutes during each of the three test runs.

(2) Use the data collected during the performance test to calculate and record the average condenser outlet (product side) gas temperature maintained during the performance test. This average condenser outlet gas temperature is the maximum operating limit for your condenser.

(e) *Concentrators.* If your add-on control device includes a concentrator, you must establish operating limits for the concentrator according to paragraphs (e)(1) through (4) of this section.

(1) During the performance test, you must monitor and record the desorption concentrate stream gas temperature at least once every 15 minutes during each of the three runs of the performance test.

(2) Use the data collected during the performance test to calculate and record the average temperature. This is the minimum operating limit for the desorption concentrate gas stream temperature.

(3) During the performance test, you must monitor and record the pressure drop of the dilute stream across the concentrator at least once every 15 minutes during each of the three runs of the performance test.

(4) Use the data collected during the performance test to calculate and record the average pressure drop. This is the maximum operating limit for the dilute stream across the concentrator.

(f) *Emission capture system.* For each capture device that is not part of a PTE that meets the criteria of § 63.4765(a), establish an operating limit for either the gas volumetric flow rate or duct static pressure, as specified in paragraphs (f)(1) and (2) of this section. The operating limit for a PTE is specified in Table 3 to this subpart.

(1) During the capture efficiency determination required by § 63.4760 and described in §§ 63.4764 and 63.4765, you must monitor and record either the gas volumetric flow rate or the duct static pressure for each separate capture device in your emission capture system at least once every 15 minutes during each of the three test runs at a point in the duct between the capture device and the add-on control device inlet.

(2) Calculate and record the average gas volumetric flow rate or duct static pressure for the three test runs for each capture device. This average gas volumetric flow rate or duct static pressure is the minimum operating limit for that specific capture device.

§ 63.4768 What are the requirements for continuous parameter monitoring system installation, operation, and maintenance?

(a) *General.* You must install, operate, and maintain each CPMS specified in paragraphs (c), (e), (f), and (g) of this section according to paragraphs (a)(1) through (6) of this section. You must install, operate, and maintain each CPMS specified in paragraphs (b) and (d) of this section according to paragraphs (a)(3) through (5) of this section.

(1) The CPMS must complete a minimum of one cycle of operation for each successive 15-minute period. You must have a minimum of four equally spaced successive cycles of CPMS operation in 1 hour.

(2) You must determine the average of all recorded readings for each successive 3-hour period of the emission capture system and add-on control device operation.

(3) You must record the results of each inspection, calibration, and validation check of the CPMS.

(4) You must maintain the CPMS at all times and have available necessary parts for routine repairs of the monitoring equipment.

(5) You must operate the CPMS and collect emission capture system and add-on control device parameter data at all times that a controlled coating operation is operating, except during monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, if applicable, calibration checks and required zero and span adjustments).

(6) You must not use emission capture system or add-on control device parameter data recorded during periods when the control device is not receiving emissions, monitoring malfunctions, associated repairs, out-of-control periods, or required quality assurance or control activities when calculating data averages. You must use all the data collected during all other periods in calculating the data averages for determining compliance with the emission capture system and add-on control device operating limits.

(7) A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the CPMS to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions. Any period for which the monitoring system is out-of-control and data are not available for required calculations is a deviation from the monitoring requirements.

(b) *Capture system bypass line.* You must meet the requirements of paragraphs (b)(1) and (2) of this section for each emission capture system that contains bypass lines that could divert emissions away from the add-on control device to the atmosphere.

(1) You must monitor or secure the valve or closure mechanism controlling the bypass line in a nondiverting position in such a way that the valve or closure mechanism cannot be opened without creating a record that the valve was opened. The method used to monitor or secure the valve or closure mechanism must meet one of the requirements specified in paragraphs (b)(1)(i) through (iv) of this section.

(i) *Flow control position indicator.* Install, calibrate, maintain, and operate according to the manufacturer's specifications a flow control position indicator that takes a reading at least once every 15 minutes and provides a record indicating whether the emissions are directed to the add-on control device or diverted from the add-on control device. The time of occurrence and flow control position must be recorded, as well as every time the flow direction is changed. The flow control position indicator must be installed at the entrance to any bypass line that could divert the emissions away from the add-on control device to the atmosphere.

(ii) *Car-seal or lock-and-key valve closures.* Secure any bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. You must visually inspect the seal or closure mechanism at least once every month to ensure that the valve is maintained in the closed position, and the emissions are not diverted away from the add-on control device to the atmosphere.

(iii) *Valve closure monitoring.* Ensure that any bypass line valve is in the closed (non-diverting) position through monitoring of valve position at least once every 15 minutes. You must inspect the monitoring system at least once every month to verify that the monitor will indicate valve position.

(iv) *Automatic shutdown system.* Use an automatic shutdown system in which the coating operation is stopped when flow is diverted by the bypass line away from the add-on control device to the atmosphere when the coating operation is running. You must inspect the automatic shutdown system at least once every month to verify that it will detect diversions of flow and shut down the coating operation.

(2) If any bypass line is opened and there was a deviation from the applicable emission limitation, you must include a description of why the bypass line was opened and the length of time it remained open in the semiannual compliance reports required in § 63.4720.

(c) *Thermal oxidizers and catalytic oxidizers.* If you are using a thermal oxidizer or catalytic oxidizer as an add-on control device (including those used with concentrators or with carbon adsorbers to treat desorbed concentrate streams), you must comply with the requirements in paragraphs (c)(1) through (3) of this section:

(1) For a thermal oxidizer, install a gas temperature monitor in the firebox of the thermal oxidizer or in the duct immediately downstream of the firebox before any substantial heat exchange occurs.

(2) For a catalytic oxidizer, you must install a gas temperature monitor in the gas stream immediately before the catalyst bed, and if you established operating limits according to § 63.4767(b)(1) and (2), also install a gas temperature monitor in the gas stream immediately after the catalyst bed.

(i) If you establish operating limits according to § 63.4767(b)(1) and (2), then you must install the gas temperature monitors both upstream and downstream of the catalyst bed. The temperature monitors must be in the gas stream immediately before and after the catalyst bed to measure the temperature difference across the bed.

(ii) If you establish operating limits according to § 63.4767(b)(3) and (4), then you must install a gas temperature monitor upstream of the catalyst bed. The temperature monitor must be in the gas stream immediately before the catalyst bed to measure the temperature.

(3) For all thermal oxidizers and catalytic oxidizers, you must meet the requirements in paragraphs (a) and (c)(3)(i) through (vii) of this section for each gas temperature monitoring device.

(i) Locate the temperature sensor in a position that provides a representative temperature.

(ii) Use a temperature sensor with a measurement sensitivity of 4 degrees Fahrenheit or 0.75 percent of the temperature value, whichever is larger.

(iii) Shield the temperature sensor system from electromagnetic interference and chemical contaminants.

(iv) If a gas temperature chart recorder is used, it must have a measurement sensitivity in the minor division of at least 20 degrees Fahrenheit.

(v) Perform an electronic calibration at least semiannually according to the procedures in the manufacturer's owners manual. Following the electronic calibration, you must conduct a temperature sensor validation check in which a second or redundant temperature sensor placed nearby the process temperature sensor must yield a reading within 30 degrees Fahrenheit of the process temperature sensor reading.

(vi) Conduct calibration and validation checks any time the sensor exceeds the manufacturer's specified maximum operating temperature range or install a new temperature sensor.

(vii) At least monthly, inspect components for integrity and electrical connections for continuity, oxidation, and galvanic corrosion.

(d) *Carbon adsorbers.* If you are using a carbon adsorber as an add-on control device, you must monitor the total regeneration desorbing gas (*e.g.*, steam or nitrogen) mass flow for each regeneration cycle, the carbon bed temperature after each regeneration and cooling cycle, and comply with paragraphs (a)(3) through (5) and (d)(1) and (2) of this section.

(1) The regeneration desorbing gas mass flow monitor must be an integrating device having a measurement sensitivity of plus or minus 10 percent capable of recording the total regeneration desorbing gas mass flow for each regeneration cycle.

(2) The carbon bed temperature monitor must have a measurement sensitivity of 1 percent of the temperature recorded or 1 degree Fahrenheit, whichever is greater, and must be capable of recording the temperature within 15 minutes of completing any carbon bed cooling cycle.

(e) *Condensers.* If you are using a condenser, you must monitor the condenser outlet (product side) gas temperature and comply with paragraphs (a) and (e)(1) and (2) of this section.

(1) The gas temperature monitor must have a measurement sensitivity of 1 percent of the temperature recorded or 1 degree Fahrenheit, whichever is greater.

(2) The temperature monitor must provide a gas temperature record at least once every 15 minutes.

(f) *Concentrators.* If you are using a concentrator, such as a zeolite wheel or rotary carbon bed concentrator, you must comply with the requirements in paragraphs (f)(1) and (2) of this section.

(1) You must install a temperature monitor in the desorption gas stream. The temperature monitor must meet the requirements in paragraphs (a) and (c)(3) of this section.

(2) You must install a device to monitor pressure drop across the zeolite wheel or rotary carbon bed. The pressure monitoring device must meet the requirements in paragraphs (a) and (f)(2)(i) through (vii) of this section.

(i) Locate the pressure sensor(s) in or as close to a position that provides a representative measurement of the pressure.

(ii) Minimize or eliminate pulsating pressure, vibration, and internal and external corrosion.

(iii) Use a gauge with a minimum tolerance of 0.5 inch of water or a transducer with a minimum tolerance of 1 percent of the pressure range.

(iv) Check the pressure tap daily.

(v) Using a manometer, check gauge calibration quarterly and transducer calibration monthly.

(vi) Conduct calibration checks any time the sensor exceeds the manufacturer's specified maximum operating pressure range or install a new pressure sensor.

(vii) At least monthly, inspect components for integrity, electrical connections for continuity, and mechanical connections for leakage.

(g) *Emission capture systems.* The capture system monitoring system must comply with the applicable requirements in paragraphs (g)(1) and (2) of this section.

(1) For each flow measurement device, you must meet the requirements in paragraphs (a) and (g)(1)(i) through (iv) of this section.

(i) Locate a flow sensor in a position that provides a representative flow measurement in the duct from each capture device in the emission capture system to the add-on control device.

(ii) Reduce swirling flow or abnormal velocity distributions due to upstream and downstream disturbances.

(iii) Conduct a flow sensor calibration check at least semiannually.

(iv) At least monthly, inspect components for integrity, electrical connections for continuity, and mechanical connections for leakage.

(2) For each pressure drop measurement device, you must comply with the requirements in paragraphs (a) and (g)(2)(i) through (vi) of this section.

(i) Locate the pressure sensor(s) in or as close to a position that provides a representative measurement of the pressure drop across each opening you are monitoring.

(ii) Minimize or eliminate pulsating pressure, vibration, and internal and external corrosion.

(iii) Check pressure tap pluggage daily.

(iv) Using an inclined manometer with a measurement sensitivity of

0.0002 inch water, check gauge calibration quarterly and transducer calibration monthly.

(v) Conduct calibration checks any time the sensor exceeds the manufacturer's specified maximum operating pressure range or install a new pressure sensor.

(vi) At least monthly, inspect components for integrity, electrical connections for continuity, and mechanical connections for leakage.

Other Requirements and Information

§ 63.4780 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the EPA, or a delegated authority such as your State, local, or tribal agency. If the EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency, in addition to the EPA, has the authority to implement and enforce this subpart. You should contact your EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the EPA Administrator and are not transferred to the State, local, or tribal agency.

(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) Approval of alternatives to the work practice standards under § 63.4693.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.4781 What definitions apply to this subpart?

Terms used in this subpart are defined in the CAA, in 40 CFR 63.2, and in this section as follows:

Add-on control means an air pollution control device, such as a thermal oxidizer or carbon adsorber, that reduces pollution in an air stream by destruction or removal before discharge to the atmosphere.

Adhesive means any chemical substance that is applied for the purpose of bonding two surfaces together.

Block average is an average of data points collected over any specified, continuous 180-minute block of time (*e.g.*, a 3-hour block could be noon to 3 p.m., with a subsequent total of eight 3-hour blocks within a 24-hour period).

Capture device means a hood, enclosure, room, floor sweep, or other means of containing or collecting emissions and directing those emissions into an add-on air pollution control device.

Capture efficiency or *capture system efficiency* means the portion (expressed as a percentage) of the pollutants from an emission source that is delivered to an add-on control device.

Capture system means one or more capture devices intended to collect emissions generated by a coating operation in the use of coatings or cleaning materials, both at the point of application and at subsequent points where emissions from the coatings or cleaning materials occur, such as flashoff, drying, or curing. As used in this subpart, multiple capture devices that collect emissions generated by a coating operation are considered a single capture system.

Cleaning material means a solvent used to remove contaminants and other materials, such as dirt, grease, oil, and dried or wet coating (*e.g.*, depainting), from a substrate before or after coating application or from equipment associated with a coating operation, such as spray booths, spray guns, racks, tanks, and hangers. Thus, it includes any cleaning material used on substrates or equipment or both.

Coating means a material applied to a substrate for decorative, protective, or functional purposes. Such materials include, but are not limited to, paints, sealants, caulks, inks, adhesives, and maskants. Decorative, protective, or functional materials that consist only of protective oils for metal, acids, bases, or any combination of these substances are not considered coatings for the purposes of this subpart.

Coating operation means equipment used to apply cleaning materials to a substrate to prepare it for coating application or to remove dried coating (surface preparation), to apply coating to a substrate (coating application) and to dry or cure the coating after application, or to clean coating operation equipment (equipment cleaning). A single coating operation may include any combination of these types of equipment, but always includes at least the point at which a coating or cleaning material is applied and all subsequent points in the affected source where organic HAP emissions from that coating or cleaning material occur. There may be multiple coating operations in an affected source. Coating application with hand-held nonrefillable aerosol containers, touchup markers, or marking pens is not a coating operation for the purposes of this subpart.

Coating solids means the nonvolatile portion of the coating that makes up the dry film.

Continuous parameter monitoring system (CPMS) means the total equipment that may be required to meet the data acquisition and availability requirements of this subpart used to sample, condition (if applicable), analyze, and provide a record of coating operation, or capture system, or add-on control device parameters.

Controlled coating operation means a coating operation from which some or all of the organic HAP emissions are routed through an emission capture system and add-on control device.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart including, but not limited to any emission limit, or operating limit, or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limit, or operating limit, or work practice standard in this subpart during SSM, regardless of whether or not such failure is permitted by this subpart.

Emission limitation means an emission limit, operating limit, or work practice standard.

Enclosure means a structure that surrounds a source of emissions and captures and directs the emissions to an add-on control device.

Exempt compound means a specific compound that is not considered a VOC due to negligible photochemical reactivity. The exempt compounds are listed in 40 CFR 51.100(s).

Finished wood product means any wood building product to which a protective, decorative, or functional layer has been applied. Materials used include, but are not limited to, paints, stains, sealers, topcoats, basecoats, primers, enamels, inks, and adhesives.

Laminated wood product means any wood building product to which a protective, decorative, or functional layer has been bonded with an adhesive. Products that are produced by bonding layers to the substrate as a part of the substrate manufacturing process (prior

to pressing) are not considered laminated products under this subpart.

Manufacturer's formulation data means data on a material (such as a coating) that are supplied by the material manufacturer based on knowledge of the ingredients used to manufacture that material, rather than based on testing of the material with the test methods specified in § 63.4741. Manufacturer's formulation data may include, but are not limited to, information on density, organic HAP content, volatile organic matter content, and coating solids content.

Mass fraction of organic HAP means the ratio of the mass of organic HAP to the mass of a material in which it is contained, expressed as grams of organic HAP per gram of material.

Millwork means lumber that has been remanufactured into a wood building product or component such as door, window, and staircase part(s), or decorative trim.

Month means a calendar month or a pre-specified period of 28 days to 35 days to allow for flexibility in recordkeeping when data are based on a business accounting period.

Organic HAP content means the mass of organic HAP per volume of coating solids for a coating calculated using Equation 2 of § 63.4741. The organic HAP content is determined for the coating in the condition it is in when received from its manufacturer or supplier and does not account for any alteration after receipt.

Permanent total enclosure (PTE) means a permanently installed enclosure that meets the criteria of Method 204 of appendix M, 40 CFR part 51, for a PTE and that directs all the exhaust gases from the enclosure to an add-on control device.

Protective oil means an organic material that is applied to metal for the purpose of providing lubrication or protection from corrosion without forming a solid film. This definition of protective oil includes, but is not limited to, lubricating oils, evaporative oils (including those that evaporate completely), and extrusion oils.

Research or laboratory facility means a facility whose primary purpose is for research and development of new processes and products, that is conducted under the close supervision of technically trained personnel, and is not engaged in the manufacture of final or intermediate products for commercial purposes, except in a de minimis manner.

Responsible official means responsible official as defined in 40 CFR 70.2.

Startup, initial means the first time equipment is brought online in a source.

Surface preparation means use of a cleaning material on a portion of or all of a substrate. This includes use of a cleaning material to remove dried coating, which is sometimes called "depainting."

Temporary total enclosure means an enclosure constructed for the purpose of measuring the capture efficiency of pollutants emitted from a given source as defined in Method 204 of appendix M, 40 CFR part 51.

Thinner means an organic solvent that is added to a coating after the coating is received from the supplier.

Tileboard means hardboard that meets the specifications for Class I given by the standard ANSI/AHA A135.4–1995 as approved by the American National Standards Institute. The standard specifies requirements and test methods for water absorption, thickness swelling, modulus of rupture, tensile strength, surface finish, dimensions, squareness, edge straightness, and moisture content for five classes of hardboard. Tileboard is also known as Class I hardboard or tempered hardboard.

Total volatile hydrocarbon (TVH) means the total amount of nonaqueous volatile organic matter determined according to Methods 204 and 204A through 204F of appendix M to 40 CFR part 51 and substituting the term TVH each place in the methods where the term VOC is used. The TVH includes both VOC and non-VOC.

Uncontrolled coating operation means a coating operation from which none of the organic HAP emissions are routed through an emission capture system and add-on control device.

Volatile organic compound (VOC) means any compound defined as VOC in 40 CFR 51.100(s).

Volume fraction of coating solids means the ratio of the volume of coating solids (also known as volume of nonvolatiles) to the volume of coating; liters of coating solids per liter of coating.

Wastewater means water that is generated in a coating operation and is collected, stored, or treated prior to being discarded or discharged.

Wood building product means any product that contains more than 50 percent by weight wood or wood fiber, excluding the weight of any glass components, and is used in the construction, either interior or exterior, of a residential, commercial, or institutional building.

Tables to Subpart QQQQ of Part 63

TABLE 1 TO SUBPART QQQQ OF PART 63.—EMISSION LIMITS FOR NEW ORRECONSTRUCTED AFFECTED SOURCES

[You must comply with the emission limits that apply to your affected source in the following table as required by § 63.4690]

If the affected source applies coating to products in the following subcategory. . .	Then, the organic HAP emission limit for the affected source, in gramsHAP/liter solids (lb HAP/gal solids)[1,2] is:
1. Exterior siding and primed doorskins.	0 (0.00)
2. Flooring	0 (0.00)
3. Interior wall paneling or tileboard.	5 (0.04)
4. Other interior panels	0 (0.00)
5. Doors, windows, and miscellaneous.	57 (0.48)

[1] Determined as a rolling 12-month emission rate according to the requirements in § 63.4741, § 63.4751, or § 63.4761, as applicable.

[2] If the affected source applies coatings to products in more than one of the subcategories listed in the table, then you must determine the applicable emission limit according to § 63.4690(c).

TABLE 2 TO SUBPART QQQQ OF PART 63.—EMISSION LIMITS FOR EXISTING AFFECTED SOURCES

[You must comply with the emission limits that apply to your affected source in the following table as required by § 63.4690]

If the affected source applies coating to products in the following subcategory. . .	Then, the organic HAP emission limit for the affected source, in gramsHAP/liter solids (lb HAP/gal solids)[1,2] is:
1. Exterior siding and primed doorskins.	7 (0.06)
2. Flooring	93 (0.78)
3. Interior wall paneling or tileboard.	183 (1.53)
4. Other interior panels	20 (0.17)
5. Doors, windows, and miscellaneous.	231 (1.93)

[1] Determined as a rolling 12-month emission rate according to the requirements in § 63.4741, § 63.4751, or § 63.4761, as applicable.

[2] If the affected source applies coatings to products in more than one of the subcategories listed in the table, then you must determine the applicable emission limit according to § 63.4690(c).

TABLE 3 TO SUBPART QQQQ OF PART 63.—OPERATING LIMITS IF USING THE EMISSION RATE WITH ADD-ON CONTROLS OPTION

[If you are required to comply with operating limits by § 63.4692, you must comply with the applicable operating limits in the following table]

For the following device . . .	You must meet the following operating limit . . .	And you must demonstrate continuous compliance with the operating limit by . . .
1. Thermal oxidizer	a. The average combustion temperature in any 3-hour period must not fall below the combustion temperature limit established according to § 63.4767(a).	i. Collecting the combustion temperature data according to § 63.4768(c); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour block average combustion temperature at or above the temperature limit.
2. Catalytic oxidizer	a. The average temperature difference measured across the catalyst bed in any 3-hour period must not fall below the limit established according to § 63.4767(b); or	i. Collecting the temperature data according to § 63.4768(c); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour block temperature difference across the catalyst bed at or above the temperature limit.
	b. Ensure that the inlet temperature of the catalyst bed in any 3-hour period does not fall below the temperature limit established according to § 63.4767(b)(2) and develop and implement an inspection and maintenance plan according to § 63.4767(b)(3) and (4).	i. Collecting the temperature data according to § 63.4768(c), reducing the data to 3-hour block averages, and maintaining the 3-hour average temperature at or above the temperature limit; and ii. Complying with the inspection and maintenance plan developed according to § 63.4767(b)(3) and (4).
3. Carbon absorber	a. The total regeneration desorbing gas (*e.g.*, steam or nitrogen) mass flow for each carbon bed regeneration cycle must not fall below the total regeneration desorbing gas mass flow limit established according to § 63.4767(c).	i. Measuring the total regeneration desorbing gas (*e.g.*, steam or nitrogen) mass flow for each regeneration cycle according to § 63.4768(d); and ii. Maintaining the total regeneration desorbing gas mass flow at or above the mass flow limit.
	b. The temperature of the carbon bed, after completing each regeneration and any cooling cycle, must not exceed the carbon bed temperature limit established according to § 63.4767(c).	i. Measuring the temperature of the carbon bed, after completing each regeneration and any cooling cycle, according to § 63.4768(d); and ii. Operating and carbon beds such that each carbon bed is not returned to service until completing each regeneration and any cooling cycle until the recorded temperature of the carbon bed is at or below the temperature limit.
4. Condenser	a. The average condenser outlet (product side) gas temperature in any 3-hour period must not exceed the temperature limit established according to § 63.4767(d).	i. Collecting the condenser outlet (product side) gas temperature according to § 63.4768(e); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour block average gas temperature at the outlet at or below the temperature limit.
5. Emission capture system that is a PTE according to § 63.4765(a).	a. The direction of the air flow at all times must be into the enclosure; and either.	i. Collecting the direction of the air flow; and either the facial velocity of air through all natural draft openings according to § 63.4768(g)(1) or the pressure drop across the enclosure according to § 63.4768(g)(2); and ii. Maintaining the facial velocity of air flow through all natural draft openings or the pressure drop at or above the facial velocity limit or pressure drop limit, and maintaining the direction of air flow into the enclosure at all times.
	b. The average facial velocity of air through all natural draft openings in the enclosure must be at least 200 feet per minute; or	i. See items 5.a.i and 5.a.ii.
	c. The pressure drop across the enclosure must be at least 0.007 inch H_2O, as established in Method 204 of appendix M to 40 CFR part 51.	i. See items 5.a.i and 5.a.ii.
6. Emission capture system that is not a PTE according to § 63.4765(a).	a. The average gas volumetric flow rate or duct static pressure in each duct between a capture device and add-on control device inlet in any 3-hour period must not fall below the average volumetric flow rate or duct static pressure limit established for that capture device according to § 63.4767(f).	i. Collecting the gas volumetric flow gas or duct static pressure for each capture device according to § 63.4768(g); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour block average gas volumetric flow rate or duct static pressure for each capture device at or above the gas volumetric flow rate or duct static pressure limit
7. Concentrators, including zeolite wheels and rotary carbon absorbers.	The average gas temperature of the desorption concentrate stream in any 3-hour period must not fall below the limit established according to § 63.4767(e); and	i. Collecting the temperature data according to § 63.4768(f); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour block average temperature at or above the temperature limit.

TABLE 3 TO SUBPART QQQQ OF PART 63.—OPERATING LIMITS IF USING THE EMISSION RATE WITH ADD-ON CONTROLS OPTION—Continued

[If you are required to comply with operating limits by §63.4692, you must comply with the applicable operating limits in the following table]

For the following device . . .	You must meet the following operating limit . . .	And you must demonstrate continuous compliance with the operating limit by . . .
	b. The average pressure drop of the dilute stream across the concentrator in any 3-hour period must not exceed the limit established according to §63.4767(e).	i. Collecting the pressure drop data according to §63.4768(f); and ii. Reducing the pressure drop data to 3-hour block averages; and iii. Maintaining the 3-hour block average pressure drop at or below at the pressure drop limit.

TABLE 4 TO SUBPART QQQQ OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART QQQQ OF PART 63

[You must comply with the applicable General Provisions requirements according to the following table]

Citation	Subject	Applicable to subpart QQQQ	Explanation
§63.1(a)(1)–(14)	General Applicability	Yes.	
§63.1(b)(1)–(3)	Initial Applicability Determination	Yes	Applicability to subpart QQQQ is also specified in §63.4681.
§63.1(c)(1)	Applicability After Standard Established.	Yes.	
§63.1(c)(2)–(3)	Applicability of Permit Program for Area Sources.	No	Area sources are not subject to subpart QQQQ.
§63.1(c)(4)–(5)	Extensions and Notifications	Yes.	
§63.1(e)	Applicability of Permit Program Before Relevant Standard is Set.	Yes.	
§63.2	Definitions	Yes	Additional definitions are specified in §63.4781.
§63.3(a)–(c)	Units and Abbreviations	Yes.	
§63.4(a)(1)–(5)	Prohibited Activities	Yes.	
§63.4(b)–(c)	Circumvention/Severability	Yes.	
§63.5(a)	Construction/Reconstruction	Yes.	
§63.5(b)(1)–(6)	Requirements for Existing, Newly Constructed, and Reconstructed Sources.	Yes.	
§63.5(d)	Application for Approval of Construction/Reconstruction.	Yes.	
§63.5(e)	Approval of Construction/Reconstruction.	Yes.	
§63.5(f)	Approval of Construction/Reconstruction Based on Prior State Review.	Yes.	
§63.6(a)	Compliance With Standards and Maintenance Requirements—Applicability.	Yes.	
§63.6(b)(1)–(7)	Compliance Dates for New and Reconstructed Sources.	Yes	§63.4683 specifies the compliance dates.
§63.6(c)(1)–(5)	Compliance Dates for Existing Sources.	Yes	§63.4683 specifies the compliance dates.
§63.6(e)(1)–(2)	Operation and Maintenance	Yes.	
§63.6(e)(3)	SSMP	Yes	Only sources using an add-on control device to comply with the standard must complete SSMP.
§63.6(f)(1)	Compliance Except During SSM	Yes	Applies only to sources using an add-on control device to comply with the standard.
§63.6(f)(2)–(3)	Methods for Determining Compliance.	Yes.	
§63.6(g)(1)–(3)	Use of an Alternative Standard	Yes.	
§63.6(h)	Compliance With Opacity/Visible Emission Standards.	No	Subpart QQQQ does not establish opacity standards and does not require continuous opacity monitoring systems (COMS).
§63.6(i)(1)–(16)	Extension of Compliance	Yes.	
§63.6(j)	Presidential Compliance Exemption	Yes.	
§63.7(a)(1)	Performance Test Requirements—Applicability.	Yes	Applies to all affected sources. Additional requirements for performance testing are specified in §§63.4764, 63.4765, and 63.4766.

TABLE 4 TO SUBPART QQQQ OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART QQQQ OF PART 63—Continued

[You must comply with the applicable General Provisions requirements according to the following table]

Citation	Subject	Applicable to subpart QQQQ	Explanation
§ 63.7(a)(2)	Performance Test Requirements—Dates.	Yes	Applies only to performance tests for capture system and control device efficiency at sources using these to comply with the standard. § 63.4760 specifies the schedule for performance test requirements that are earlier than those specified in § 63.7(a)(2).
§ 63.7(a)(3)	Performance Tests Required By the Administrator.	Yes.	
§ 63.7(b)–(e)	Performance Test Requirements—Notification, Quality Assurance, Facilities Necessary for Safe Testing, Conditions During Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standard.
§ 63.7(f)	Performance Test Requirements—Use of Alternative Test Method.	Yes	Applies to all test methods except those used to determine capture system efficiency.
§ 63.7(g)–(h)	Performance Test Requirements—Data Analysis, Recordkeeping, Reporting, Waiver of Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standard.
§ 63.8(a)(1)–(3)	Monitoring Requirements—Applicability.	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standard. Additional requirements for monitoring are specified in § 63.4768.
§ 63.8(a)(4)	Additional Monitoring Requirements	No	Subpart QQQQ does not have monitoring requirements for flares.
§ 63.8(b)	Conduct of Monitoring	Yes.	
§ 63.8(c)(1)–(3)	Continuous Monitoring System (CMS) Operation and Maintenance.	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standard.Additional requirements for CMS operations and maintenance are specified in § 63.4768.
§ 63.8(c)(4)	CMSs	No	§ 63.4768 specifies the requirements for the operation of CMS for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(5)	COMS	No	Subpart QQQQ does not have opacity for visible emission standards.
§ 63.8(c)(6)	CMS Requirements	No	§ 63.4768 specifies the requirements for monitoring systems for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(7)	CMS Out-of-Control Periods	Yes.	
§ 63.8(c)(8)	CMS Out-of-Control Periods Reporting.	No	§ 63.4720 requires reporting of CMS out-of-control periods.
§ 63.8(d)–(e)	Quality Control Program and CMS Performance Evaluation.	No	Subpart QQQQ does not require the use of continuousemissions monitoring systems.
§ 63.8(f)(1)–(5)	Use of an Alternative Monitoring Method.	Yes.	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test.	No	Subpart QQQQ does not require the use of continuous emissions monitoring systems.
§ 63.8(g)(1)–(5)	Data Reduction	No	§§ 63.4767 and 63.4768 specify monitoring data reduction.
§ 63.9(a)–(d)	Notification Requirements	Yes.	
§ 63.9(e)	Notification of Performance Test	Yes	Applies only to capture system and add-on controldevice performance tests at sourcesusing these to comply with the standard.
§ 63.9(f)	Notification of Visible Emissions/Opacity Test.	No	Subpart QQQQ does not have opacity or visible emission standards.
§ 63.9(g)(1)–(3)	Additional Notifications When Using CMS.	No	Subpart QQQQ does require the use of continuous emissions monitoring systems.
§ 63.9(h)	Notification of Compliance Status	Yes	§ 63.4710 specifies the dates for submitting the notification of compliance status.
§ 63.9(i)	Adjustment of Submittal Deadlines	Yes.	
§ 63.9(j)	Change in Previous Information	Yes.	
§ 63.10(a)	Recordkeeping/Reporting—Applicability and General Information.	Yes.	
§ 63.10(b)(1)	General Recordkeeping Requirements.	Yes	Additional requirements are specified in §§ 63.4730 and63.4731.
§ 63.10(b)(2)(i)–(v)	Recordkeeping Relevant to SSM Periods and CMS.	Yes	Requirements for SSM records only apply to add-on control devices used to comply with the standard.
§ 63.10(b)(2)(vi)–(xi)		Yes.	

TABLE 4 TO SUBPART QQQQ OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART QQQQ OF PART 63—Continued

[You must comply with the applicable General Provisions requirements according to the following table]

Citation	Subject	Applicable to subpart QQQQ	Explanation
§ 63.10(b)(2)(xii)	Records	Yes.	
§ 63.10(b)(2)(xiii)		No	Subpart QQQQ does not require the use of continuous emissions monitoring systems.
§ 63.10(b)(2)(xiv)		Yes.	
§ 63.10(b)(3)	Recordkeeping Requirements for Applicability Determinations.	Yes.	
§ 63.10(c)(1)–(6)	Additional Recordkeeping Requirements for Sources with CMS.	Yes.	
§ 63.10(c)(7)–(8)		No	The same records are required in § 63.4720(a) (7).
§ 63.10(c)(9)–(15)		Yes.	
§ 63.10(d)(1)	General Reporting Requirements	Yes	Additional requirements are specified in § 63.4720.
§ 63.10(d)(2)	Report of Performance Test Results	Yes	Additional requirements are specified in § 63.4720(b).
§ 63.10(d)(3)	Reporting Opacity or Visible Emissions Observations.	No	Subpart QQQQ does not require opacity or visible emissions observations.
§ 63.10(d)(4)	Progress Reports for Sources With Compliance Extensions.	Yes.	
§ 63.10(d)(5)	SSM Reports	Yes	Applies only to add-on control devices at sources using these to comply with the standard.
§ 63.10(e)(1)–(2)	Additional CMS Reports	No	Subpart QQQQ does not require the use of continuous emissions monitoring systems.
§ 63.10(e)(3)	Excess Emissions/CMS Performance Reports.	No	§ 63.4720(b) specifies the contents of periodic compliance reports.
§ 63.10(e)(4)	COMS Data Reports	No	Subpart QQQQ does not specify requirements for opacity or COMS.
§ 63.10(f)	Recordkeeping/Reporting Waiver	Yes.	
§ 63.11	Control Device Requirements/Flares.	No	Subpart QQQQ does not specify use of flares for compliance.
§ 63.12	State Authority and Delegations	Yes.	
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by Reference	Yes	Test Methods ANSI/ASME PTC 19.10–1981, Part 10, ASTM D2697–86 (Reapproved 1998), and ASTM D6093–97 (incorporated by reference, see § 63.14).
§ 63.15	Availability of Information/Confidentiality.	Yes.	

TABLE 5 TO SUBPART QQQQ OF PART 63.—DEFAULT ORGANIC HAP MASS FRACTION FOR SOLVENTS AND SOLVENT BLENDS

[You may use the mass fraction values in the following table for solvent blends for which you do not have test data or manufacturer's formulation data]

Solvent/solvent blend	CAS. No.	Average organic HAP mass fraction	Typical organic HAP, percent by mass
1. Toluene	108–88–3	1.0	Toluene.
2. Xylene(s)	1330–20–7	1.0	Xylenes, ethylbenzene.
3. Hexane	110–54–3	0.5	n-hexane.
4. n-Hexane	110–54–3	1.0	n-hexane.
5. Ethylbenzene	100–41–4	1.0	Ethylbenzene.
6. Aliphatic 140		0	None.
7. Aromatic 100		0.02	1% xylene, 1% cumene.
8. Aromatic 150		0.09	Naphthalene.
9. Aromatic naphtha	64742–95–6	0.02	1% xylene, 1% cumene.
10. Aromatic solvent	64742–94–5	0.1	Naphthalene.
11. Exempt mineral spirits	8032–32–4	0	None.
12. Ligroines (VM & P)	8032–32–4	0	None.
13. Lactol spirits	64742–89–6	0.15	Toluene.
14. Low aromatic white spirit	64742–82–1	0	None.
15. Mineral spirits	64742–88–7	0.01	Xylenes.
16. Hydrotreated naphtha	64742–48–9	0	None.
17. Hydrotreated light distillate	64742–47–8	0.001	Toluene.
18. Stoddard solvent	8052–41–3	0.01	Xylenes.
19. Super high-flash naphtha	64742–95–6	0.05	Xylenes.
20. Varsol® solvent	8052–49–3	0.01	0.5% xylenes, 0.5% ethylbenzene.
21. VM & P naphtha	64742–89–8	0.06	3% toluene, 3% xylene.

TABLE 5 TO SUBPART QQQQ OF PART 63.—DEFAULT ORGANIC HAP MASS FRACTION FOR SOLVENTS AND SOLVENT BLENDS—Continued

[You may use the mass fraction values in the following table for solvent blends for which you do not have test data or manufacturer's formulation data]

Solvent/solvent blend	CAS. No.	Average organic HAP mass fraction	Typical organic HAP, percent by mass
22. Petroleum distillate mixture	68477–31–6	0.08	4% naphthalene, 4% biphenyl.

TABLE 6 TO SUBPART QQQQ OF PART 63.—DEFAULT ORGANIC HAP MASS FRACTION FOR PETROLEUM SOLVENT GROUPS [a]

[You may use the mass fraction values in the following table for solvent blends for which you do not have test data or manufacturer's formulation data]

Solvent type	Average organic HAP mass fraction	Typical organic HAP, percent by mass
Aliphatic [b]	0.03	1% xylene, 1% toluene, and 1% ethylbenzene.
Aromatic [c]	0.06	4% xylene, 1% toluene, and 1% ethylbenzene.

[a] Use this table only if the solvent blend does not match any of the solvent blends in Table 5 to this subpart and you only know whether the blend is aliphatic or aromatic.

[b] *E.g.*, Mineral Spirits 135, Mineral Spirits 150 EC, Naphtha, Mixed Hydrocarbon, Aliphatic Hydrocarbon, Aliphatic Naphtha, Naphthol Spirits, Petroleum Spirits, Petroleum Oil, Petroleum Naphtha, Solvent Naphtha, Solvent Blend.

[c] *E.g.*, Medium-flash Naphtha, High-flash Naphtha, Aromatic Naphtha, Light Aromatic Naphtha, Light Aromatic Hydrocarbons, Aromatic Hydrocarbons, Light Aromatic Solvent.

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May 29, 2003

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR2003–0014—FRL–7461–9]

RIN 2060–AG98

National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for existing and new fabric and other textile coating, printing, slashing, dyeing, and finishing operations. The final standards implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet the hazardous air pollutants (HAP) emission standards reflecting the application of the maximum achievable control technology (MACT).

The EPA has estimated that there are approximately 135 major source facilities in the printing, coating, and dyeing of fabrics and other textiles source category. The principal HAP emitted by these sources include toluene, methyl ethyl ketone (MEK), methanol, xylenes, methyl isobutyl ketone (MIBK), methylene chloride, trichloroethylene, n-hexane, glycol ethers (ethylene glycol), and formaldehyde. The final rule will reduce nationwide organic HAP emissions from major sources by approximately 4,100 tons per year or about 60 percent from baseline emissions.

Exposure to these substances has been demonstrated to cause adverse health effects such as irritation of the eye, lung, and mucous membranes, effects on the central nervous system, and damage to the liver. The EPA has classified two of the HAP, methylene chloride and trichloroethylene, as probable or possible human carcinogens. We do not have the type of current detailed data on each of the facilities covered by the final rule and the people living around the facilities that would be necessary to conduct an analysis to determine the actual population exposures to the HAP emitted from these facilities and potential for resultant health effects. Therefore, we do not know the extent to which the adverse health effects described above occur in the populations surrounding these facilities. However, to the extent the adverse effects do occur, the final rule will reduce emissions and subsequent exposures.

DATES: May 29, 2003. The incorporation by reference of certain publications listed in today's final rule is approved by the Director of the Federal Register as of May 29, 2003.

ADDRESSES: *Docket.* Docket ID No. OAR–2003–0014 (formerly Docket No. A–97–51) is located at the EPA Docket Center, EPA West, U.S. EPA (6102T), 1301 Constitution Ave., NW., Room B102, Washington, DC 20460.

Background Information Document. A background information document (BID) for the promulgated NESHAP may be obtained from the docket; the U.S. EPA Library (C267–01), Research Triangle Park, NC 27711, telephone (919) 541–2777; or from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, telephone (703) 487–4650. Refer to "National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Category: Printing, Coating, and Dyeing of Fabrics and Other Textiles—Background Information for Promulgated Standards" (EPA–453/R–03–006). The promulgation BID contains a summary of public comments made on the proposed standards and the EPA responses to the comments.

FOR FURTHER INFORMATION CONTACT: For information concerning applicability and rule determinations, contact your State or local air pollution control agency representative or the appropriate EPA Regional Office Representative. For information concerning the analyses performed in developing the final rule, contact Mr. Paul Almodóvar, Coatings and Consumer Products Group (C539–03), Emission Standards Division, U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541–0283; facsimile number (919) 541–5689; electronic mail (e-mail) address: *almodovar.paul@epa.gov.*

SUPPLEMENTARY INFORMATION: *Regulated Entities.* The source category definition includes sources that engage in the coating, printing, slashing, dyeing, or finishing of any fabric or other textile. In general, such sources are covered under the North American Industrial Classification System (NAICS) codes. However, sources classified under other NAICS codes may be subject to the final standards if they meet the applicability criteria. Not all sources classified under the NAICS codes in the following table are subject to the final rule because some of the classifications cover products outside the scope of the NESHAP for printing, coating, and dyeing of fabrics and other textiles.

Categories and entities potentially regulated by this action include:

Category	NAICS code	Examples of regulated entities
Industry	31321	Broadwoven fabric mills.
	31322	Narrow fabric mills and Schiffli machine embroidery.
	313241	Weft knit fabric mills.
	313311	Broadwoven fabric finishing mills.
	313312	Textile and fabric finishing (except broadwoven fabric) mills.
	313320	Fabric coating mills.
	314110	Carpet and rug mills.
	326220	Rubber and plastics hoses and belting and manufacturing.
	339991	Gasket, packing, and sealing device manufacturing.
Federal government	.....	Not affected.
State/local/tribal government	.....	Not affected.

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 operation is regulated by this action, you should examine the applicability criteria in § 63.4281 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.

Docket. The EPA has established an official public docket for this action under Docket ID No. OAR–2003–0014 (formerly Docket No. A–97–51). The official public docket consists of the documents specifically referenced in

this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, EPA West, Room B–102, 1301 Constitution Avenue, NW., Washington, DC 20460. The Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Docket is (202) 566–1742. A reasonable fee may be charged for copying docket materials.

Electronic Access. You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/edocket/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified above. Once in the system, select "search," then key in the appropriate docket identification number.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of the final rule will also be available on the WWW through EPA's Technology Transfer Network (TTN). Following signature by the EPA Administrator, a copy of the final rule will be posted 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. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Judicial Review. This action constitutes final administrative action on the proposed NESHAP for printing, coating, and dyeing of fabrics and other textiles (67 FR 45054, July 11, 2002). Under CAA section 307(b)(1), 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 July 28, 2003. Only those objections to the final rule which were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under CAA section 307(b)(2), the requirements established by today's final rule may not be challenged later in civil or criminal proceedings brought by EPA to enforce the requirements.

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

I. Background
A. What Is the Source of Authority for Development of NESHAP?
B. What Criteria Are Used in the Development of NESHAP?
II. What Changes and Clarifications Have we Made to the Proposed Standards?
A. Applicability
B. Overlap With Other Rules
C. Affected Source
D. Emission Limits and Options
E. General Compliance Requirements
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I. Background

A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. The Printing, Coating, and Dyeing of Fabrics source category was listed on July 16, 1992 (57 FR 31576) under the Surface Coating Processes industry group. We proposed standards for and revised the title of this source category to Printing, Coating, and Dyeing of Fabrics and Other Textiles on July 11, 2002 (67 FR 45054). The title was revised to clarify the applicability of the standards to organic HAP-emitting operations performed on textile substrates including, but not limited to, fabric.

A major source of HAP is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year (tpy) or more of any one HAP or 25 tpy of any combination of HAP. An area source is any stationary source of HAP that is not a major source.

B. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT, for maximum achievable control technology.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT standards cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of the cost of achieving the emissions reductions, any non-air health and environmental impacts, and energy requirements.

II. What Changes and Clarifications Have We Made to the Proposed Standards?

In response to public comments received on the proposed standards, we made several changes in developing the final rule. The substantive comments and our responses and rule changes are summarized in the following sections. A more detailed summary of comments and responses can be found in the BID for the final rule which is available from several sources (see **ADDRESSES**).

A. Applicability

We have made several changes to clarify the applicability of the final rule to certain coating, printing, slashing, dyeing, and finishing operations. We have also made changes to clarify which other web surface coating operations are not subject to the requirements of this final rule.

One commenter requested that we clarify the intent of proposed exemptions for research and development facilities from the rule requirements. The commenter believes the word facility and the definition of research or laboratory facility could be read to mean that the research or laboratory facility must be a facility separate from any facility that is doing commercial coating, dyeing, etc., in order to be exempt from subpart OOOO applicability. Typically in this source category, research and development activities are conducted on web coating and printing lines or dyeing and finishing operations located within a manufacturing plant. These research and development operations are co-located with manufacturing lines in order to test the product at the same manufacturing variables (*e.g.*, temperature and humidity) as those of the products currently being used. Therefore, the final rule language has been written to reflect this. The use of the terms research or laboratory operations, rather than facilities, will also make this language consistent with the affected source description in the final rule. A corresponding change has also been made to the definition of research or laboratory facility to reflect this change.

One commenter observed that the proposal preamble described exemptions to the proposed rule for certain tape and tire manufacturing activities covered by the NESHAP for Paper and Other Web Coating and the NESHAP for Tire Manufacturing MACT, respectively. The commenter pointed out that the proposed rule text failed to mention any of these exemptions. These explicit exemptions were inadvertently omitted from the proposed rule language. The final rule has been written to include the appropriate exemptions.

Three commenters expressed concern that, as proposed, the final rule could be interpreted to apply to synthetic fiber manufacturing operations. We have written the final rule to clarify that coating, slashing, dyeing, and finishing operations that are part of a synthetic fiber manufacturing process, and are part of the affected source of another NESHAP, such as the Group IV Polymers and Resins NESHAP (40 CFR 63, subpart JJJ) are not subject to the requirements of the final rule. For example, finishes that are applied in an affected source to which subpart JJJ applies are not subject to the requirements of the final rule.

One commenter noted the preamble to the proposed rule stated that coating and printing operations conducted at ambient temperatures and not involving drying or curing equipment are not subject to the provisions of the rule. The commenter requested that this language be included in the applicability section of the final regulation. In order to clarify the applicability of the final rule to web coating and printing operations conducted at ambient temperatures, the final rule has been written to exclude web coating or printing operations that do not involve drying or curing equipment such as ovens, tenter frames, steam cans, or dryers from the requirements of the final rule. Web coating and printing operations that dry at ambient temperatures are not representative of the coating and printing operations in the database used to determine the MACT floor for the coating and printing subcategory. These low-production rate operations make up only a small segment of the overall coating and printing industry. It was also determined that the emission capture and control technologies applicable to these operations would be considerably different (because of temperature, concentration, and flow rate differences) than those operations involving drying and curing equipment which are the basis of the MACT floor determination.

B. Overlap With Other Rules

Two commenters pointed out that the preamble text of the proposed rule created duplicate applicability for some sources, *i.e.*, web coating lines that coat paper and other web substrates as well as fabric and other textile substrates. The commenters requested clarification on which NESHAP would apply to web coating lines that coat both types of substrate. The Paper and Other Web Coating NESHAP applies to web coating lines engaged in the coating of fabric for use in flexible packaging, pressure sensitive tapes and abrasive materials. The final rule has been written to clarify that web coating lines where both fabric and other webs are coated for use in flexible packaging, pressure sensitive tapes or abrasive materials or where fabric is being laminated to a paper and other web substrate are subject to 40 CFR 63, subpart JJJJ, and not today's final rule.

For other web coating lines engaged in the coating of fabric and other webs on the same web coating line, we have written in a provision to the final rule whereby a source can determine which MACT standard they must comply with based on the predominant surface coating activity conducted on the web coating line. Predominant activity has been determined to be 90 percent or more of the mass of substrate coated. For example, a web coating line that coats 90 percent paper and 10 percent fabric substrates would have to comply with the Paper and Other Web NESHAP (40 CFR 63, subpart JJJJ).

C. Affected Source

Seven commenters stated that the proposed rule was inconsistent with regard to its applicability to cleaning materials and preparation activities. The commenters requested revisions to the proposed rule related to its applicability to cleaning materials and preparation activities. We agree with the commenters that the final rule should not regulate cleaning materials and preparation materials in the slashing or the dyeing and finishing subcategories. Slashing and dyeing and finishing operations are aqueous processes, and, therefore, the cleaning materials and preparation activities used in these operations do not contain organic HAP. The most common cleaning material used in these operations is water. The final rule has been written to clarify that cleaning and preparation materials used in the slashing and the dyeing and finishing subcategories are not regulated materials.

D. Emission Limits and Options

Seven commenters requested that an add-on control compliance option be included in the final rule for the dyeing and finishing subcategory. The commenters pointed out that as the industry moves from mass base goods production to specialized niche production, and as new products and technologies are developed and implemented, flexibility in the production process will be the key to the survival of this industry. We agree

with the commenters, and, therefore, in order to provide more compliance flexibility with the emission limits, the final rule has been written to include an emission rate with add-on control device compliance option for the dyeing and finishing subcategory.

Numerous comments were received concerning high molecular weight, high boiling point, and highly water-soluble organic HAP from dyeing and finishing sources that are not emitted in the dyeing and finishing process but are discharged to the wastewater. This class of organic HAP has a low emission potential (*i.e.*, low Henry's Law constant) and also are typically readily biodegraded; as a result they are not emitted to the atmosphere in wastewater collection and treatment operations. The commenters requested that the final rule should allow sources to take into account in their compliance demonstrations organic HAP that are discharged to the wastewater and not emitted to the atmosphere. The final rule has been written to allow a dyeing and finishing affected source to account for organic HAP that are discharged to wastewater. An equivalent emission rate compliance option has been written in the final rule, and a procedure has been added to account for the mass of organic HAP contained in wastewater discharged to a publically owned treatment works (POTW) or onsite secondary wastewater treatment.

In order to be able to use the equivalent emission rate compliance option, a source must make an initial compliance demonstration that at least 90 percent of the mass of organic HAP contained in dyeing and finishing materials applied in the affected source is discharged to the wastewater; and that the total organic HAP emissions from the dyeing and finishing affected source are less than 10 tpy. The source must also document that the affected wastewater streams are discharged to a POTW or treated onsite in a treatment system that includes at least secondary treatment with biological treatment processes.

E. Requirements for Compliance Options

Several commenters asserted that the proposed rule did not include a compliance option for the web coating and printing subcategory which takes into account processes that use reactive materials that are not emitted to the atmosphere. The final rule has been written to allow the use of EPA Method 24 of 40 CFR part 60 Appendix A, for multi-component coatings with reactive materials to determine the mass fraction of non-aqueous volatile matter. This empirical value can be used as a substitute for the mass fraction of organic HAP calculated from the sum of organic HAP in each coating component. Also, you may submit an alternative technique for approval by the Administrator, *e.g.*, stack testing with an enclosure to quantify the organic HAP actually emitted from the web coating process.

Several commenters requested that the compliance period for affected sources using the emission rate compliance option be changed to a 12-month rolling average period. Four of the commenters also submitted plant specific data demonstrating the extreme variability within both the coating and printing and the dyeing and finishing subcategories over time. The commenters asserted that a 12-month rolling average would take into account the seasonal variations in this industry and would better reflect the data used to set the MACT floor. Upon review of the data submitted by the commenters, the final rule has been written to allow a 12-month rolling average compliance period for sources using the emission rate compliance option. This would allow for the month-to-month variability in organic HAP content of coating, dyeing, and finishing materials.

Several commenters stated that the proposed rule was unclear as to how the compliance averaging calculations for dyeing materials are to be performed. The final rule language has been written to clarify that these compliance averaging calculations for dyeing materials should include only regulated materials as received from the manufacturer or supplier, and prior to any on-site alteration of the material (*e.g.*, mixing with solvent); and, that water added in a mixing operation is not a regulated material and should not be included in the determination of the total mass of dyeing and finishing materials applied during the compliance period. This would be consistent with how the MACT floors for this subcategory were calculated.

III. Summary of the Final Rule

A. What Source Categories and Subcategories Are Affected by the Final Rule?

The final rule applies to you if you own or operate a fabric or other textile coating, printing, slashing, dyeing, or finishing operation or group of such operations that is a major source, or is located at a major source, or is part of a major source of HAP emissions, whether or not you manufacture the substrate. The coating, printing, slashing, dyeing, or finishing operations themselves are not required to be major sources of HAP emissions in order for them to be covered by the final rule. As long as some part of the facility where the operations are located (*e.g.*, a process boiler or manufacturing operation associated with production of the final product) causes it to be a major source, the coating, printing, slashing, dyeing, and finishing operations are subject to the standards.

Any major HAP-emitting facility that performs coating, printing, slashing, dyeing, or finishing of fabric or other textiles is in this source category. As defined in the final rule, fabric or other textiles includes, but is not limited to, yarn, fiber, cord, thread, fabric and textile products, tents, roofing, soft baggage, marine fabric, drapery linings, flexible hoses, hot-air balloons, and awnings. The source category includes three subcategories (web coating and printing, slashing, and dyeing and finishing) as described in the following paragraphs.

The web coating and printing subcategory encompasses coating activities and equipment used to apply semi-liquid coating material to one or both sides of a textile web substrate. Once the coating is dried (and cured, if necessary) it bonds with the substrate to form a continuous solid film for decorative, protective, or functional purposes. Similarly, the web coating and printing subcategory includes printing activities and equipment used to apply color and patterns to textile substrates, usually in the form of a paste. After application of the printing material, the substrate is treated with steam, heat, or chemicals to fix the color.

The slashing subcategory includes the yarn preparation process performed on warp yarn prior to weaving. Slashing is the application of a chemical solution (known as sizing) to a yarn in a water solution followed by squeezing (dewatering) and drying.

The dyeing and finishing subcategory includes the equipment and operations involved in two separate but related processes that are both performed at some sources, while only one or the other is performed at other sources. Dyes and finishes are applied to yarn, fiber, cord, thread, or fabric in aqueous solutions and then dried. Dyeing is the application of color to the whole body of a textile substrate. Finishing is a process performed after dyeing that improves the appearance and/or usefulness of a textile substrate.

You are not subject to the final rule if your coating, printing, slashing, dyeing, or finishing operation is located at an area source. An area source of HAP

is any facility that has the potential to emit HAP but is not a major source. You may establish area source status by limiting the source's potential to emit HAP through appropriate mechanisms available through your permitting authority.

Exclusions from the source category include coating, printing, slashing, dyeing or finishing at a source using only coating, printing, slashing, dyeing, finishing, thinning, and cleaning materials that contain no organic HAP as defined in the final rule; coating, printing, slashing, dyeing, or finishing that occurs in a research or laboratory operation or that is part of a janitorial, building, and facility maintenance operation; coating, printing, slashing, dyeing, or finishing used by a facility and not for commerce, unless organic HAP emissions from these operations equal or exceed the facility major source HAP emissions threshold; a web coating line that applies coatings to both paper and fabric and other textile substrates used in flexible packaging, pressure sensitive tape or abrasive materials or where fabric is being laminated to a paper; a web coating line that applies coatings to tire cord and that also sometimes applies coatings to textile cord used in the production of belts and hoses; a coating, slashing, dyeing, or finishing operation that is conducted during a synthetic fiber manufacturing process included in the affected source of a NESHAP under 40 CFR 63; and a web coating or printing operation conducted at ambient temperatures and that does not involve drying or curing equipment such as, ovens, tenter frames, steam cans, or dryers; and coating, printing, slashing, dyeing, or finishing operations performed on-site at installations owned or operated by the Armed Forces of the United States (including the Coast Guard and the National Guard of any State).

Web coating lines engaged in the coating of fabric and other webs on the same web coating line, must comply with the NESHAP applicable to the web coating line based on predominant surface coating activity conducted on the web coating line. Predominant activity has been determined to be 90 percent or more of the mass of substrate coated. For example, a web coating line that coats 90 percent paper and 10 percent fabric substrates would have to comply with the Paper and Other Web NESHAP (40 CFR 63, subpart JJJJ).

B. What Is the Affected Source?

An affected source is a stationary source, a group of stationary sources, or part of a stationary source to which a specific emission standard applies. The final rule defines the affected source for each subcategory respectively, as the collection of all equipment associated with the web coating and printing, the slashing, or the dyeing and finishing performed on a textile substrate. For the purpose of defining the affected source, the textile substrate includes staple fibers and filaments suitable for conversion to or use as yarns, or for the preparation of woven, knit, or nonwoven fabrics; yarns made from natural or manufactured fibers; fabrics and other manufactured products made from staple fibers and filaments and from yarn; and garments and other articles fabricated from fibers, yarns, or fabrics. Also for each subcategory, the specific regulated materials are defined. Regulated materials are the organic HAP-containing materials that are the source of organic HAP emissions limited by the requirements of the NESHAP.

The affected source for the web coating and printing subcategory includes: All web coating and printing equipment used to apply cleaning materials to a substrate on the coating or printing line to prepare it for coating or printing material application, to apply coating or printing materials to a substrate and to dry or cure the coating or printing materials after application by exposure to heat or radiation (coating or printing material drying or curing); equipment used to clean web coating/printing operation equipment; all containers used for storage and vessels used for mixing coating, printing, thinning, or cleaning materials; all equipment and containers used for conveying coating, printing, thinning, or cleaning materials; all containers used for storage and all equipment and containers used for conveying waste materials generated by a web coating or printing operation; and all equipment, structures, and devices used to convey, treat, or dispose of wastewater streams or residuals generated by a web coating or printing operation. The regulated materials for the coating and printing subcategory are the coating, printing, thinning and cleaning materials used in the affected source.

The affected source for the slashing subcategory includes: All slashing equipment used to apply and dry size on warp yarn; all containers used for storage and vessels used for mixing slashing materials; all equipment and containers used for conveying slashing materials; all containers used for storage and all equipment and containers used for conveying waste materials generated by a slashing operation; and all equipment, structures, and devices used to convey, treat, or dispose of wastewater streams or residuals generated by a slashing operation. The regulated materials for the slashing subcategory are the slashing materials used in the affected source.

The affected source for the dyeing and finishing subcategory includes: All dyeing and finishing equipment used to apply dyeing or finishing materials, to fix dyeing materials to the substrate, to rinse the textile substrate, or to dry or cure the dyeing or finishing materials; all containers used for storage and vessels used for mixing dyeing or finishing materials; all equipment and containers used for conveying dyeing or finishing materials; all containers used for storage and all equipment and containers used for conveying waste materials generated by a dyeing or finishing operation; and all equipment, structures, and devices used to convey, treat, or dispose of wastewater streams or residuals generated by a dyeing or finishing operation. The regulated materials for the dyeing and finishing subcategory are the dyeing and finishing materials used in the affected source.

C. What Are the Emission Limits, Operating Limits, and Other Standards?

Today's final rule limits organic HAP emissions from coating, printing, slashing, dyeing, and finishing operations. The final rule includes emission limits, operating limits, and work practice standards. Emission limits are established for the web coating and printing, slashing, and dyeing and finishing subcategories. Operating limits and work practice standards are established for the web coating and printing, and the dyeing and finishing subcategories.

1. *Emission Limits.* In the web coating and printing subcategory, today's final rule provides you the option of limiting organic HAP emissions to the atmosphere from each new and reconstructed affected source to one of the following three specified levels: (1) At least a 98 percent organic HAP overall control efficiency (OCE limit); (2) no more than 0.08 kilograms (kg) organic HAP/kg of coating solids applied (0.08 pound (lb) organic HAP/lb of coating solids applied) during each 12-month compliance period (emission rate limit); or (3) if you are using an oxidizer to control organic HAP emissions, operate the oxidizer such that an outlet organic HAP concentration of no greater than 20 parts per million by volume (ppmv) on a dry basis is achieved and maintain the efficiency of the capture system at 100 percent (outlet concentration limit). The organic HAP emission limits for each existing affected source in the web

coating and printing subcategory are: (1) To achieve at least a 97 percent OCE limit; (2) an emission rate limit of no more than 0.12 kg organic HAP/kg of coating solids applied (0.12 lb organic HAP/lb of coating solids applied) in each 12-month compliance period; or (3) if you are using an oxidizer to control organic HAP emissions, operate the oxidizer to achieve the outlet concentration limit of no greater than 20 ppmv on a dry basis and maintain the efficiency of the capture system at 100 percent.

You may choose from several compliance options in the final rule to achieve the web coating and printing emission limits. You can comply through a pollution prevention approach by applying regulated materials that meet the emission rate limits, either individually (compliant material option) or collectively (emission rate without add-on controls option), during each compliance period. Second, you can use a capture system and add-on control device to meet either the applicable organic HAP OCE limit or emission rate limit. Third, you can use a 100 percent efficient capture system and an oxidizer that reduces organic HAP emissions to no more than 20 ppmv.

In the slashing subcategory, we are requiring each new, reconstructed and existing affected source to emit no organic HAP. This is not an absolute zero organic HAP limit since the compliance procedures specify that to determine organic HAP emissions, you count only organic HAP present in the materials you use at 0.1 percent by mass or more for Occupational Safety and Health Administration (OSHA)-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and at 1 percent or more for other organic HAP compounds. To comply with the slashing organic HAP emission limits, you must apply only materials that individually meet the standard during each compliance period.

In the dyeing and finishing subcategory, we are limiting organic HAP emissions from each new, reconstructed and existing affected source that conducts dyeing operations only or both dyeing and finishing operations to no more than 0.016 kg organic HAP per kg of dyeing material used (0.016 lb organic HAP per lb of dyeing material used) for each 12-month compliance period. You can comply with the dyeing and finishing organic HAP emission rate by applying materials that meet the emission rate, either individually or collectively, during each 12-month compliance period. Each new, reconstructed and existing affected source that conducts only finishing operations is required to emit no more than 0.0003 kg of organic HAP per kg of finishing materials.

We are also including an equivalent emission rate option in the dyeing and finishing subcategory. In order to be able to use the equivalent emission rate compliance option, you must demonstrate that at least 90 percent of the mass of organic HAP contained in dyeing and finishing materials applied in the dyeing and finishing affected source are discharged to a wastewater treatment system and not emitted to the atmosphere; and that the total organic HAP emissions from the dyeing and finishing affected source must be less than 10 tons per year. To demonstrate continuous compliance you must document that your dyeing/finishing affected source operates within the operating scenarios used to demonstrate initial compliance and that affected wastewater streams are discharged to a POTW or treated onsite in a wastewater treatment system with biological treatment. You also must maintain purchase records showing that organic HAP emissions do not exceed 10 tons for each 12-month compliance period.

2. *Operating Limits.* If you reduce emissions from web coating and printing or dyeing and finishing operations by using a capture system and add-on control device (other than a solvent recovery system for which you conduct a liquid-liquid material balance), the operating limits apply to you. These limits are site-specific parameter limits that you determine during the initial performance test of the emission control system. For capture systems, you must develop a capture system monitoring plan. The monitoring plan must identify the operating parameter to be monitored, explain why this parameter is appropriate for demonstrating ongoing compliance, and identify the specific monitoring procedures. In the plan, you must specify operating limits for the capture system operating parameter that demonstrate compliance with the applicable emission standard in the final rule. The monitoring plan must be available for inspection by your permitting authority upon request.

For thermal oxidizers, you must monitor the temperature in the firebox. For catalytic oxidizers, you either monitor the temperature at the inlet to the catalyst bed and the temperature difference across the catalyst bed, or you monitor the temperature at the inlet to the catalyst bed and prepare and implement an inspection and maintenance plan that includes periodic catalyst activity checks. For a control device other than an oxidizer or if you wish to monitor an alternative parameter and comply with a different operating limit, you must apply to the Administrator for approval of an alternative monitoring method.

The site-specific parameter limits that you establish must reflect operation of the capture system and add-on control devices during a performance test that demonstrates achievement of the emission limits during representative operating conditions.

3. *Work Practice Standards.* If you use an emission capture system and add-on control device for compliance, you are required to develop and implement a work practice plan to minimize organic HAP emissions from mixing operations, storage tanks and other containers, and handling operations for regulated materials and waste materials.

4. *Operations During Startup, Shutdown, or Malfunction.* If you use a capture system and add-on control device for compliance, you are required to develop and operate according to a startup, shutdown, and malfunction plan (SSMP) during periods of startup, shutdown, or malfunction of the capture system and add-on control device.

5. *General Provisions.* The General Provisions (40 CFR part 63, subpart A) also apply to you as indicated in the final rule. The General Provisions codify certain procedures and criteria for all 40 CFR part 63 NESHAP. The General Provisions contain administrative procedures, preconstruction review procedures for new sources, and procedures for conducting compliance-related activities such as notifications, reporting and recordkeeping, performance testing, and monitoring. The final rule refers to individual sections of the General Provisions to emphasize key sections that are relevant. However, unless specifically overridden in the final rule, all of the applicable General Provisions requirements apply to you.

D. What Are the Testing and Initial Compliance Requirements?

1. *Compliance Dates.* Existing affected sources will have to be in compliance with today's final rule no later than May 30, 2006. New and reconstructed affected sources will have to be in compliance upon startup of the affected source or by May 29, 2003, whichever is later.

Except for affected sources required to conduct performance tests, the initial compliance period for the compliant material option or the organic HAP overall control efficiency and oxidizer outlet organic HAP concentration options begins on the compliance date

and ends on the last day of the first full month following the compliance date. For affected sources required to conduct performance tests, the initial compliance period ends on the last day of the first full month following the performance test if the performance test is conducted later than the compliance date (the final rule allows the test to be conducted up to 180 days later).

Except for affected sources required to conduct performance tests, the initial compliance period for the emission rate without add-on controls option and the emission rate with add-on controls option begins on the compliance date and ends on the last day of the 12th full month following the compliance date. For affected sources required to conduct performance tests, the initial compliance period ends on the last day of the 12th full month following the performance test if the performance test is conducted later than the compliance date (the final rule allows the test to be conducted up to 180 days later).

Being in compliance means that the owner or operator of the affected source meets the requirements to achieve the emission limitations during the initial compliance period. At the end of the initial compliance period, the owner or operator will use the data and records generated to determine whether or not the affected source is in compliance with the organic HAP emission limit and other applicable requirements for that period. If the affected source does not meet the emission limit and other applicable requirements, it is out of compliance for the entire initial compliance period.

2. *Emission Limits.* With the exception of the slashing emission limit, there are several options for complying with the various emission limits specified in today's rule; the testing and initial compliance requirements vary accordingly. You will be able to use different compliance options for different coating, printing, dyeing, and finishing operations in the affected source for each subcategory and also for the same operation at different times, with the exception of the equivalent emission rate option for the dyeing and finishing affected source. If you choose to apply the equivalent emission rate option to your dyeing and finishing operations, it must be applied to the entire dyeing and finishing affected source.

3. *Compliance Based on Materials Applied in the Affected Source.* If you demonstrate compliance with the web coating and printing emission limits based on the materials applied, you must determine the mass of organic HAP and the mass fraction of solids in all materials applied during the initial compliance period. You are required to demonstrate either that the organic HAP content of each coating and printing material meets the applicable emission limit and that you apply no organic HAP-containing thinning or cleaning materials (compliant material option); or that the total mass of organic HAP in all coating, printing, thinning, and cleaning materials applied divided by the total mass of solids in coating and printing materials applied meets the applicable emission limit (emission rate without add-on controls option).

The compliant material option is a pollution prevention option that allows you to easily demonstrate compliance by applying only low-organic HAP or non-organic HAP coating and printing materials. If you apply coating and printing materials that, based on their organic HAP content, individually meet the kg (lb) organic HAP emitted per kg (lb) solids applied levels in the applicable emission limits of the final rule and you apply only non-organic HAP thinners and other additives and cleaning materials, this compliance option is available to you. For this option, we have minimized recordkeeping and reporting requirements. You demonstrate compliance by using readily available purchase records containing manufacturer's formulation data to determine the organic HAP content of each coating, printing, or other material and the amount of each material applied. You do not need to perform any detailed emission rate calculations.

To demonstrate compliance with the compliant material option, you must demonstrate that the organic HAP content of each coating and printing material applied meets the applicable emission limit in the final rule, and that you applied no organic HAP-containing thinning or cleaning materials. For example, if you are using the compliant materials option for your existing source, you must demonstrate that: (1) Each coating and printing material applied has an organic HAP content no greater than 0.12 kg (0.12 lb) organic HAP per kg (lb) solids applied, (2) and that you applied no organic HAP-containing thinning or cleaning materials. Note that no organic HAP is not intended to mean a zero concentration. Materials that contain no organic HAP as defined in the final rule mean materials that contain organic HAP levels below typical reporting levels. These typical reporting levels only count organic HAP that are present at 0.1 percent or more by mass for OSHA-defined carcinogens and at 1.0 percent or more by mass for other compounds.

To determine the mass fraction of organic HAP in coating, printing, thinning, and cleaning materials and the mass fraction of solids in coating and printing materials, you may rely on manufacturer's formulation data. You are not required to perform tests or analysis of the material if formulation data are available. Alternatively, you can use results from the test methods listed below. You may also use alternative test methods provided you get EPA approval in accordance with 40 CFR 63.7(f). However, if there is any inconsistency between the test method results (either EPA's or an approved alternative) and manufacturer's data, the test method results would prevail for compliance and enforcement purposes.

- For mass fraction of organic HAP, you use EPA Method 311 of 40 CFR part 63, appendix A;
- The final rule allows you to use nonaqueous volatile matter as a surrogate for organic HAP, which would include all organic HAP plus all other organic compounds, and excluding water. If you choose this option, you use EPA Method 24 of 40 CFR part 60, appendix A; and
- For mass fraction of solids, you use EPA Method 24 of 40 CFR part 60, appendix A.

For multi-component coatings with reactive materials, the final rule allows the use of EPA Method 24 on the coating as applied to determine the mass fraction of non-aqueous volatile matter. You may use that value as a substitute for the mass fraction of organic HAP determined from the sum of organic HAP in each coating component. Also, you may submit an alternative technique for approval by the Administrator, (*e.g.*, stack testing with an enclosure) to quantify the organic HAP actually emitted from the coating process.

The emission rate without add-on controls option is a pollution prevention option where you can demonstrate compliance based on the organic HAP contained in the mix of coating, printing, thinning, and cleaning materials you apply. This option allows you the flexibility to apply some individual coating or printing materials that do not individually meet the emission limit if you apply other low-organic HAP or non-organic HAP coating or printing materials such that overall emissions from the affected source during the compliance period meet the emission limit.

To demonstrate initial compliance with the emission rate limit without

add-on controls option, you are required to:

- Determine the quantity of each coating, printing, thinning, and cleaning material you applied.
- Calculate the mass of organic HAP in each coating, printing, thinning, and cleaning material you applied using the same types of data and methods previously described for the compliant material option.
- Determine the mass fraction of solids for each coating and printing material you applied using the same types of data or methods described for the compliant material option.
- Calculate the total mass of organic HAP in all regulated materials applied and total mass of solids for all coating and printing materials applied. You may subtract from the total mass of organic HAP the amount contained in waste materials you send to a hazardous waste treatment, storage, and disposal facility regulated under 40 CFR part 262, 264, 265, or 266.
- Calculate the ratio of the total mass of organic HAP to the total mass of solids for the regulated materials applied.
- Record the calculations and results and include them in your Notification of Compliance Status.

Note that if you choose to use this option for a particular web coating/printing operation or group of operations rather than for an entire affected source, you must calculate the organic HAP emission rate using just the materials applied in that operation or group. You are required to separately demonstrate compliance for all other operations in the affected source.

To demonstrate compliance with the slashing emission limits, you must use the compliant material option and demonstrate that each slashing material applied during the initial compliance period contains no organic HAP. As was noted regarding thinning or cleaning materials applied in web coating/printing operations, no organic HAP is not intended to mean a zero concentration. Materials that contain no organic HAP should be interpreted to mean materials that contain organic HAP levels below the levels defined in the final rule, which (as previously noted) are typical reporting levels.

To demonstrate compliance with the dyeing and finishing emission limits, you are required to demonstrate either that the organic HAP content of each dyeing and finishing material applied meets the applicable emission limit (compliant material option), or that the total mass of organic HAP in all dyeing and finishing materials applied divided by the total mass of dyeing and finishing materials applied meets the applicable emission limit (emission rate without add-on controls option).

As previously described for web coating/printing operations, the compliant material option is a pollution prevention option that allows you to easily demonstrate compliance by applying only low-organic HAP or non-organic HAP dyeing and finishing materials. To demonstrate compliance with the compliant material option, you must demonstrate that the organic HAP content of each dyeing and finishing material applied meets the applicable emission limit in the final rule. To determine the mass of organic HAP in dyeing and finishing materials, you must rely on manufacturer's formulation data. You are not required to perform tests or analysis of the material.

Again as previously described for web coating/printing operations, the emission rate without add-on controls option is a pollution prevention option where you can demonstrate compliance based on the organic HAP contained in the mix of dyeing and finishing materials you apply. This option allows you more flexibility than the compliant material option, but requires the calculation of the emission rate each month, for that month and the preceding 11 months. To demonstrate initial compliance with the emission rate without add-on controls option, you are required to:

- Determine the mass of each dyeing and finishing material you applied.
- Calculate the mass of organic HAP in each dyeing and finishing material you applied.
- Calculate the total mass of organic HAP in all regulated materials and the total mass of all regulated materials applied for the compliance period. You may subtract from the total mass of organic HAP the amount contained in waste materials you send to a hazardous waste treatment, storage, and disposal facility regulated under 40 CFR part 262, 264, 265, or 266. You also may subtract from the total mass of organic HAP the amount demonstrated to be discharged to wastewater treatment and not emitted to the atmosphere, in accordance with the final rule requirements.
- Calculate the ratio of the total mass of organic HAP in the regulated materials applied to the total mass of regulated materials applied.
- Record the calculations and results and include them in your Notification of Compliance Status.

Note that if you choose to use this option for a particular dyeing/finishing operation or group of operations rather than for an entire affected source, you would calculate the organic HAP emission rate using just the affected materials applied in that operation or group. You would need to separately demonstrate compliance for all other operations in the affected source.

You may also choose to use the equivalent emission rate option for your dyeing/finishing affected source. If you choose to use the equivalent emission rate option, it must be applied to the entire affected source; you may not use any other compliance option provided for any dyeing/finishing operation in your dyeing/finishing affected source.

In order to be able to use the equivalent emission rate option, you must demonstrate that at least 90 percent of the mass of organic HAP contained in dyeing and finishing materials applied in the dyeing/finishing affected source are discharged to the wastewater treatment system and not emitted to the atmosphere; and the total organic HAP emissions from the dyeing/finishing affected source must be less than 10 tons per year.

To demonstrate initial compliance with the equivalent emission rate option, you are required to:

- Determine the average organic HAP concentration of each affected wastewater stream using EPA Methods 305, 624, 625, 1624, 1625; other EPA methods; or methods other than EPA methods in accordance with specified requirements. You must consider the actual or anticipated production over the compliance period and include all wastewater streams generated by the affected dyeing/finishing operation(s) during this period. A performance test must be performed to characterize the wastewater stream generated for each operating scenario (in terms of factors affecting the fraction of organic HAP discharged to the wastewater, such as the type of substrate, the type and mass fraction of organic HAP entering the dyeing/finishing operation, and the process temperature and pressure) during the compliance period.
- Determine the mass flow rate of each wastewater stream using knowledge of the wastewater, historical records, or measurement.
- Document the wastewater is either discharged to a POTW or treated onsite in a treatment system that includes at least secondary treatment with biological treatment processes.
- Determine the mass of organic HAP contained in all of the wastewater streams characterized by the performance testing.
- Determine the fraction of organic HAP applied in the dyeing/finishing affected source that is discharged to the

wastewater. At least 90 percent of the organic HAP applied must be discharged to the wastewater.

• Determine the organic HAP emissions from the dyeing/finishing affected source. Organic HAP emissions must be less than 10 tons per year.

• Record the calculations and results and include them in your Notification of Compliance Status.

4. *Compliance Based on Using a Capture System and Add-on Control Device.* If you use a capture system and add-on control device on a web coating/printing operation, other than a solvent recovery system for which you conduct a liquid-liquid material balance, you must determine the capture and control efficiencies of the equipment or the oxidizer outlet organic HAP concentration. For the organic HAP emission rate limit, you also must determine the mass fraction of organic HAP and the mass fraction of solids in all materials applied during the initial compliance period. You are required to demonstrate either that the organic HAP OCE is greater than or equal to the applicable organic HAP OCE limit, that the oxidizer outlet organic HAP concentration is no greater than 20 ppmv on a dry basis and the efficiency of the capture system is 100 percent, or that the capture and control system reduces organic HAP emissions to a level no greater than the applicable emission rate limit in the final rule.

If you use a solvent recovery system for which you conduct a liquid-liquid material balance, you are required to demonstrate either that the organic HAP OCE determined by material balance during the initial compliance period is greater than or equal to the applicable organic HAP OCE limit or that the solvent recovery system reduces organic HAP emissions to a level no greater than the applicable emission rate limit.

The testing and initial compliance requirements associated with determining the OCE of the capture system and add-on control device are summarized in the following paragraphs.

If you use a capture system and add-on control device, other than a solvent recovery system for which you conduct material balances, you are required to conduct an initial performance test to determine the capture and control efficiencies of the equipment (or the capture efficiency of the capture system and the oxidizer outlet organic HAP concentration) and to establish operating limits to be achieved on a continuous basis. The performance test must be completed no later than 180 days after the compliance date for affected sources. If you are demonstrating compliance with the applicable emission rate limit with add-on controls, you must schedule the performance test in time to obtain the results for use in calculating your emission rate for the initial compliance period.

You must determine both the efficiency of the capture system and either the organic HAP emission reduction efficiency of the add-on control device or the outlet organic HAP concentration of the oxidizer. To determine the capture efficiency, you must either verify the presence of a permanent total enclosure (PTE) using EPA Method 204 of 40 CFR part 51, appendix M (and all materials must be applied and dried or cured within the enclosure); or use one of three protocols in the final rule to measure capture efficiency. If you have a PTE and all regulated materials are applied and dried or cured within the enclosure and you route all exhaust gases from the enclosure to an add-on control device, then you assume 100 percent capture. To demonstrate compliance with the oxidizer outlet organic HAP concentration limit, 100 percent capture is required.

To determine the organic HAP emission reduction efficiency of the add-on control device, you must conduct measurements of the inlet and outlet gas streams. Only the outlet gas stream must be measured to determine outlet organic HAP concentration. The performance test must consist of three runs, each run lasting 1 hour, using the following EPA Methods in 40 CFR part 60, appendix A:

• Method 1 or 1A for selection of the sampling sites.

• Method 2, 2A, 2C, 2D, 2F, or 2G to determine the gas volumetric flow rate.

• Method 3, 3A, or 3B for gas analysis to determine dry molecular weight. You may also use as an alternative to Method 3B, the manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas in ANSI/ASME PTC 19.10–1981.

• Method 4 to determine stack moisture.

• Method 25 or 25A to determine organic volatile matter concentration. You must use Method 25A to demonstrate compliance with the oxidizer outlet organic HAP concentration limit because the limit is less than 50 ppmw. Alternatively, any other test method or data that have been validated according to the applicable procedures in Method 301 of 40 CFR part 63, appendix A, and approved by the Administrator, could be used.

If you use a solvent recovery system, you may determine the OCE using a liquid-liquid material balance instead of conducting an initial performance test. If you use the material balance alternative, you are required to measure the amount of all regulated materials applied during the initial compliance period and determine the total volatile matter contained in these materials. You must also measure the amount of volatile matter recovered by the solvent recovery system during the compliance period. Then you must compare the amount recovered to the amount used to determine the OCE. You must record the calculations and results and include them in your Notification of Compliance Status.

Additional testing and initial compliance requirements associated with demonstrating compliance using the emission rate with add-on controls option are as follows:

• Determine the mass fraction of organic HAP in each coating, printing, thinning, and cleaning material applied and the mass fraction of solids in coating and printing materials applied during the initial compliance period, as described previously.

• Calculate the total mass of organic HAP in all regulated materials and total mass of solids for all coating and printing materials. You may subtract from the total mass of organic HAP the amount contained in waste materials you send to a hazardous waste treatment, storage, and disposal facility regulated under 40 CFR part 262, 264, 265, or 266.

• Calculate the organic HAP emissions reductions from the controlled web coating or printing operations using the capture and control efficiencies determined during the performance test or the materials balance for the compliance period and the total mass of organic HAP in regulated materials applied in controlled web coating and printing operations.

• Calculate the ratio of the total mass of organic HAP emissions to the total mass of solids for the regulated materials applied during the initial compliance period.

• Record the calculations and results and include them in your Notification of Compliance Status.

• Develop and implement a work practice plan to minimize emissions from storage, mixing, and handling of organic HAP-containing materials.

If you choose to comply with the organic HAP emission rate limit by using a capture system and add-on control device on a dyeing/finishing operation, other than a solvent recovery system for which you conduct a liquid-liquid material balance, you must

determine the capture and control efficiencies of the equipment. You also must determine the mass fraction of organic HAP and the mass of all dyeing and finishing materials applied during the initial compliance period. You are required to demonstrate that the capture and control system reduces organic HAP emissions to a level no greater than the applicable emission rate limit in the final rule.

If you use a solvent recovery system for which you conduct a liquid-liquid material balance, you are required to demonstrate that the solvent recovery system reduces organic HAP emissions to a level no greater than the applicable emission rate limit.

The testing and initial compliance requirements associated with determining the OCE of the capture system and add-on control device are summarized in the following paragraphs.

If you use a capture system and add-on control device, other than a solvent recovery system for which you conduct material balances, you are required to conduct an initial performance test to determine the capture and control efficiencies of the equipment and to establish operating limits to be achieved on a continuous basis. The performance test must be completed no later than 180 days after the compliance date for affected sources. To demonstrate compliance with the applicable emission rate limit with add-on controls, you must schedule the performance test in time to obtain the results for use in calculating your emission rate for the initial compliance period.

You must determine both the efficiency of the capture system and the organic HAP emission reduction efficiency of the add-on control device. To determine the capture efficiency, you must either verify the presence of a PTE using EPA Method 204 of 40 CFR part 51, appendix M (and all materials must be applied and dried or cured within the enclosure); or use one of three protocols in the final rule to measure capture efficiency. If you have a PTE and all dyeing and finishing materials are applied and dried or cured within the enclosure and you route all exhaust gases from the enclosure to an add-on control device, then you assume 100 percent capture.

To determine the organic HAP emission reduction efficiency of the add-on control device, you must conduct measurements of the inlet and outlet gas streams. The performance test will consist of three runs, each run lasting 1 hour, using the following EPA Methods in 40 CFR part 60, appendix A:

- Method 1 or 1A for selection of the sampling sites.
- Method 2, 2A, 2C, 2D, 2F, or 2G to determine the gas volumetric flow rate.
- Method 3, 3A, or 3B for gas analysis to determine dry molecular weight. You may also use as an alternative to Method 3B, the manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas in ANSI/ASME PTC 19.10–1981.
- Method 4 to determine stack moisture.
- Method 25 or 25A to determine organic volatile matter concentration. Alternatively, any other test method or data that have been validated according to the applicable procedures in Method 301 of 40 CFR part 63, appendix A, and approved by the Administrator, could be used.

If you use a solvent recovery system, you may determine the OCE using a liquid-liquid material balance instead of conducting an initial performance test. If you use the material balance alternative, you are required to measure the amount of all dyeing and finishing materials applied during the initial compliance period and determine the total volatile matter contained in these materials. You must also measure the amount of volatile matter recovered by the solvent recovery system during the compliance period. Then you must compare the amount recovered to the amount used to determine the OCE. You must record the calculations and results and include them in your Notification of Compliance Status.

Additional testing and initial compliance requirements associated with demonstrating compliance using the emission rate with add-on controls option are as follows:

- Determine the mass fraction of organic HAP in each dyeing and finishing material applied and the mass of each dyeing and finishing material applied during the initial compliance period, as described previously.
- Calculate the total mass of organic HAP in all dyeing and finishing materials. You may subtract from the total mass of organic HAP the amount contained in waste materials you send to a hazardous waste treatment, storage, and disposal facility regulated under 40 CFR part 262, 264, 265, or 266. You also may subtract from the total mass of organic HAP the amount demonstrated to be discharged to wastewater and not emitted to the atmosphere, in accordance with the final rule requirements.
- Calculate the organic HAP emissions reductions from the controlled dyeing or finishing operations using the capture and control efficiencies determined during the performance test or the materials balance for the compliance period and the total mass of organic HAP in dyeing and finishing materials applied in controlled dyeing and finishing operations.
- Calculate the ratio of the total mass of organic HAP emissions to the total mass of dyeing and finishing materials applied during the initial compliance period.
- Record the calculations and results and include them in your Notification of Compliance Status.
- Develop and implement a work practice plan to minimize emissions from storage, mixing, and handling of organic HAP-containing materials.

5. *Operating Limits.* As mentioned above, you must establish operating limits as part of the initial performance test of a capture system and add-on control device, other than a solvent recovery system for which you conduct liquid-liquid material balances. The operating limits are the minimum or maximum (as applicable) values achieved for capture systems and add-on control devices during the performance test, conducted under representative conditions, that demonstrated compliance with the emission limits.

The final rule specifies the parameters to monitor for the types of add-on control devices commonly used in the industry. You are required to install, calibrate, maintain, and continuously operate all monitoring equipment according to the manufacturer's specifications and ensure that the continuous parameter monitoring systems (CPMS) meet the requirements in the final rule. If you use add-on control devices other than those identified in the final rule, you must submit the operating parameters to be monitored to the Administrator for approval. The authority to approve the parameters to be monitored is retained by EPA and is not delegated to States.

If you use a thermal or catalytic oxidizer, you must continuously monitor the appropriate temperature and record it at least every 15 minutes. For thermal oxidizers, the temperature monitor is placed in the firebox or in the duct immediately downstream of the firebox before any substantial heat exchange occurs. The operating limit is the average temperature measured during the performance test, and for each consecutive 3-hour period the average temperature must be at or above this limit. For catalytic oxidizers, temperature monitors are placed at the nearest feasible point to the inlet and outlet of the catalyst bed. The operating

limits are the average temperature at the inlet to the catalyst bed and the average temperature difference across the catalyst bed during the performance test. For each 3-hour period, the average temperature and the average temperature difference must be at or above these limits. Alternatively, you are allowed to meet only the temperature limit at the inlet to the catalyst bed if you develop and implement an inspection and maintenance plan that includes periodic catalyst activity checks.

For each capture system you must conduct monitoring according to your monitoring plan, as described previously in this preamble.

6. Work Practices. If you use a capture system and add-on control device for compliance, you are required to develop and implement on an ongoing basis a work practice plan for minimizing organic HAP emissions to the atmosphere from storage, mixing, material handling, and waste handling operations. This plan must include a description of all steps taken to minimize emissions from these sources (*e.g.*, using closed storage containers, practices to minimize emissions during filling and transfer of contents from containers, using spill minimization techniques, placing solvent-laden cloths in closed containers immediately after use, etc.). You must make the plan available for inspection if the Administrator requests to see it.

7. *Operations During Startup, Shutdown, or Malfunction.* If you use a capture system and add-on control device for compliance, you are required to develop and operate according to a SSMP during periods of startup, shutdown, or malfunction of the capture system and add-on control device.

E. What Are the Continuous Compliance Provisions?

1. *Emission Limits.* If you demonstrate compliance with the emission limits for slashing based on the materials purchased (compliant material option), you will demonstrate continuous compliance if, for each compliance period, the organic HAP content of each slashing material purchased meets the emission limits. You will use manufacturer's data to demonstrate compliance each compliance period as you did for the initial compliance period.

If you demonstrate compliance with the emission limits for web coating and printing based on the materials applied, you will demonstrate continuous compliance if, for each compliance period, either you apply only coating and printing materials that meet the applicable emission limit and only non-organic HAP thinning and cleaning materials (compliant material option); or the ratio of total mass of organic HAP to total mass of solids in coating and printing materials applied is less than or equal to the emission limits (emission rate without add-on controls option). You follow the same procedures for calculating the organic HAP to coating and printing solids ratio that you used for the initial compliance period.

If you demonstrate compliance with the emission limits for dyeing and finishing based on the materials applied, you will demonstrate continuous compliance if, for each compliance period, either the organic HAP content of each dyeing and finishing material applied meets the applicable emission limit (compliant material option) or the total mass of organic HAP in all dyeing and finishing materials applied divided by the total mass of dyeing and finishing materials applied meets the applicable emission limit (emission rate without add-on controls option). You follow the same procedures for determining the mass of organic HAP in all materials applied during the compliance period that you used for the initial compliance period.

If you demonstrate compliance with the equivalent emission rate for dyeing and finishing, you will demonstrate continuous compliance, if for each 12-month compliance period, you operate within the operating scenarios for which wastewater streams were characterized during the initial compliance period, you document that affected wastewater streams were discharged to a POTW or treated onsite in a treatment system that includes at least secondary treatment with biological treatment processes, and organic HAP emissions from the dyeing/finishing affected source are less than 10 tons per year.

For each web coating or printing operation on which you use a capture system and add-on control device, other than solvent recovery for which you conduct a liquid-liquid material balance, the continuous parameter monitoring results for each compliance period will affect your compliance determination. If the monitoring results indicate no deviations from the operating limits and there were no bypasses of the add-on control device, you would assume the capture system and add-on control device are achieving the same emission reduction as they did during the performance test in which the operating limits were established. If you are demonstrating compliance with either the organic HAP OCE option or the emission rate with add-on controls option, you would then apply the OCE to the total mass of organic HAP in regulated materials applied in controlled web coating or printing operations to determine the mass of organic HAP emissions from those operations for the compliance period. If there were any deviations from the operating limits during the compliance period or any bypasses of the add-on control device, you must account for them in the calculation of the applicable emission rate by assuming the capture system and add-on control device were achieving zero emission reduction during the periods of deviation.

For each web coating and printing operation on which you use a solvent recovery system and conduct a liquid-liquid material balance each compliance period, you will use the liquid-liquid material balance to determine the emission rate. You will be required to measure the amount of all regulated materials applied during each compliance period and determine the volatile matter content of these materials. You will also measure the amount of volatile matter recovered by the solvent recovery system during the compliance period and calculate the weight percent of organic HAP applied that was emitted to determine compliance with the organic HAP OCE option. If you are complying with the emission rate with add-on controls option, you must apply the OCE to the total mass of organic HAP in the regulated materials applied to determine total organic HAP emissions as input to the compliance demonstration.

For each dyeing and finishing operation on which you use a capture system and add-on control device, other than solvent recovery for which you conduct a liquid-liquid material balance, to comply with the emission rate with add-on controls option, the continuous parameter monitoring results for each compliance period will affect your compliance determination. If the monitoring results indicate no deviations from the operating limits and there were no bypasses of the add-on control device, you will assume the capture system and add-on control device are achieving the same emission reduction as they did during the performance test in which the operating limits were established. You will then apply the OCE to the total mass of organic HAP in dyeing and finishing materials applied in controlled dyeing and finishing operations to determine the mass of organic HAP emissions from those operations for the compliance period. If there were any deviations from the operating limits during the compliance period or any bypasses of the add-on control device, you must

account for them in the calculation of the applicable emission rate by assuming the capture system and add-on control device were achieving zero emission reduction during the periods of deviation.

For each dyeing and finishing operation on which you use a solvent recovery system and conduct a liquid-liquid material balance each compliance period, you will use the liquid-liquid material balance to determine the emission rate. You will be required to measure the amount of all dyeing and finishing materials applied during each compliance period and determine the volatile matter content of these materials. You will also measure the amount of volatile matter recovered by the solvent recovery system during the compliance period and calculate the weight percent of organic HAP used that was emitted to determine the organic HAP OCE. You must apply the OCE to the total mass of organic HAP in the dyeing and finishing materials applied to determine total organic HAP emissions as input to the compliance demonstration.

2. *Operating Limits.* If you use an emission capture system and add-on control device, the final rule requires you to achieve on a continuous basis the operating limits you establish during the performance test. If the continuous monitoring shows that the capture system and/or add-on control device are operating outside the range of values established during the performance test, you have deviated from the established operating limits.

If you operate a capture system and add-on control device with bypass lines that could allow emissions to bypass the add-on control device, you must demonstrate that organic HAP emissions collected by the capture system are routed to the add-on control device by monitoring for potential bypass of the add-on control device. You may choose from the following four monitoring procedures:

- Flow control position indicator to provide a record of whether the exhaust stream is directed to the add-on control device;
- Car-seal or lock-and-key valve closures to secure the bypass line valve in the closed position when the add-on control device is operating;
- Valve closure continuous monitoring to ensure any bypass line valve or damper is closed when the add-on control device is operating; or
- Automatic shutdown system to stop the web coating/printing or dyeing/finishing operation when flow is diverted from the add-on control device.

A deviation has occurred for any period of time the bypass monitoring procedures indicate that emissions are not routed to the add-on control device.

3. *Work Practices.* If you use an emission capture system and add-on control device for compliance, you are required to implement on an ongoing basis the work practice plan you developed during the initial compliance period. If you did not develop a plan for reducing organic HAP emissions or you do not implement the plan, this would be a deviation from the work practice standard.

4. *Operations During Startup, Shutdown, and Malfunction.* If you use a capture system and add-on control device for compliance, you are required to develop and operate according to a SSMP during periods of startup, shutdown, and malfunction of the capture system and add-on control device.

F. What Are the Notification, Recordkeeping, and Reporting Requirements?

You are required to comply with the applicable requirements in subpart A of 40 CFR part 63, as described in the final rule. The General Provisions notification requirements include: initial notifications, notification of performance test if you are complying using a capture system and add-on control device, notification of compliance status, and additional notifications required for affected sources with continuous monitoring systems. The General Provisions also require certain records and periodic reports.

1. *Initial Notifications.* If you own or operate an existing affected source, you are required to send a notification to the EPA Regional Office in the Region where your affected source is located and to your State agency no later than June 2, 2004. For new and reconstructed sources, you must send the notification within 120 days after the date of initial startup or September 26, 2003, whichever is later. The report notifies us and your State agency that you have an existing affected source that is subject to the final standards, or that you have constructed a new affected source. Thus, it allows you and the permitting authority to plan for compliance activities. You also need to send a notification of planned construction or reconstruction of a source that would be subject to the final rule and apply for approval to construct or reconstruct.

2. *Notification of Performance Test.* If you demonstrate compliance by using a capture system and add-on control device for which you do not conduct a liquid-liquid material balance, you must conduct a performance test. The performance test is required within 180 days of the compliance date for an existing affected source. For a new or reconstructed affected source, the performance test would be required no later than 180 days after initial startup or November 25, 2003, whichever is later. You must notify us (or the delegated State or local agency) at least 60 calendar days before the performance test is scheduled to begin and submit a report of the performance test results no later than 60 days after the test.

3. *Notification of Compliance Status.* You must send us a Notification of Compliance Status within 30 days after the end of the initial compliance period. In the notification, you must certify whether each affected source has complied with the final standards, identify the option(s) you used to demonstrate initial compliance, summarize the data and calculations supporting the compliance demonstration, and provide information on any deviations from the emission limits, operating limits, or other requirements.

If you elect to comply by using a capture system and add-on control device for which you conduct performance tests, you must provide the results of the tests. Your notification must also include the measured range of each monitored parameter, the operating limits established during the performance test, and information showing whether the source has complied with its operating limits during the initial compliance period.

4. *Recordkeeping Requirements.* You are required to keep records of reported information and all other information necessary to document compliance with the final rule for 5 years. As required under the General Provisions, records for the 2 most recent years must be kept on-site; the other 3 years' records may be kept off-site. Records pertaining to the design and operation of the emission control and monitoring equipment must be kept for the life of the equipment. You need to keep all documentation supporting initial notifications and notifications of compliance status. If your affected source is complying with the slashing emission limits, you are required to keep purchase records of the organic HAP content of each slashing material.

Depending on the compliance option that you choose for your affected source complying with the dyeing and finishing or web coating and printing emission limits, you must keep records of the following:

• Organic HAP content, volatile matter content, coating and printing materials solids content, and quantity of the dyeing, finishing, coating, printing, thinning, and cleaning materials used during each compliance period.

• For the equivalent emission rate option for the dyeing and finishing subcategory, documentation that your dyeing/finishing affected source operated within the operating scenarios used to demonstrate initial compliance, affected wastewater streams were discharged to a POTW or treated onsite in a treatment system that includes at least secondary treatment with biological treatment processes, and organic HAP emissions from the affected source were less than 10 tpy.

• For the emission rate (with or without add-on controls) compliance options, calculations of your emission rate for each compliance period.

If your affected source is in the web coating and printing or the dyeing and finishing subcategory and you demonstrate compliance by using a capture system and add-on control device, you would also need to keep records of the following:

• All required measurements, calculations, and supporting documentation needed to demonstrate compliance with the standards.

• All results of performance tests and parameter monitoring.

• All information necessary to demonstrate conformance with your plan for minimizing emissions from mixing, storage, and waste handling operations.

• All information necessary to demonstrate conformance with the affected source's SSMP when the plan procedures are followed.

• The occurrence and duration of each startup, shutdown, or malfunction of the emission capture system and add-on control device.

• Actions taken during startup, shutdown, and malfunction that are different from the procedures specified in the affected source's SSMP.

• Each period during which a CPMS is malfunctioning or inoperative (including out-of-control periods).

The final rule requires you to collect and keep records according to certain minimum data requirements for the CPMS. Failure to collect and keep the specified minimum data is a deviation that is separate from any emission limits, operating limits, or work practice standards.

Deviations, as determined from these records, need to be recorded and also reported. A deviation is any instance when any requirement or obligation established by the final rule including, but not limited to, the emission limits, operating limits, and work practice standards, is not met.

If you use a capture system and add-on control device to reduce organic HAP emissions, you have to make your SSMP available for inspection if the Administrator requests to see it. The plan must stay in your records for the life of the affected source or until the source is no longer subject to the final standards. If you revise the plan, you need to keep the previous superseded versions on record for 5 years following the revision.

5. *Periodic Reports.* Each reporting year is divided into two semiannual reporting periods. If no deviations occur during a semiannual reporting period, you must submit a semiannual report stating that the affected source has been in continuous compliance. If deviations occur, you must include them in the report as follows:

• Report each deviation from the emission limit.

• Report each deviation from the work practice standards if you use an emission capture system and add-on control device.

• If you use an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances, report each deviation from an operating limit and each time a bypass line diverts emissions from the add-on control device to the atmosphere.

• Report other specific information on the periods of time the deviations occurred.

You also are required to include in each semiannual report an identification of the compliance option(s) you used for each affected source and any time periods when you changed to another compliance option.

6. *Other Reports.* You are required to submit reports for periods of startup, shutdown, or malfunction of the capture system and add-on control device. If the procedures you follow during any startup, shutdown, or malfunction are inconsistent with your SSMP, you must report those procedures with your semiannual reports in addition to immediate reports required by 40 CFR 63.10(d)(5)(ii).

IV. Summary of Environmental, Energy, and Economic Impacts

The final rule will affect an estimated 135 major sources that perform coating, printing, slashing, dyeing and finishing operations. The impacts are presented relative to a baseline reflecting the level of control prior to the final rule. Due to consolidation throughout the industry, there is expected to be little growth within the printing, coating and dyeing industry during the next 5 years. Only three new coating sources and no new printing, slashing, dyeing, or finishing sources are projected. For more information on how impacts were estimated, see the docket for the final rule.

A. What Are the Air Impacts?

We estimated that compliance with the emission limits in the final rule will result in reductions of nationwide organic HAP emissions of 4,100 tpy (3,700 Megagrams per year (Mg/yr)). This represents a reduction of 60 percent from the baseline organic HAP emissions of 6,800 tpy (6,200 Mg/yr). The primary air impacts by subcategory associated with implementation of the final rule are:

Subcategory	Emissions before NESHAP (tpy)	Emissions after NESHAP (tpy)	Emission reduction (tpy)	Percent reduction (%)
Web coating and Printing	5,570	2,390	3,180	57
Dyeing and Finishing	900	160	750	83
Slashing	350	170	170	50
Source Category Nationwide Total	6,820	2,720	4,100	60

B. What Are the Cost Impacts?

We have estimated the costs related to complying with the emission limitations and meeting the monitoring, recordkeeping, and reporting requirements. The costs to comply with the emission limitations include the costs of adding or upgrading emission control systems; the increased cost of compliant, low-formaldehyde permanent press finishes; and the cost of performance testing emission control systems. We have assumed for this analysis that all sources with affected slashing and dyeing operations will comply through the use of reformulated slashing, dyeing, thinning, and cleaning materials, and that these materials can be utilized without the need for capital expenditures. Annual costs for meeting the monitoring, recordkeeping, and reporting requirements of the final rule have also been included.

To comply with the final rule, web coating and printing affected sources that are not currently in compliance will likely use either upgraded existing emission control systems or new emission control systems. We estimated the capital and annual costs of carbon adsorbers, thermal oxidizers, catalytic oxidizers and coating rooms, using model plants based on information in our facility database. We examined the current level of control reported by each source in the database to determine control measures and associated model plant costs required to achieve compliance with the final rule's emission limits. Control costs estimated for the database sources were extrapolated to nationwide totals.

The dyeing and finishing compliance options are based on the use of low-organic HAP materials. Qualitative information concerning pollution prevention measures gathered from stakeholder meetings and site visits indicated that there would be substantial costs incurred in reducing the formaldehyde content of permanent press resins. We used information collected from a research and marketing company and textile chemical suppliers to estimate the incremental cost to produce finished fabric, using a compliant resin versus a formaldehyde resin. The incremental cost was applied to the quantity of fabric estimated to currently be finished with non-compliant formaldehyde resins.

Performance testing costs for coating and printing sources using add-on control systems to comply with the final rule include the labor hours required to conduct performance testing and monitoring on each emission capture system and add-on control device used and to develop the associated data elements for recordkeeping and reporting purposes. Recordkeeping and reporting includes all labor hours related to installing recordkeeping and reporting systems, developing SSMP, initial notification, compliance status notification, performance test notification, performance test report, materials usage tracking, training personnel, and monitoring deviations and SSMP reports and recordkeeping.

We estimate total capital costs to comply with the emission standards for the approximately 135 existing major sources to be $18.8 million, and nationwide annualized costs to be $14.5 million. These nationwide annualized costs include approximately $5.6 million associated with add-on control systems for web coating and printing operations, $7.5 million in costs associated with finishing material usage, and $1.4 million in monitoring, reporting, and recordkeeping costs.

The only new source costs will be for the three projected new coating sources. We have assumed that new coating sources will not install controls beyond those required for new source review, and these controls will meet the new source limit in the final rule. Therefore, we have assumed that these sources will not incur capital costs as a result of the final rule. The annual costs to comply with the monitoring, recordkeeping, and reporting requirements in the final rule for these new sources are estimated at $13,000.

C. What Are the Economic Impacts?

We prepared an economic impact analysis to evaluate the impacts the final rule would have on the producers and consumers of fabric and other textiles coating, printing, dyeing and finishing products, and society as a whole. The economic analysis determines total social costs, which take into account changes in behavior by producers, consumers, and foreign competitors of fabric products due to the imposition of compliance costs from the final rule.

Based on comments submitted by the industry, we modified our economic model to reflect strong international competition that may prevent domestic producers in the fabric finishing market from increasing prices. The model assumes that any change in domestic production in this market will be passed to foreign producers. The fabric coatings market is assumed to be able to increase prices to a minimal extent. Based on the estimated compliance costs of the final rule and the predicted changes in the coating and finishing markets, the estimated annualized social cost of the final rule is projected to be $14.5 million (2000 dollars).

It is projected that domestic producers in the fabric and textile industries will absorb $12.9 million out of the total social cost, while only $1.6 million will be passed through to consumers (in the fabric coatings market only). Domestic production in the fabric finishing market is predicted to decrease by 0.02 percent and, thus, transfer production to foreign producers, which represents an increase of 6.48 percent of total foreign production. With a minimal price increase in the fabric coatings market, domestic production is estimated to decrease by 0.08 percent, while foreign production is estimated to increase by 0.04 percent.

For new sources, it can be reasonably assumed that the investment decision to enter the coating, printing, dyeing and finishing industry may be slightly altered as a result of this final rule; however, other factors will weigh more heavily in this decision. For example, current economic trends have shown a continuous decline of the textile market as more manufacturing moves abroad. Only three new coating sources are projected to come online in the 5 years following promulgation of the final rule, and no additional printing, slashing, dyeing or fabric finishing sources are projected in the next 5 years. The three new coating sources that are projected to come online will incur a total of only $13,000 in annual costs to meet the requirements of the final rule.

Quantified economic impacts of the final rule on printed, dyed, and slashed fabric products were not calculated in the economic impact analysis because the compliance costs for the sources that produce these products are minimal and relate only to monitoring, recordkeeping, and reporting activities. Based on a qualitative analysis of the printing, dyeing, and slashing markets, we have determined that the impact on the prices and quantities of these products would be insignificant. For more information, refer to the "Economic Impact Analysis of the Final Textile Coating, Printing, Dyeing and Finishing NESHAP" in the docket for the final rule.

D. What Are the Non-Air Health, Environmental, and Energy Impacts?

Based on information from industry survey responses, we found no indication that the use of low-organic HAP content coating, printing, slashing, dyeing, finishing, thinning, and cleaning materials at existing sources will result in any increase or decrease in non-air health, environmental, and energy impacts. There will be no change

in the utility requirements associated with the use of these materials, so there will be no change in the amount of energy consumed as a result of the material conversion. Also, there will be no significant change in the amount of materials used or the amount of waste produced.

Non-air environmental and energy impacts will result from the installation of new and the upgrade of existing add-on controls by affected sources in the web coating and printing subcategory. Affected sources adding carbon adsorber systems will require increased cooling water usage for the condenser used to recover organic HAP from the regenerated carbon, and in certain situations for spray towers to cool the gas entering the carbon adsorber. The estimated increase in nationwide total cooling water usage will be 70.3 million gallons per year. The cooling water is assumed not to result in wastewater. There will be a small increase in water usage for steam to regenerate carbon. The steam used to regenerate carbon yields water requiring wastewater treatment. The estimated increase in nationwide total wastewater generation will be 3.8 million gallons per year.

Affected sources using existing catalytic oxidizers to comply with the final rule probably will be required to install larger volumes of catalysts and to replace the catalysts more frequently than current replacement cycles to maintain high performance levels, resulting in a small increase in solid waste generation. Similarly, affected sources that currently do not operate emission control systems and that install catalytic oxidizers to comply with the final rule will increase solid waste generation. Sometimes the spent catalyst is regenerated by the manufacturer for reuse. Activated carbon used in carbon adsorbers is returned to the manufacturer at the end of its useful life and converted to other salable products. Little solid waste impact is expected from this source.

Energy requirements for implementation of the compliance options for web coating and printing affected sources will include electricity to collect and treat ventilation air, electricity to light PTE, and natural gas to provide supplemental fuel for stable operation of oxidizers. The estimated increase in nationwide total electricity usage will be almost 2.8 million kilowatt hours per year, and the estimated nationwide total natural gas usage will increase by about 195 million standard cubic feet per year.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and, therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that the final rule is not a "significant regulatory action" under the terms of Executive Order 12866, and is therefore not subject to OMB review.

B. Paperwork Reduction Act

The information collection requirements in the final rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 2071.02) and a copy may be obtained from Susan Auby by mail at the Collection Strategies Division (2822T), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded off the Internet at *http://www.epa.gov/icr*. The information requirements are not enforceable until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. 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 Agency policies set forth in 40 CFR part 2, subpart B.

The final rule requires maintaining records of all coating, printing, slashing, dyeing, finishing, thinning, and cleaning materials data and calculations used to determine compliance. This information includes the amount (kg) used during each monthly compliance period, mass fraction organic HAP, and, for coating and printing materials only, mass fraction of solids.

If an add-on control device is used, records must be kept of the capture efficiency of the capture system, destruction or removal efficiency of the add-on control device, and the monitored operating parameters. In addition, records must be kept of each calculation of the affected sourcewide emissions for each compliance period and all data, calculations, test results, and other supporting information used to determine this value.

The annual public monitoring, recordkeeping, and reporting burden for this collection (averaged over the first 3 years after May 29, 2003 is estimated to total 213 labor hours per affected source at a total annual cost of $1.4 million. This estimate includes, for affected sources with existing or newly-installed add-on control systems, a one-time performance test and report (with repeat tests where needed), one-time submission of a SSMP with semiannual reports for any event when the procedures in the plan were not followed, semiannual compliance status reports, and recordkeeping. There are no capital/startup costs associated with the monitoring 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 rules are listed in 40 CFR part 9 and 48 CFR chapter 15. The OMB control number for the information collection requirements in this final rule will be listed in an amendment to 40 CFR part 9 in a subsequent **Federal Register** document after OMB approves the ICR.

C. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final rule. The EPA has also determined that the final rule will not have a significant economic impact on a substantial number of small entities. For the purposes of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) A small business according to Small Business Administration (SBA) size standards by NAICS code ranging from 500 to 1,000 employees; (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.

We applied the definition of a small business as provided by the SBA at 13 CFR 121, and classified by the NAICS. The firms owning sources directly affected by the final rule are generally classified by the NAICS codes 313210 (Broadwoven Fabric Mills), 313311 (Broadwoven Fabric Finishing Mills), 313320 (Fabric Coating Mills), and 313312 (Textile and Fabric Finishing (except Broadwoven Fabric) Mills).

The SBA defines small businesses in NAICS codes 313210, 313311, and 313320 as those with fewer than 1,000 employees (as described in (1) above). In NAICS code 313312, the SBA defines a small business as one with fewer than 500 employees. In the past several years, production in the textile manufacturing industry has become more capital intensive, thus utilizing smaller numbers of employees. This leads a substantial fraction of the companies in the fabric and other textiles coating, printing, finishing, dyeing, and slashing source category to be considered small businesses based on SBA's small business size standards.

After considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant impact on a substantial number of small entities. We have identified 40 small companies classified as owning coating operations by NAICS 313320. Of these 40 small coating companies, 22 (55 percent) are projected to face zero compliance costs. Fifteen (37.5 percent) face costs less than 1 percent of their sales, and two (5 percent) have cost-to-sales ratios between 1 and 3 percent. One (2.5 percent) of these companies has a cost-to-sales ratio that exceeds 3 percent (3.2 percent).

For the dyeing and finishing subcategory, the engineering analysis determined that at most five finishing businesses representing seven facilities, would face positive compliance costs in order to meet the requirements specified by the final rule. Of these five firms, we were able to identify one company as large. Therefore, four small businesses face compliance costs associated with the final rule.

We did not possess sufficient data to identify the five finishing facilities expected to face compliance costs, so the small business analysis for finishers consisted of a sensitivity analysis of cost-to-sales ratios using minimum, mean, median, and maximum estimated compliance costs for finishing facilities. Sales data were available for 58 percent of all small entities subject to the final rule. Using median compliance cost estimates for finishing sources, we found that three companies had cost-to-sales ratios between 1 and 3 percent and none had a cost-to-sales ratio exceeding 3 percent.

For the small and large companies that engage in dyeing and slashing, compliance costs are limited to monitoring, recordkeeping, and reporting costs. Based on a qualitative analysis, we conclude that the cost will be minimal.

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 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.

The EPA has determined that the 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 1 year. The maximum total annualized cost of the final rule for any year has been estimated to be $14.5 million. 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 the final 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. Therefore, today's final rule 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" 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."

The 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. It has been determined that the final rule does not have "federalism implications" because it does not meet the necessary criteria. Thus, Executive Order 13132 does not apply to the final rule. Although section 6 of Executive Order 13132 does not apply to the rule, EPA did consult with State and local officials to enable them to provide timely input in the development of the final 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." The final rule does not have tribal implications, as specified in Executive Order 13175. No tribal governments own or operate printing, coating, and dyeing affected sources. Thus, Executive Order 13175 does not apply to the final rule.

G. Executive Order 13045: Protection of Children From Environmental Health & 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.

The 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. The final rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks. Furthermore, the rule has been determined not to be "economically significant" as defined under Executive Order 12866.

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

The final rule 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 it is not a significant regulatory action under Executive Order 12866.

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, 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. The VCS are technical standards (*e.g.*, material 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.

This rulemaking involves technical standards. The EPA cites the following standards in this final rule: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 24, 25, 25A, 204, 204A through F, and 311. Consistent with the NTTAA, EPA conducted searches to identify VCS in addition to these EPA methods. No applicable VCS were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 204, 204A through F and 311. The search and review results have been documented and are placed in the docket (Docket ID No. OAR–2003–0014, formerly Docket No. A–97–51) for the final rule.

The VCS ANSI/ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses" [Part 10, Instruments and Apparatus]," is cited in this rule for its manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas. This part of ANSI/ASME PTC 19.10–1981, Part 10, is an acceptable alternative to Method 3B.

Six VCS: ASTM D1475–90, ASTM D2369–95, ASTM D3792–91, ASTM D4017–96a, ASTM D4457–85 (Reapproved 1991), and ASTM D5403–93 are already incorporated by reference (IBR) in EPA Method 24. Five VCS: ASTM D1979–91, ASTM D3432–89, ASTM D4747–87, ASTM D4827–93, and ASTM PS 9–94 are IBR in EPA Method 311.

The search for emissions measurement procedures identified 16 other VCS. The EPA has not adopted these standards as alternatives in the final rule. The use of these VCS would be impractical or inconsistent with applicable law due to lack of equivalency, detail, quality assurance/quality control requirements or because they are still under development. Our search and review results are available in the docket (Docket ID No. OAR–2003–0014, formerly Docket No. A–97–51).

J. 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. The EPA will submit a report containing the final 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 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). The rule will be effective May 29, 2003.

List of Subjects in 40 CFR Part 63

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

Dated: February 28, 2003.

Christine Todd Whitman,

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, *et seq.*

■ 2. Section § 63.14 is amended by revising paragraph (i)(3). The revision reads as follows:

§ 63.14 Incorporations by reference.

* * * * *

(i) * * *

(3) ANSI/ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]," IBR approved for §§ 63.865(b), 63.3360(e)(1)(iii), 63.4166(a)(3), § 63.4362(a)(3), § 63.4766(a)(3), 63.4965(a)(3), § 53.5160(d)(1)(iii), 63.9307(c)(2), and 63.9323(a)(3).

* * * * *

■ 3. Part 63 is amended by adding subpart OOOO to read as follows:

Subpart OOOO—National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles

What This Subpart Covers

Sec.
63.4280 What is the purpose of this subpart?
63.4281 Am I subject to this subpart?
63.4282 What parts of my plant does this subpart cover?
63.4283 When do I have to comply with this subpart?

Emission Limitations

63.4290 What emission limits must I meet?
63.4291 What are my options for meeting the emission limits?
63.4292 What operating limits must I meet?
63.4293 What work practice standards must I meet?

General Compliance Requirements

63.4300 What are my general requirements for complying with this subpart?
63.4301 What parts of the General Provisions apply to me?

Notifications, Reports, and Records

63.4310 What notifications must I submit?
63.4311 What reports must I submit?
63.4312 What records must I keep?
63.4313 In what form and for how long must I keep my records?

Compliance Requirements for the Compliant Material Option

63.4320 By what date must I conduct the initial compliance demonstration?
63.4321 How do I demonstrate initial compliance with the emission limitations?
63.4322 How do I demonstrate continuous compliance with the emission limitations?

Compliance Requirements for the Emission Rate Without Add-On Controls Option

63.4330 By what date must I conduct the initial compliance demonstration?
63.4331 How do I demonstrate initial compliance with the emission limitations?
63.4332 How do I demonstrate continuous compliance with the emission limitations?

Compliance Requirements for the Emission Rate With Add-On Controls Option

63.4340 By what date must I conduct performance tests and other initial compliance demonstrations?
63.4341 How do I demonstrate initial compliance?
63.4342 How do I demonstrate continuous compliance with the emission limitations?

Compliance Requirements for the Organic HAP Overall Control Efficiency and Oxidizer Outlet Organic HAP Concentration Options

63.4350 By what date must I conduct performance tests and other initial compliance demonstrations?
63.4351 How do I demonstrate initial compliance?
63.4352 How do I demonstrate continuous compliance with the emission limitations?

Performance Testing and Monitoring Requirements

63.4360 What are the general requirements for performance tests?
63.4361 How do I determine the emission capture system efficiency?
63.4362 How do I determine the add-on control device emission destruction or removal efficiency?
63.4363 How do I establish the add-on control device operating limits during the performance test?
63.4364 What are the requirements for CPMS installation, operation, and maintenance?

Other Requirements and Information

63.4370 Who implements and enforces this subpart?
63.4371 What definitions apply to this subpart?

Tables to Subpart OOOO of Part 63

Table 1 to Subpart OOOO of Part 63. Emission Limits for New or Reconstructed and Existing Affected Sources in the Printing, Coating, and Dyeing of Fabrics and Other Textiles Source Category
Table 2 to Subpart OOOO of Part 63. Operating Limits if Using Add-On Control Devices and Capture System
Table 3 to Subpart OOOO of Part 63. Applicability of General Provisions to Subpart OOOO
Table 4 to Subpart OOOO of Part 63. Default Organic HAP Mass Fraction for Solvents and Solvent Blends
Table 5 to Subpart OOOO of Part 63. Default Organic HAP Mass Fraction for Petroleum Solvent Groups

Subpart OOOO—National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles

What This Subpart Covers

§ 63.4280 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for fabric and other textiles printing, coating and dyeing operations. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations.

§ 63.4281 Am I subject to this subpart?

(a) Except as provided in paragraphs (c) and (d) of this section, the source category to which this subpart applies is the printing, coating, slashing, dyeing or finishing of fabric and other textiles, and it includes the subcategories listed in paragraphs (a)(1) through (3) of this section.

(1) The coating and printing subcategory includes any operation that coats or prints fabric or other textiles. Coating and printing operations are defined in § 63.4371. Coated and printed substrates are used in products including, but not limited to, architectural structures, apparel, flexible hoses, hot-air balloons, lightweight liners, luggage, military fabric, rainwear, sheets, tents, threads and V-belts. The coating and printing subcategory includes any fabric or other textile web coating line that also performs coating on another substrate unless such coating is specifically excluded from this subpart by another NESHAP in this part or is exempted from the requirements of this subpart based on the criteria in paragraph (e) of this section. Web coating lines exclusively dedicated to coating or printing fabric and other textiles are subject to this subpart.

(2) The slashing subcategory includes any operation with slashing operations as defined in § 63.4371. In the slashing process, sizing compounds are applied to warp yarn to bind the fiber together and stiffen the yarn to provide abrasion resistance during weaving.

(3) The dyeing and finishing subcategory includes any operation that dyes or finishes a fabric or other textiles. Dyeing and finishing operations are defined in § 63.4371. Dyed and finished textiles are used in a wide range of products including, but not limited to, apparel, carpets, high-performance industrial fabrics, luggage, military fabrics, outer wear, sheets, towels, and threads.

(b) You are subject to this subpart if you own or operate a new, reconstructed, or existing affected source, as defined in § 63.4282, that is a major source, is located at a major source, or is part of a major source of hazardous air pollutants (HAP). Major source is defined in § 63.2 of this part.

(c) This subpart does not apply to coating, printing, slashing, dyeing, or finishing operations that meet any of the

criteria of paragraphs (c)(1) through (5) of this section.

(1) Coating and printing, slashing, or dyeing and finishing operations conducted at a source that uses only regulated materials that contain no organic HAP as defined in § 63.4371.

(2) Coating, printing, slashing, dyeing, or finishing that occurs at research or laboratory operations or that is part of janitorial, building, and facility maintenance operations.

(3) Coating, printing, slashing, dyeing, or finishing operations used by a facility and not for commerce, unless organic HAP emissions from the coating, printing, slashing, dyeing or finishing operations are as high as the major source HAP emissions specified in paragraph (b) of this section.

(4) Fabric and other textile substrate web coating or printing operations conducted at ambient temperatures that do not involve drying or curing equipment such as ovens, tenter frames, steam cans, or dryers.

(5) Coating, printing, slashing, dyeing, or finishing operations performed on-site at installations owned or operated by the Armed Forces of the United States (including the Coast Guard and the National Guard of any State).

(d) Web coating lines specified in paragraphs (d)(1) through (3) of this section are not part of the affected source of this subpart.

(1) Any web coating operation that is part of the affected source of subpart JJJJ of this part (national emission standards for hazardous air pollutants for paper and other web coating). This would include any web coating line that coats both a paper and other web substrate and a fabric or other textile substrate for use in flexible packaging, pressure sensitive tape and abrasive materials, or any web coating line laminating a fabric substrate to paper.

(2) Any web coating operation that is part of the affected source of subpart XXXX of this part (NESHAP for tire manufacturing). This would include any web coating line that applies coatings to both tire cord and to textile cord used in the production of belts and hoses.

(3) Coating, slashing, dyeing, or finishing operations at a synthetic fiber manufacturing facility included in the affected source of another subpart of this part, such as subpart F (NESHAP for the synthetic organic chemical manufacturing industry) or subpart JJJ (NESHAP for group IV polymers and resins).

(e) Any web coating line that coats both fabric and other textiles, and another substrate such as paper, must comply with the subpart of this part that applies to the predominant activity conducted on the affected source. Predominant activity for this subpart is 90 percent of the mass of substrate coated during the compliance period. (For example, a web coating line that coats 90 percent or more of a paper substrate, and 10 percent or less of a fabric or other textile substrate, would be subject to 40 CFR 63, subpart JJJJ.)

§ 63.4282 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, and existing affected source within each of the three subcategories listed in § 63.4281(a).

(b) The affected source for the web coating and printing subcategory is the collection of all of the items listed in paragraphs (b)(1) through (5) of this section that are used in fabric and other textiles web coating and printing operations. The regulated materials for the web coating and printing subcategory are the coating, printing, thinning and cleaning materials used in the affected source.

(1) All web coating and printing equipment used to apply cleaning materials to a substrate on the coating or printing line to prepare it for coating or printing material application, to apply coating or printing materials to a substrate and to dry or cure the coating or printing materials, or equipment used to clean web coating/printing operation equipment;

(2) All containers used for storage and vessels used for mixing coating, printing, thinning, or cleaning materials;

(3) All equipment and containers used for conveying coating, printing, thinning, or cleaning materials;

(4) All containers used for storage, and all equipment and containers used for conveying waste materials generated by a coating or printing operation; and

(5) All equipment, structures, and/or devices(s) used to convey, treat, or dispose of wastewater streams or residuals generated by a coating or printing operation.

(c) The affected source for the slashing subcategory is the collection of all of the items listed in paragraphs (c)(1) through (5) of this section that are used in slashing operations. The regulated materials for the slashing subcategory are the slashing materials used in the affected source.

(1) All slashing equipment used to apply and dry size on warp yarn;

(2) All containers used for storage and vessels used for mixing slashing materials;

(3) All equipment and containers used for conveying slashing materials;

(4) All containers used for storage and all equipment and containers used for conveying waste materials generated by a slashing operation; and

(5) All equipment, structures, and/or devices(s) used to convey, treat, or dispose of wastewater streams or residuals generated by a slashing operation.

(d) The affected source for the dyeing and finishing subcategory is the collection of all of the items listed in paragraphs (d)(1) through (5) of this section that are used in dyeing and finishing operations. The regulated materials for the dyeing and finishing subcategory are the dyeing and finishing materials used in the affected source.

(1) All dyeing and finishing equipment used to apply dyeing or finishing materials, to fix dyeing materials to the substrate, to rinse the textile substrate, or to dry or cure the dyeing or finishing materials;

(2) All containers used for storage and vessels used for mixing dyeing or finishing materials;

(3) All equipment and containers used for conveying dyeing or finishing materials;

(4) All containers used for storage, and all equipment and containers used for conveying, waste materials generated by a dyeing or finishing operation; and

(5) All equipment, structures, and/or devices(s) used to convey, treat, or dispose of wastewater streams or residuals generated by a dyeing or finishing operation.

(e) An affected source is a new source if it meets the criteria in paragraph (e)(1) of this section and the criteria in either paragraph (e)(2) or (3) of this section.

(1) You commenced the construction of the source after July 11, 2002.

(2) The web coating and printing, slashing, or dyeing and finishing operation is performed at a source where no web coating and printing, slashing, or dyeing and finishing operation was previously performed.

(3) The web coating and printing, slashing, or dyeing and finishing operation is performed in a subcategory in which no web coating and printing, slashing, or dyeing and finishing operation was previously performed.

(f) An affected source is reconstructed if you meet the criteria as defined in § 63.2.

(g) An affected source is existing if it is not new or reconstructed.

§ 63.4283 When do I have to comply with this subpart?

The date by which you must comply with this subpart is called the compliance date. The compliance date for each type of affected source is specified in paragraphs (a) through (c) of this section. The compliance date begins

the initial compliance period during which you conduct the initial compliance demonstration described in §§ 63.4320, 63.4330, 63.4340, and 63.4350.

(a) For a new or reconstructed affected source, the compliance date is the applicable date in paragraph (a)(1) or (2) of this section:

(1) If the initial startup of your new or reconstructed affected source is before May 29, 2003, the compliance date is May 29, 2003.

(2) If the initial startup of your new or reconstructed affected source occurs after May 29, 2003, the compliance date is the date of initial startup of your affected source.

(b) For an existing affected source, the compliance date is the date 3 years after May 29, 2003.

(c) For an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP emissions, the compliance date is specified in paragraphs (c)(1) and (2) of this section.

(1) For any portion of the source that becomes a new or reconstructed affected source subject to this subpart, the compliance date is the date of initial startup of the affected source or May 29, 2003, whichever is later.

(2) For any portion of the source that becomes an existing affected source subject to this subpart, the compliance date is the date 1 year after the area source becomes a major source or 3 years after May 29, 2003, whichever is later.

(d) You must meet the notification requirements in § 63.4310 according to the dates specified in that section and in subpart A of this part. Some of the notifications must be submitted before the compliance dates described in paragraphs (a) through (c) of this section.

Emission Limitations

§ 63.4290 What emission limits must I meet?

You must meet the emission limit for the subcategory or subcategories present in your facility. The three subcategories are: Web coating and printing, slashing, and dyeing and finishing. Table 1 to this subpart presents the emission limits for a new or reconstructed affected source and for an existing affected source in each subcategory.

§ 63.4291 What are my options for meeting the emission limits?

You must include all regulated materials (as defined in § 63.4371) used in the affected source when determining whether the organic HAP emission rate is equal to or less than the applicable emission limit in Table 1 to this subpart. To make this determination, you must use at least one of the compliance options for the subcategory listed in paragraphs (a) through (c) of this section.

(a) *Web coating and printing.* You may apply any one of the compliance options in paragraphs (a)(1) through (5) of this section to an individual web coating/printing operation, or to multiple web coating/printing operations in the affected source as a group, or to the entire affected source in the web coating and printing subcategory. You may use different compliance options for different web coating/printing operations or at different times on the same web coating/printing operation. However, you may not use different compliance options at the same time on the same web coating/printing operation. If you switch between compliance options for any web coating/printing operation or group of operations, you must document this switch as required by § 63.4312(c), and you must report it in the next semiannual compliance report required in § 63.4311.

(1) *Compliant material option.* Demonstrate that the organic HAP content, as purchased, of each coating and printing material applied in the web coating/printing operation(s) is less than or equal to the applicable emission limit in Table 1 to this subpart, and that each thinning and cleaning material as purchased contains no organic HAP (as defined in § 63.4371). You must meet all the requirements of §§ 63.4320, 63.4321, and 63.4322 to demonstrate compliance with the applicable emission limit using this option.

(2) *Emission rate without add-on controls option.* Demonstrate that, based on the regulated materials applied in the web coating/printing operation(s), the organic HAP emission rate for the web coating/printing operation(s) is less than or equal to the applicable emission limit in Table 1 to this subpart, calculated as a rolling 12-month average emission rate. You must meet all the requirements of §§ 63.4330, 63.4331, and 63.4332 to demonstrate compliance with the applicable emission limit using this option.

(3) *Emission rate with add-on controls option.* Demonstrate that, based on the regulated materials applied in the web coating/printing operation(s) and the organic HAP emissions reductions achieved by emission capture systems and add-on controls, the organic HAP emission rate for the web coating/printing operation(s) is less than or equal to the applicable emission limit in Table 1 to this subpart, calculated as a rolling 12-month average emission rate. If you use this compliance option, you must also demonstrate that all capture systems and control devices for the web coating/printing operation(s) meet the operating limits required in § 63.4292, except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4341(e)(5), and that you meet the work practice standards required in § 63.4293. You must meet all the requirements of §§ 63.4340 through 63.4342 and 63.4360 through 63.4364 to demonstrate compliance with the emission limits, operating limits, and work practice standards using this option.

(4) *Organic HAP overall control efficiency option.* Demonstrate that, based on the organic HAP emission capture and add-on control efficiencies achieved, the organic HAP overall control efficiency is greater than or equal to the applicable organic HAP overall control efficiency limit in Table 1 to this subpart. If you use this compliance option, you must also demonstrate that all capture systems and control devices for the web coating/printing operation(s) meet the operating limits required in § 63.4292, except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4351(d)(5), and that you meet the work practice standards required in § 63.4293. You must meet all the requirements of §§ 63.4350 through 63.4352 and 63.4360 through 63.4364 to demonstrate compliance with the applicable emission limits, operating limits, and work practice standards using this option.

(5) *Oxidizer outlet organic HAP concentration limit.* If you use an oxidizer to control organic HAP emissions, demonstrate that the oxidizer is operated such that the outlet organic HAP concentration is no greater than 20 parts per million by volume (ppmv) on a dry basis, and that the efficiency of the capture system is 100 percent. If you use this compliance option, you must also demonstrate that all capture systems and oxidizers for the web coating/printing operation(s) meet the operating limits required in § 63.4292, and that you meet the work practice standards required in § 63.4293. You must meet all the requirements of §§ 63.4350 through 63.4352 and 63.4360 through 63.4364 to demonstrate compliance with the applicable emission limits, operating limits, and work practice standards using this option.

(b) *Slashing.* You must use the compliant material option to demonstrate that the mass fraction of organic HAP in each slashing material

as purchased for the slashing operation(s) is less than or equal to the applicable emission limit in Table 1 to this subpart. You must meet all the requirements of §§ 63.4320, 63.4321, and 63.4322 to demonstrate compliance with the applicable emission limit.

(c) *Dyeing and Finishing.* You may apply any one of the compliance options in paragraphs (c)(1) through (3) of this section to an individual dyeing/finishing operation, or to multiple dyeing/finishing operations in the affected source as a group, or to the entire affected source in the dyeing and finishing subcategory. You may use different compliance options for different dyeing/finishing operations or at different times on the same dyeing/finishing operation. However, you may not use different compliance options at the same time on the same dyeing/finishing operation. If you switch between compliance options for any dyeing/finishing operation or group of operations, you must document this switch as required by § 63.4312(c), and you must report it in the next semiannual compliance report required in § 63.4311. If you choose to apply the compliance option in paragraph (c)(4) to your dyeing/finishing operations, it must be applied to the entire affected source in the dyeing and finishing subcategory. You may not apply any of the compliance options in paragraphs (c)(1) through (3) of this section to any dyeing/finishing operation in the affected source if you use the equivalent emission rate limit in paragraph (c)(4) for your dyeing/finishing affected source.

(1) *Compliant material option.* Demonstrate that the mass fraction of organic HAP, as purchased, of each dyeing and finishing material applied in the dyeing/finishing operation(s) is less than or equal to the applicable emission limit in Table 1 to this subpart. You must meet all the requirements of §§ 63.4320, 63.4321, and 63.4322 to demonstrate compliance with the applicable emission limit using this option.

(2) *Emission rate without add-on controls option.* Demonstrate that, based on the dyeing and finishing materials applied in the dyeing/finishing operation(s), the organic HAP emission rate for the dyeing operation(s), the organic HAP emission rate for the finishing operation(s) or the combined organic HAP emission rate for dyeing and finishing is less than or equal to the applicable emission limit(s) in Table 1 to this subpart, calculated as a rolling 12-month average emission rate. You must meet all the requirements of §§ 63.4330, 63.4331, and 63.4332 to demonstrate compliance with the applicable emission limit(s) using this option.

(3) *Emission rate with add-on controls option.* Demonstrate that, based on the dyeing and finishing materials applied in the dyeing/finishing operation(s) and the organic HAP emissions reductions achieved by emission capture systems and add-on controls, the organic HAP emission rate for the dyeing/finishing operation(s) is less than or equal to the applicable emission limit in Table 1 to this subpart, calculated as a rolling 12-month average emission rate. If you use this compliance option, you must also demonstrate that all capture systems and control devices for the dyeing/finishing operation(s) meet the operating limits required in § 63.4292, except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4341(f)(5), and that you meet the work practice standards required in § 63.4293. You must meet all the requirements of §§ 63.4340 through 63.4342 and 63.4360 through 63.4364 to demonstrate compliance with the emission limits, operating limits, and work practice standards using this option.

(4) *Equivalent emission rate option.* Demonstrate that the dyeing and finishing affected source meets all the requirements of paragraphs (4)(i) through (iv) of this paragraph.

(i) The fraction of organic HAP applied in your dyeing/finishing affected source that is discharged to the wastewater is at least 90 percent, determined according to § 63.4331(d).

(ii) The wastewater is discharged to a POTW or onsite secondary wastewater treatment.

(iii) The total organic HAP emissions from your dyeing/finishing affected source are less than 10 tons per year, as calculated in Equation 4 of § 63.4331.

(iv) You must meet the applicable requirements of § 63.4330 and maintain records in accordance with § 63.4312(c)(2)(iv) to demonstrate compliance with the equivalent emission rate option.

§ 63.4292 What operating limits must I meet?

(a) For any web coating/printing operation, slashing operation, or dyeing/finishing operation on which you use the compliant material option; web coating/printing operation or dyeing/finishing operation on which you use the emission rate without add-on controls option; or dyeing/finishing affected source on which you use the equivalent emission rate limit option, you are not required to meet any operating limits.

(b) For any controlled web coating/printing operation or dyeing/finishing operation on which you use the emission rate with add-on controls option, or controlled web coating/printing operation on which you use the organic HAP overall control efficiency option or the oxidizer outlet organic HAP concentration option, except those web coating/printing operations for which you use a solvent recovery system and conduct a liquid-liquid material balance according to § 63.4341(e)(5) and those dyeing/finishing operations for which you use a solvent recovery system and conduct a liquid-liquid material balance according to § 63.4341(f)(5), you must meet the operating limits specified in Table 2 of this subpart. These operating limits apply to the emission capture and control systems on the web coating/printing operation(s) and dyeing/finishing operations for which you use this option, and you must establish the operating limits during the performance test according to the procedures in § 63.4363. You must meet the operating limits at all times after you establish them.

(c) If you use an add-on control device other than those listed in Table 2 of this subpart, or wish to monitor an alternative parameter and comply with a different operating limit, you must apply to the Administrator for approval of alternative monitoring under § 63.8(f).

§ 63.4293 What work practice standards must I meet?

(a) For any slashing operation, you are not required to meet any work practice standards. For any web coating/printing operation(s) or dyeing/finishing operation(s) on which you use the compliant material option or the emission rate without add-on controls option, you are not required to meet any work practice standards. For any dyeing/finishing affected source on which you use the equivalent emission rate option, you are not required to meet any work practice standards.

(b) If you use either the emission rate with add-on controls option, the organic HAP overall control efficiency option, or the oxidizer outlet organic HAP concentration option for a web coating/printing operation; or you use the emission rate with add-on controls option for a dyeing/finishing operation; you must develop and implement a work practice plan to minimize organic HAP emissions from the storage, mixing, and conveying of regulated materials used in, and waste materials generated by, the coating/printing or

dyeing/finishing operations for which you use this option; or you must meet an alternative standard as provided in paragraph (c) of this section. The plan must specify practices and procedures to ensure that, at a minimum, the elements specified in paragraphs (b)(1) through (5) of this section are implemented.

(1) All organic-HAP-containing regulated materials and waste materials must be stored in closed containers.

(2) Spills of organic-HAP-containing regulated materials, and waste materials must be minimized.

(3) Organic-HAP-containing regulated materials and waste materials must be conveyed from one location to another in closed containers or pipes.

(4) Mixing vessels which contain organic-HAP-containing regulated materials must be closed except when adding to, removing, or mixing the contents.

(5) Emissions of organic HAP must be minimized during cleaning of web coating/printing or dyeing/finishing storage, mixing, and conveying equipment.

(c) As provided in § 63.6(g), you may request approval from the Administrator to use an alternative to the work practice standards in this section.

General Compliance Requirements

§ 63.4300 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations in this subpart as specified in paragraphs (a)(1) through (4) of this section.

(1) Any web coating/printing, slashing, or dyeing/finishing operation(s) for which you use the compliant material option, as specified in § 63.4291(a)(1), (b), or (c)(1) must be in compliance with the applicable emission limit in Table 1 to this subpart at all times.

(2) Any web coating/printing or dyeing/finishing operation(s) for which you use the emission rate without add-on controls option, as specified in § 63.4291(a)(2) or (c)(2), must be in compliance with the applicable emission limit in Table 1 to this subpart for all compliance periods.

(3) Any web coating/printing or dyeing/finishing operation(s) for which you use the emission rate with add-on controls option, as specified in § 63.4291(a)(3) or (c)(3), and any web coating/printing operation(s) for which you use either the organic HAP overall control efficiency option, as specified in § 63.4291(a)(4), or the oxidizer outlet organic HAP concentration option, as specified in § 63.4291(a)(5), must be in compliance with the emission limitations as specified in paragraphs (a)(3)(i) through (iii) of this section.

(i) The web coating/printing or dyeing/finishing operation(s) must be in compliance with the applicable emission limit in Table 1 to this subpart or comply with the startup, shutdown, and malfunction plan at all times.

(ii) Each controlled web coating/printing or dyeing/finishing operation must be in compliance with the operating limits for emission capture systems and add-on control devices required by § 63.4292 for all averaging time periods except for solvent recovery systems for which you conduct liquid-liquid material balances according to §§ 63.4341(e)(5) or (f)(5) or 63.4351(d)(5).

(iii) Each controlled web coating/printing or dyeing/finishing operation must be in compliance with the work practice standards in § 63.4293 at all times.

(4) Any dyeing/finishing affected source for which you use the equivalent emission rate option, as specified in § 63.4291(c)(4), must operate within the operating scenarios, as defined in § 63.4371, for which you determined the fraction of organic HAP applied in your dyeing/finishing affected source that is discharged to wastewater according to § 63.4331(d) at all times.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) If your affected source uses an emission capture system and add-on control device, you must develop and implement a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3). The plan must address the startup, shutdown, and corrective actions in the event of a malfunction of the emission capture system or the add-on control device. The plan must also address any web coating/printing or dyeing/finishing operation equipment such as conveyors that move the substrate among enclosures that may cause increased emissions or that would affect capture efficiency if the process equipment malfunctions.

§ 63.4301 What parts of the General Provisions apply to me?

Table 3 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

Notifications, Reports, and Records

§ 63.4310 What notifications must I submit?

(a) You must submit the notifications in §§ 63.7(b) and (c), 63.8(f)(4), and 63.9(b) through (e) and (h) that apply to you by the dates specified in those sections, except as provided in paragraphs (b) and (c) of this section.

(b) *Initial Notification.* You must submit the Initial Notification required by § 63.9(b) for a new or reconstructed affected source no later than 120 days after initial startup or 120 days after May 29, 2003, whichever is later. For an existing affected source, you must submit the Initial Notification no later than 1 year after May 29, 2003.

(c) *Notification of Compliance Status.* You must submit the Notification of Compliance Status required by § 63.9(h) no later than 30 calendar days following the end of the initial compliance period described in §§ 63.4320, 63.4330, 63.4340, or 63.4350 that applies to your affected source. The Notification of Compliance Status must contain the information specified in paragraphs (c)(1) through (9) of this section and in § 63.9(h).

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of the report and beginning and ending dates of the reporting period. The reporting period is the initial compliance period described in §§ 63.4320, 63.4330, 63.4340, or 63.4350 that applies to your affected source.

(4) Identification of the compliance option or options specified in § 63.4291 that you used during the initial compliance period on each web coating/printing operation in each web coating/printing affected source, on each slashing operation in each slashing affected source, and on each dyeing/finishing operation in each dyeing/finishing affected source.

(5) Statement of whether or not the affected source achieved the emission limitations for the initial compliance period.

(6) If you had a deviation, include the information in paragraphs (c)(6)(i) and (ii) of this section.

(i) A description, and statement of the cause of, the deviation.

(ii) If you failed to meet the applicable emission limit in Table 1 to this subpart, include all the calculations you used to determine the kilogram (kg) organic HAP emitted per kg of solids applied in coating and printing material or the weight percent organic HAP compounds

in slashing, dyeing or finishing material to demonstrate your failure to meet the applicable emission limit. You do not need to submit information provided by the materials suppliers or manufacturers or test reports.

(7) For each of the data items listed in paragraphs (c)(7)(i) through (iii) of this section that is required by the compliance option(s) you used to demonstrate compliance with the emission limit, include an example of how you determined the value, including calculations and supporting data. Supporting data can include a copy of the information provided by the supplier or manufacturer of the example regulated material or a summary of the results of testing conducted according to § 63.4321(e)(1) or (2). You do not need to submit copies of any test reports.

(i) Mass fraction of organic HAP and mass fraction of solids for one coating or printing formulation including thinning materials, mass fraction of organic HAP for one cleaning material and mass fraction of organic HAP for all of the regulated materials as purchased used in one slashing operation or dyeing/ finishing operation.

(ii) Mass of coating or printing formulation used in web coating/ printing operation or of dyeing and finishing materials used in the dyeing/ finishing operation during the compliance period.

(iii) The amount of waste materials and the mass of organic HAP contained in the waste materials for which you are claiming an allowance in Equation 1 or 4 of § 63.4331.

(iv) The mass of organic HAP in the dyeing and finishing materials applied during the compliance period and the mass of organic HAP in wastewater discharged to a POTW or receiving onsite secondary treatment for which you are claiming an allowance in Equation 4 of § 63.4331.

(8) The calculation of kg organic HAP per kg of coating and printing solids applied and of kg organic HAP per kg of dyeing and finishing material as purchased for the compliance option(s) you use, as specified in paragraphs (c)(8)(i) through (vii) of this section.

(i) For the compliant material option as specified in § 63.4291(a)(1) for web coating/printing operations, provide an example calculation of the organic HAP content for one coating and one printing material, as appropriate, using Equation 1 of § 63.4321.

(ii) For the emission rate without add-on controls option as specified in § 63.4291(a)(2) for web coating/printing operations, provide the calculation of the total mass of organic HAP emissions; the calculation of the total mass of coating and printing solids applied; and the calculation of the organic HAP emission rate, using Equations 1, 2, and 3, respectively, of § 63.4331.

(iii) For the emission rate without add-on controls option as specified in § 63.4291(c)(2) for dyeing/finishing operations, provide the calculation of the total mass of organic HAP emissions; the calculation of the total mass of dyeing and finishing materials applied; and the calculation of the organic HAP emission rate, using Equations 4, 5, and 6, respectively, of § 63.4331.

(iv) For the emission rate with add-on controls option as specified in § 63.4291(a)(3) for web coating/printing operations, provide the calculation of the total mass of organic HAP emissions before add-on controls using Equation 1 of § 63.4331, and the calculation of the organic HAP emission rate using Equation 4 of § 63.4341.

(v) For the emission rate with add-on controls option as specified in § 63.4291(c)(3) for dyeing/finishing operations, provide the calculation of the mass of organic HAP emissions before add-on controls using Equation 4 of § 63.4331, and the calculation of the organic HAP emission rate using Equation 8 of § 63.4341.

(vi) For the organic HAP overall control efficiency option as specified in § 63.4291(a)(4), provide the calculation of the total mass of organic HAP emissions before add-on controls using Equation 1 of § 63.4331 and the calculation of the organic HAP overall control efficiency using Equation 1 of § 63.4351.

(vii) For the equivalent emission rate option as specified in § 63.4291(c)(4), provide the calculation of the fraction of organic HAP applied in affected processes that is discharged to wastewater according to § 63.4331(d), the calculation of the total organic HAP emissions from your dyeing/finishing affected source using Equation 4 of § 63.4331, and documentation that organic HAP containing wastewater is either discharged to a POTW or treated onsite in a treatment system that includes at least secondary treatment.

(9) For the emission rate with add-on controls option as specified in § 63.4291(a)(3) and (c)(3), the organic HAP overall control efficiency option as specified in § 63.4291(a)(4), and the oxidizer outlet organic HAP concentration option as specified in § 63.4291(a)(5), for each controlled web coating/printing or dyeing/finishing operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances according to §§ 63.4341(e)(5) or (f)(5) or 63.4351(d)(5), you must include the information specified in paragraphs (c)(9)(i) through (iv) of this section.

(i) For each emission capture system, a summary of the data and copies of the calculations supporting the determination that the emission capture system is a permanent total enclosure (PTE) or a measurement of the emission capture system efficiency. If you are demonstrating compliance with the oxidizer outlet organic HAP concentration option, the emission capture system must be a PTE. Include a description of the protocol followed for measuring capture efficiency, summaries of any capture efficiency tests conducted, and any calculations supporting the capture efficiency determination. If you use the data quality objective (DQO) or lower confidence limit (LCL) approach, you must also include the statistical calculations to show you meet the DQO or LCL criteria in appendix A to subpart KK of this part. You do not need to submit complete test reports.

(ii) A summary of the results of each add-on control device performance test. You do not need to submit complete test reports.

(iii) A list of each emission capture system's and add-on control device's operating limits and a summary of the data used to calculate those limits.

(iv) A statement of whether or not you developed and implemented the work practice plan required by § 63.4293 and the startup, shutdown and malfunction plan required by § 63.4300.

§ 63.4311 What reports must I submit?

(a) *Semiannual compliance reports.* You must submit semiannual compliance reports for each affected source according to the requirements of paragraphs (a)(1) through (8) of this section. The semiannual compliance reporting requirements of this section may be satisfied by reports required under other parts of the Clean Air Act (CAA), as specified in paragraph (a)(2) of this section.

(1) *Dates.* Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must prepare and submit each semiannual compliance report according to the dates specified in paragraphs (a)(1)(i) through (iv) of this section.

(i) The first semiannual compliance report must cover the first semiannual reporting period which begins the day after the end of the initial compliance period described in §§ 63.4320, 63.4330,

63.4340, or 63.4350 that applies to your affected source and ends on June 30 or December 31, whichever date is the first date at least 6 months after the end of the initial compliance period.

(ii) Each subsequent semiannual compliance report must cover the subsequent semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(iii) Each semiannual compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(iv) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the date specified in paragraph (a)(1)(iii) of this section.

(2) *Inclusion with title V report.* Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 40 CFR part 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If an affected source submits a semiannual compliance report pursuant to this section along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the semiannual compliance report includes all required information concerning deviations from any emission limitation in this subpart, its submission shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a semiannual compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permitting authority.

(3) *General requirements.* The semiannual compliance report must contain the information specified in paragraphs (a)(3)(i) through (v) of this section, and the information specified in paragraphs (a)(4) through (8) and (c)(1) of this section that is applicable to your affected source. If your affected source is a slashing operation(s), you are only required to report the information in paragraphs (a)(3)(i) through (iii) of this section and the information in paragraph (a)(4) or (a)(5) of this section, as applicable.

(i) Company name and address.

(ii) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(iii) Date of report and beginning and ending dates of the reporting period. The reporting period is the 6-month period ending on June 30 or December 31.

(iv) Identification of the compliance option or options specified in § 63.4291 that you used on each web coating/printing and dyeing/finishing operation during the reporting period. If you switched between compliance options during the reporting period, you must report the beginning and ending dates you used each option.

(v) If you used the emission rate without add-on controls, the emission rate with add-on controls, or the organic HAP overall control efficiency compliance option for web coating/printing operations (§ 63.4291(a)(2), (3), or (4)), or the emission rate without add-on controls or the emission rate with add-on controls compliance option for dyeing/finishing operations (§ 63.4291(c)(2) or (c)(3)), the calculation results for each compliance period ending each month during the 6-month reporting period.

(4) *No deviations.* If there were no deviations from the emission limitations in Table 1 to this subpart and §§ 63.4292, and 63.4293 that apply to you, the semiannual compliance report must include a statement that there were no deviations from the emission limitations during the reporting period. If you use the emission rate with add-on controls option, the organic HAP overall control efficiency option, or the oxidizer outlet organic HAP concentration option and there were no periods during which the continuous parameter monitoring systems (CPMS) were out-of-control as specified in § 63.8(c)(7), the semiannual compliance report must include a statement that there were no periods during which the CPMS were out-of-control during the reporting period.

(5) *Deviations: compliant material option.* If you use the compliant material option, and there was a deviation from the applicable organic HAP content requirements in Table 1 to this subpart, the semiannual compliance report must contain the information in paragraphs (a)(5)(i) through (iv) of this section.

(i) Identification of each coating, printing, slashing, dyeing or finishing material applied that deviated from the emission limit and each thinning or cleaning material applied in web coating/printing operations that contained organic HAP, and the dates and time periods each was applied.

(ii) The calculation of the organic HAP content using Equation 1 of § 63.4321 for each coating or printing material identified in paragraph (a)(5)(i) of this section. You do not need to submit background data supporting this calculation (*e.g.*, information provided by material suppliers or manufacturers, or test reports).

(iii) The determination of mass fraction of organic HAP for each regulated material identified in paragraph (a)(5)(i) of this section. You do not need to submit background data supporting this calculation (*e.g.*, information provided by material suppliers or manufacturers, or test reports).

(iv) A statement of the cause of each deviation.

(6) *Deviations: emission rate without add-on controls option.* If you use the emission rate without add-on controls option and there was a deviation from the applicable emission limit in Table 1 to this subpart, the semiannual compliance report must contain the information in paragraphs (a)(6)(i) through (iii) of this section.

(i) The beginning and ending dates of each compliance period during which the organic HAP emission rate exceeded the applicable emission limit in Table 1 to this subpart.

(ii) The calculations used to determine the organic HAP emission rate for the compliance period in which the deviation occurred. You must submit the calculations for Equations 1, 1A and 1B, 2, and 3 in § 63.4331 for web coating/printing operations; and for Equations 4, 4A, 5, and 6 in § 63.4331 for dyeing/finishing operations; and if applicable, the calculation used to determine mass of organic HAP in waste materials according to § 63.4331(a)(4)(iii) or (b)(3)(ii); and, for dyeing/finishing operations, if applicable, the mass of organic HAP in wastewater streams calculation for Equation 7 in § 63.4331. You do not need to submit background data supporting these calculations (*e.g.*, information provided by materials suppliers or manufacturers, or test reports).

(iii) A statement of the cause of each deviation.

(7) *Deviations: add-on controls options.* If you use one of the add-on controls options in § 63.4291(a) or (c) and there was a deviation from an emission limitation (including any periods when emissions bypassed the

add-on control device and were diverted to the atmosphere), the semiannual compliance report must contain the information in paragraphs (a)(7)(i) through (xv) of this section. This includes periods of startup, shutdown, and malfunction during which deviations occurred.

(i) The beginning and ending dates of each compliance period during which the organic HAP emission rate exceeded the applicable emission limit in Table 1 to this subpart.

(ii) If you use the emission rate option, the calculations used to determine the organic HAP emission rate for each compliance period in which a deviation occurred. You must submit the calculations that apply to you, including Equations 1, 1A, 1B, and 2 of § 63.4331 and Equations 1, 1A, 1B, 1C, 2, 3, 3A and 3B and 4 of § 63.4341 for web coating/printing operations; and Equations 4, 4A, 5, and 7 of § 63.4331 and Equations 5, 5A, 5B, 6, 7, and 8 of § 63.4341 for dyeing/finishing operations. You do not need to submit the background data supporting these calculations (*e.g.*, information provided by materials suppliers or manufacturers, or test reports).

(iii) If you use the organic HAP overall control efficiency option, the calculations used to determine the organic HAP overall control efficiency for each compliance period in which a deviation occurred. You must submit the calculations that apply to you, including Equations 1, 1A, and 1B of § 63.4331; Equations 1, 1A, 1B, 1C, 2, 3, 3A, and 3B of § 63.4341; and Equation 1 of § 63.4351. You do not need to submit the background data supporting these calculations (*e.g.*, test reports).

(iv) The date and time that each malfunction started and stopped.

(v) A brief description of the CPMS.

(vi) The date of the latest CPMS certification or audit.

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

(viii) The date, time, and duration that each CPMS was out-of-control, including the information in § 63.8(c)(8).

(ix) The date and time period of each deviation from an operating limit in Table 2 to this subpart, date and time period of any bypass of the add-on control device, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(x) A summary of the total duration of each deviation from an operating limit in Table 2 to this subpart and each bypass of the add-on control device during the semiannual reporting period and the total duration as a percent of the total source operating time during that semiannual reporting period.

(xi) A breakdown of the total duration of the deviations from the operating limits in Table 2 to this subpart and bypasses of the add-on control device during the semiannual reporting period into those that were due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(xii) A summary of the total duration of CPMS downtime during the semiannual reporting period and the total duration of CPMS downtime as a percent of the total source operating time during that semiannual reporting period.

(xiii) A description of any changes in the CPMS, web coating/printing or dyeing/finishing operation, emission capture system, or add-on control device since the last semiannual reporting period.

(xiv) For each deviation from the work practice standards, a description of the deviation, the date and time period duration of the deviation, and the actions you took to correct the deviation.

(xv) A statement of the cause of each deviation.

(8) *Deviations: Equivalent Emission Rate Option.* If you use the equivalent emission rate option, and there was a deviation from the operating scenarios, as defined in § 63.4371, used to demonstrate initial compliance, the semiannual compliance report must contain the information in paragraphs (a)(i) through (iv) of this section.

(i) The beginning and ending dates of each compliance period during which the deviation occurred.

(ii) If the deviation consisted of failure to treat the organic HAP containing wastewater by a biological treatment process, an explanation of the deviation, the duration of the deviation, and the determination of the mass of organic HAP that was discharged in the wastewater that was not treated by a biological treatment process.

(iii) The determination of the fraction of organic HAP applied in your dyeing/finishing affected source that is discharged to the wastewater according to § 63.4331(d).

(iv) The calculation of the total organic HAP emissions from your dyeing/finishing affected source using Equation 4 of § 63.4331.

(b) *Performance test reports.* If you use one of the add-on control options in § 63.4291(a) or (c), you must submit reports of performance test results for emission capture systems and add-on control devices no later than 60 days after completing the tests as specified in § 63.10(d)(2).

(c) *Startup, shutdown, malfunction reports.* If you use one of the add-on control options in § 63.4291(a) or (c) and you have a startup, shutdown, or malfunction during the semiannual reporting period, you must submit the reports specified in paragraphs (c)(1) and (2) of this section.

(1) If your actions were consistent with your startup, shutdown, and malfunction plan, you must include the information specified in § 63.10(d) in the semiannual compliance report.

(2) If your actions were not consistent with your startup, shutdown, and malfunction plan, you must submit an immediate startup, shutdown, and malfunction report as described in paragraphs (c)(2)(i) and (ii) of this section as required by paragraph (a) of this section.

(i) You must describe the actions taken during the event in a report delivered by facsimile, telephone, or other means to the Administrator within 2 working days after starting actions that are inconsistent with the plan.

(ii) You must submit a letter to the Administrator within 7 working days after the end of the event, unless you have made alternative arrangements with the Administrator as specified in § 63.10(d)(5)(ii). The letter must contain the information specified in § 63.10(d)(5)(ii).

§ 63.4312 What records must I keep?

You must collect and keep a record of the data and information specified in this section. Failure to collect and keep these records is a deviation from the applicable standard.

(a) A copy of each notification and report that you submitted to comply with this subpart, and the documentation supporting each notification and report.

(b) A current copy of information provided by materials suppliers or manufacturers, such as manufacturer's formulation data or test data used to determine the mass fraction of organic HAP for coating, printing, slashing, dyeing, finishing, thinning, and cleaning materials; and the mass fraction of solids for coating and printing materials. If you conducted testing to determine mass fraction of organic HAP of coating materials or the mass fraction of solids of coating materials, you must keep a copy of the complete test report. If you use information provided to you by the manufacturer or supplier of the material that was based on testing, you must keep the summary sheet of results provided to you by the manufacturer or

supplier. You are not required to obtain the test report or other supporting documentation from the manufacturer or supplier.

(c) For each compliance period, the records specified in paragraph (c)(1) of this section for web coating/printing operations and the records specified in paragraph (c)(2) of this section for dyeing/finishing operations.

(1) A record of the web coating/printing operations on which you used each compliance option and the time periods (beginning and ending dates) you used each option. For each month, a record of all required calculations for the compliance option(s) you used, as specified in paragraphs (c)(1)(i) through (iv) of this section.

(i) For the compliant material option, a record of the calculation of the organic HAP content, as purchased, for each coating and printing material applied, using Equation 1 of § 63.4321.

(ii) For the emission rate without add-on controls option, a record of the calculation of the total mass of organic HAP emissions for the coating, printing, thinning and cleaning materials applied each compliance period using Equations 1, 1A, and 1B of § 63.4331 and, if applicable, the calculation used to determine the mass of organic HAP in waste materials according to § 63.4331(a)(4)(iii); the calculation of the total mass of the solids contained in all coating and printing materials applied each compliance period using Equation 2 of § 63.4331; and the calculation of the organic HAP emission rate for each compliance period using Equation 3 of § 63.4331.

(iii) For the emission rate with add-on controls option, a record of the calculation of the total mass of organic HAP emissions before add-on controls for the coating, printing, thinning and cleaning materials applied each compliance period using Equations 1, 1A, and 1B of § 63.4331 and, if applicable, the calculation used to determine the mass of organic HAP in waste materials according to § 63.4331(a)(4)(iii); the calculation of the total mass of the solids contained in all coating and printing materials applied each compliance period using Equation 2 of § 63.4331; the calculation of the mass of organic HAP emission reduction by emission capture systems and add-on control devices using Equations 1, 1A, 1B, and 1C of § 63.4341 and Equations 2, 3, 3A, and 3B of § 63.4341, as applicable; and the calculation of the organic HAP emission rate for each compliance period using Equation 4 of § 63.4341.

(iv) For the organic HAP overall control efficiency option or the oxidizer outlet organic HAP concentration option, the records specified in paragraph (j) of this section.

(2) A record of the dyeing/finishing operations on which you used each compliance option and the time periods (beginning and ending dates) you used each option. For each month, a record of all required calculations for the compliance option(s) you used, as specified in paragraphs (c)(2)(i) through (iv) of this section.

(i) For the compliant material option, a purchase record of the mass fraction of organic HAP for each dyeing, and finishing material applied, according to § 63.4321(e)(1)(iv).

(ii) For the emission rate without add-on controls option, the calculation for the total mass of organic HAP emissions for the dyeing and finishing materials applied each compliance period using Equations 4 and 4A of § 63.4331 and, if applicable, the calculations used to determine the mass of organic HAP in waste materials according to § 63.4331(b)(3)(ii) and the mass of organic HAP contained in wastewater discharged to a POTW or treated onsite prior to discharge according to § 63.4331(b)(3)(iii); the calculation of the total mass of dyeing and finishing materials applied each compliance period using Equation 5 of § 63.4331; and the calculation of the organic HAP emission rate for each compliance period using Equation 6 of § 63.4331.

(iii) For the emission rate with add-on controls option, a record of the calculation of the total mass of organic HAP emissions before add-on controls for the dyeing and finishing materials applied each compliance period using Equations 4 and 4A of § 63.4331 and, if applicable, the calculation used to determine the mass of organic HAP in waste materials according to § 63.4331(b)(3)(ii) and the determination of the mass of organic HAP contained in wastewater discharged to a POTW or treated onsite prior to discharge according to § 63.4331(b)(3)(iii); the calculation of the total mass of dyeing and finishing materials applied each compliance period using Equation 5 of § 63.4331; the calculation of the mass of organic HAP emission reduction by emission capture systems and add-on control devices using Equations 5, 5A, and 5B of § 63.4341 and Equations 6, 7, and 7A of § 63.4341, as applicable; and the calculation of the organic HAP emission rate for each compliance period using Equation 8 of § 63.4341.

(iv) For the equivalent emission rate option, a record that your dyeing/finishing affected source operated within the operating scenarios used to demonstrate initial compliance, documentation that affected wastewater was either discharged to a POTW or to onsite secondary treatment, and the calculation of the total organic HAP emissions from your dyeing/finishing affected source for each compliance period using Equation 4 of § 63.4331.

(d) A record of the name and mass of each regulated material applied in the web coating and printing subcategory and the dyeing and finishing subcategory during each compliance period. If you are using the compliant material option for all regulated materials at the source, you may maintain purchase records for each material used rather than a record of the mass used.

(e) A record of the mass fraction of organic HAP for each regulated material applied during each compliance period.

(f) A record of the mass fraction of coating and printing solids for each coating and printing material applied during each compliance period.

(g) If you use an allowance in Equation 1 or 4 of § 63.4331 for organic HAP contained in waste materials sent to, or designated for shipment to, a treatment, storage, and disposal facility (TSDF) according to § 63.4331(a)(4)(iii) or (b)(3)(ii), you must keep records of the information specified in paragraphs (g)(1) through (3) of this section.

(1) The name and address of each TSDF to which you sent waste materials for which you used an allowance in Equation 1 or 4 of § 63.4331, a statement of which subparts under 40 CFR parts 262, 264, 265, and 266 apply to the facility, and the date of each shipment.

(2) Identification of the web coating/printing or dyeing/finishing operations producing waste materials included in each shipment and the compliance period(s) in which you used the allowance for these materials in Equation 1 or 4, respectively, of § 63.4331.

(3) The methodology used in accordance with § 63.4331(a)(3)(iii) or (b)(4)(ii) to determine the total amount of waste materials sent to or the amount collected, stored, and designated for transport to a TSDF each compliance period; and the methodology to determine the mass of organic HAP contained in these waste materials. This must include the sources for all data used in the determination, methods used to generate the data, frequency of testing or monitoring, and supporting calculations and documentation, including the waste manifest for each shipment.

(h) If you use an allowance in Equation 4 of § 63.4331 for organic HAP contained in wastewater discharged to a POTW or treated onsite prior to

discharge according to § 63.4331(c), you must keep records of the information specified in paragraphs (h)(1) and (2) of this section.

(1) Documentation that the wastewater was either discharged to a POTW or onsite secondary wastewater treatment.

(2) Calculation of the allowance, WW, using the fraction of organic HAP applied in affected processes that is discharged to the wastewater determined from the most recent performance test and the mass of organic HAP in the dyeing and finishing materials applied during the compliance period, A, calculated in Equation 4 of § 63.4331.

(i) You must keep records of the date, time, and duration of each deviation.

(j) If you use the emission rate with add-on controls option, the organic HAP overall control efficiency option, or the oxidizer outlet organic HAP concentration option, you must keep the records specified in paragraphs (j)(1) through (8) of this section.

(1) For each deviation, a record of whether the deviation occurred during a period of startup, shutdown, or malfunction.

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(3) The records required to show continuous compliance with each operating limit specified in Table 2 to this subpart that applies to you.

(4) For each capture system that is a PTE, the data and documentation you used to support a determination that the capture system meets the criteria in Method 204 of appendix M to 40 CFR part 51 for a PTE and has a capture efficiency of 100 percent, as specified in § 63.4361(a).

(5) For each capture system that is not a PTE, the data and documentation you used to determine capture efficiency according to the requirements specified in §§ 63.4360 and 63.4361(b) through (e) including the records specified in paragraphs (j)(5)(i) through (iii) of this section that apply to you.

(i) *Records for a liquid-to-fugitive protocol using a temporary total enclosure or building enclosure.* Records of the mass of total volatile hydrocarbon (TVH) as measured by Method 204A or F of appendix M to 40 CFR part 51 for each regulated material applied in the web coating/printing or dyeing/finishing operation, and the total TVH for all materials applied during each capture efficiency test run, including a copy of the test report. Records of the mass of TVH emissions not captured by the capture system that exited the temporary total enclosure or building enclosure during each capture efficiency test run, as measured by Method 204D or E of appendix M to 40 CFR part 51, including a copy of the test report. Records documenting that the enclosure used for the capture efficiency test met the criteria in Method 204 of appendix M to 40 CFR part 51 for either a temporary total enclosure or a building enclosure.

(ii) *Records for a gas-to-gas protocol using a temporary total enclosure or a building enclosure.* Records of the mass of TVH emissions captured by the emission capture system as measured by Method 204B or C of appendix M to 40 CFR part 51 at the inlet to the add-on control device, including a copy of the test report. Records of the mass of TVH emissions not captured by the capture system that exited the temporary total enclosure or building enclosure during each capture efficiency test run as measured by Method 204D or E of appendix M to 40 CFR part 51, including a copy of the test report. Records documenting that the enclosure used for the capture efficiency test met the criteria in Method 204 of appendix M to 40 CFR part 51 for either a temporary total enclosure or a building enclosure.

(iii) *Records for an alternative protocol.* Records needed to document a capture efficiency determination using an alternative method or protocol as specified in § 63.4361(e), if applicable.

(6) The records specified in paragraphs (j)(6)(i) and (ii) of this section for each add-on control device organic HAP destruction or removal efficiency determination or oxidizer outlet organic HAP concentration determination as specified in § 63.4362.

(i) Records of each add-on control device performance test conducted according to §§ 63.4360 and 63.4362.

(ii) Records of the web coating/printing or dyeing/finishing operation conditions during the add-on control device performance test showing that the performance test was conducted under representative operating conditions.

(7) Records of the data and calculations you used to establish the emission capture and add-on control device operating limits as specified in § 63.4363 and to document compliance with the operating limits as specified in Table 2 to this subpart.

(8) A record of the work practice plan required by § 63.4293 and documentation that you are implementing the plan on a continuous basis.

§ 63.4313 In what form and for how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1). Where appropriate, the records may be maintained as electronic spreadsheets or as a database.

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You may keep the records off site for the remaining 3 years.

Compliance Requirements for the Compliant Material Option

§ 63.4320 By what date must I conduct the initial compliance demonstration?

You must complete the compliance demonstration for the initial compliance period according to the requirements in § 63.4321. The initial compliance period begins on the applicable compliance date specified in § 63.4283 and ends on the last day of the first full month after the compliance date. The initial compliance demonstration includes the calculations according to § 63.4321 and supporting documentation showing that, during the initial compliance period, the organic HAP content of each coating and printing material you applied and the mass fraction of organic HAP in each slashing, dyeing, and finishing material you applied did not exceed the applicable limit in Table 1 to this subpart, and documentation that in web coating/printing operations you applied only thinners and cleaners that contained no organic HAP as defined in § 63.4371.

§ 63.4321 How do I demonstrate initial compliance with the emission limitations?

(a) You may use the compliant material option for any individual web coating/printing operation, for any group of web coating/printing operations in the affected source, or for all the web coating/printing operations in the affected source. You must use either the emission rate without add-on controls option, the emission rate with add-on controls option, the organic HAP overall control efficiency option, or the oxidizer outlet organic HAP concentration option for any web coating/printing operation(s) in the affected source for which you do not use this option. For a web coating/printing affected source to demonstrate initial compliance using the compliant

material option, the web coating/printing operation or group of web coating/printing operations must apply no coating or printing material with an organic HAP content that exceeds the applicable emission limit in Table 1 to this subpart and must apply only thinning or cleaning material that contains no organic HAP, as defined in § 63.4371.

(b) You must use the compliant material option for each slashing affected source, as required in Table 1 to this subpart. For a slashing affected source to demonstrate initial compliance using the compliant material option, the slashing operation or group of slashing operations must apply only slashing material with no organic HAP as defined in § 63.4371.

(c) You may use the compliant material option for any individual dyeing/finishing operation, for any group of dyeing/finishing operations in the affected source, or for all the dyeing/finishing operations in the affected source. You must use either the emission rate without add-on controls option or the emission rate with add-on controls option for any dyeing/finishing operations in the affected source for which you do not use this option. You may not use the compliant material option for any dyeing/finishing operation in a dyeing/finishing affected source for which you use the equivalent emission rate option. For a dyeing/finishing affected source to demonstrate initial compliance using the compliant material option, the dyeing/finishing operation or group of dyeing/finishing operations must apply no dyeing or finishing material with a mass fraction of organic HAP that exceeds the applicable emission limit in Table 1 to this subpart.

(d) Any web coating/printing operation, slashing operation, or dyeing/finishing operation for which you use the compliant material option is not required to meet the operating limits or work practice standards required in §§ 63.4292 and 63.4293, respectively.

(e) To demonstrate initial compliance with the emission limitations using the compliant material option, you must meet all the requirements of this section for any web coating/printing operation, slashing operation, or dyeing/finishing operation using this option. Use the applicable procedures in this section on each regulated material in the condition it is in when it is received from its manufacturer or supplier and prior to any alteration. You do not need to redetermine the organic HAP content of regulated materials that are reclaimed onsite and reused in the web coating/printing operation, slashing operation, or dyeing/finishing operation for which you use the compliant material option, provided these regulated materials in their condition as received were demonstrated to comply with the compliant material option.

(1) *Determine the mass fraction of organic HAP for each material.* You must determine the mass fraction of organic HAP for each regulated material applied during the compliance period by using one of the options in paragraphs (e)(1)(i) through (v) of this section. You must use the option in paragraph (e)(1)(iv) of this section for each printing, slashing, dyeing, or finishing material applied during the compliance period.

(i) *Method 311 (appendix A to 40 CFR part 63).* You may use Method 311 for determining the mass fraction of organic HAP. Use the procedures specified in paragraphs (e)(1)(i)(A) and (B) of this section when performing a Method 311 test.

(A) Count each organic HAP that is measured to be present at 0.1 percent by mass or more for Occupational Safety and Health Administration (OSHA)-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and at 1.0 percent by mass or more for other compounds. For example, if toluene (not an OSHA carcinogen) is measured to be 0.5 percent of the material by mass, you don't have to count it. Express the mass fraction of each organic HAP you count as a value truncated to no more than four places after the decimal point (*e.g.*, 0.3791).

(B) Calculate the total mass fraction of organic HAP in the regulated material being tested by adding up the individual organic HAP mass fractions and truncating the result to no more than three places after the decimal point (*e.g.*, 0.763).

(ii) *Method 24 (appendix A to 40 CFR part 60).* You may use Method 24 to determine the mass fraction of nonaqueous volatile matter and use that value as a substitute for mass fraction of organic HAP. For a multi-component coating with reactive chemicals, you may use Method 24 on the coating as applied to determine the mass fraction of nonaqueous volatile matter and use that value as a substitute for the mass fraction of organic HAP determined from the sum of organic HAP in each component.

(iii) *Alternative method.* You may use an alternative test method for determining the mass fraction of organic HAP, mass fraction of solids, or fraction of organic HAP emitted from a reactive coating once the Administrator has approved it. You must follow the procedure in § 63.7(f) to submit an alternative test method for approval.

(iv) *Information from the supplier or manufacturer of the material.* You may rely on information other than that generated by the test methods specified in paragraphs (e)(1)(i) through (iii) of this section, such as manufacturer's formulation data, if it represents each organic HAP that is present at 0.1 percent by mass or more for OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and at 1.0 percent by mass or more for other compounds. For example, if toluene (not an OSHA carcinogen) is 0.5 percent of the material by mass, you do not have to count it. If there is a disagreement between such information and results of a test conducted according to paragraphs (e)(1)(i) through (iii) of this section on coating, thinning, or cleaning material, then the test method results will take precedence. Information from the supplier or manufacturer of the printing, slashing, dyeing, or finishing material is sufficient for determining the mass fraction of organic HAP.

(v) *Solvent blends.* Solvent blends may be listed as single components for some materials in data provided by manufacturers or suppliers. Solvent blends may contain organic HAP which must be counted toward the total organic HAP mass fraction of the materials. When test data and manufacturer's data for solvent blends are not available, you may use the default values for the mass fraction of organic HAP in these solvent blends listed in Table 4 or 5 to this subpart. If you use the tables, you must use the values in Table 4 for all solvent blends that match Table 4 entries, and you may only use Table 5 if the solvent blends in the materials you use do not match any of the solvent blends in Table 4 and you only know whether the blend is aliphatic or aromatic. However, if the results of a Method 311 test indicate higher values than those listed on Table 4 or 5 to this subpart, the Method 311 results will take precedence.

(2) *Determine the mass fraction of solids for each coating and printing material.* You must determine the mass fraction of solids (kg of solids per kg of coating or printing material) for each coating material applied during the compliance period by a test or by information provided by the supplier or the manufacturer of the material, as specified in paragraphs (e)(2)(i) through (iii) of this section. If test results obtained according to paragraph (e)(2)(i) or (ii) of this section for a coating material do not agree with the information obtained under paragraph (e)(2)(iii) of this section, the test results

will take precedence. To determine mass fraction of solids for each printing material applied during the compliance period, you should use information provided by the supplier or manufacturer of the material, as specified in paragraph (e)(2)(iii) of this section.

(i) *Method 24 (appendix A to 40 CFR part 60).* You may use Method 24 for determining the mass fraction of solids of coating materials.

(ii) *Alternative method.* You may use an alternative test method for determining solids content of each coating material once the Administrator has approved it. You must follow the procedure in § 63.7(f) to submit an alternative test method for approval.

(iii) *Information from the supplier or manufacturer of the material.* You may obtain the mass fraction of solids for each coating and printing material from the supplier or manufacturer. If there is disagreement between such information and the test method results for a coating material, then the test method results will take precedence.

(3) *Calculate the organic HAP content of each coating or printing material.* Calculate the organic HAP content, kg organic HAP per kg of solids, of each coating and printing material applied during the compliance period, using Equation 1 of this section:

$$H_c = (W_c)/(W_f) \qquad \text{(Eq. 1)}$$

Where:

H_c = Organic HAP content of the coating or printing material, kg organic HAP per kg solids in the coating or printing material.

W_c = Mass fraction of organic HAP in the coating or printing material, kg organic HAP per kg material, determined according to paragraph (e)(1) of this section.

W_f = Mass fraction of solids in coating or printing material, kg solids per kg of coating or printing material, determined according to paragraph (e)(2) of this section.

(4) *Compliance demonstration.* The calculated organic HAP content for each coating and printing material applied during the initial compliance period must be less than or equal to the applicable emission limit in Table 1 to this subpart, and each thinning and cleaning material applied during the initial compliance period must contain no organic HAP as defined in § 63.4371. Each slashing material applied during the initial compliance period must contain no organic HAP as defined in § 63.4371. The mass fraction of organic HAP for each dyeing and finishing material applied during the initial compliance period, determined according to paragraph (e)(1)(iv) of this section, must be less than or equal to the applicable emission limit in Table 1 to this subpart. You must keep all records required by §§ 63.4312 and 63.4313. As part of the Notification of Compliance Status required in § 63.4310, you must:

(i) Identify any web coating/printing operation, slashing operation, and dyeing/finishing operation for which you used the compliant material option;

(ii) Submit a statement that the web coating/printing operation(s) was (were) in compliance with the emission limitations during the initial compliance period because you applied no coating and printing material for which the organic HAP content exceeds the applicable emission limit in Table 1 to this subpart, and you applied only thinning materials and cleaning materials that contained no organic HAP, as defined in § 63.4371;

(iii) Submit a statement that the slashing operation(s) was (were) in compliance with the emission limitations during the initial compliance period because you applied only slashing materials that contained no organic HAP, as defined in § 63.4371; and

(iv) Submit a statement that the dyeing/finishing operation(s) was (were) in compliance with the emission limitations during the initial compliance period because you applied no dyeing and finishing material for which the mass fraction of organic HAP exceeds the applicable emission limit in Table 1 to this subpart.

§ 63.4322 How do I demonstrate continuous compliance with the emission limitations?

(a) For each compliance period, to demonstrate continuous compliance, you must apply no coating or printing material for which the organic HAP content determined using Equation 1 of § 63.4321, exceeds the applicable emission limit in Table 1 to this subpart. For each compliance period, to demonstrate continuous compliance, you must apply only slashing material that contains no organic HAP as defined in § 63.4371. For each compliance period, to demonstrate continuous compliance, you must apply no dyeing or finishing material for which the mass fraction of organic HAP, determined according to the requirements of § 63.4321(e)(1)(iv), exceeds the applicable emission limit in Table 1 to this subpart. For each compliance period, you must apply only thinning or cleaning materials that contain no organic HAP (as defined in § 63.4371) in a coating/printing affected source. Each month following the initial compliance period described in § 63.4320 is a compliance period.

(b) If you choose to comply with the emission limitations by using the compliant material option, the application of any regulated material that does not meet the criteria specified in paragraph (a) of this section is a deviation from the emission limitations that must be reported as specified in §§ 63.4310(c)(6) and 63.4311(a)(5).

(c) As part of each semiannual compliance report required by § 63.4311, you must identify any web coating/printing operation, slashing operation, or dyeing/finishing operation for which you used the compliant material option. If there were no deviations from the applicable emission limit in Table 1 to this subpart, submit a statement that, as appropriate, the web coating/printing operations were in compliance with the emission limitations during the reporting period because you applied no coating or printing material for which the organic HAP content exceeded the applicable emission limit in Table 1 to this subpart, and you applied only thinning and cleaning materials that contained no organic HAP (as defined in § 63.4371) in a web coating/printing affected source; the slashing operations were in compliance with the emission limitations during the reporting period because you applied only slashing materials with no organic HAP (as defined in § 63.4371) in a slashing affected source; and the dyeing/finishing operations were in compliance with the emission limitations during the reporting period because you applied no dyeing or finishing material for which the mass fraction of organic HAP exceeded the applicable emission limit in Table 1 to this subpart.

(d) You must maintain records as specified in §§ 63.4312 and 63.4313.

Compliance Requirements for the Emission Rate Without Add-On Controls Option

§ 63.4330 By what date must I conduct the initial compliance demonstration?

You must complete the compliance demonstration for the initial compliance period according to the requirements of § 63.4331. The initial compliance period begins on the applicable compliance date specified in § 63.4283 and ends on the last day of the 12th full month after the compliance date. The initial compliance demonstration includes the calculations according to § 63.4331 and supporting documentation showing that for web coating/printing operations, the organic HAP emission rate for the initial

compliance period was equal to or less than the applicable emission limit in Table 1 to this subpart and for dyeing/finishing operations, the mass fraction of organic HAP for the initial compliance period was less than or equal to the applicable emission limit in Table 1 to this subpart.

§ 63.4331 How do I demonstrate initial compliance with the emission limitations?

(a) For web coating/printing operations, you may use the emission rate without add-on controls option for any individual web coating/printing operation, for any group of web coating/printing operations in the affected source, or for all the web coating/printing operations as a group in the affected source. You must use either the compliant material option, the emission rate with add-on controls option, the organic HAP overall control efficiency option, or the oxidizer outlet organic HAP concentration option for any web coating/printing operation in the affected source for which you do not use this option. To demonstrate initial compliance using the emission rate without add-on controls option, the web coating/printing operation or group of web coating/printing operations must meet the applicable emission limit in Table 1 to this subpart but is not required to meet the operating limits or work practice standards in §§ 63.4292 and 63.4293, respectively. You must meet all the requirements of paragraphs (a)(1) through (7) of this section to demonstrate initial compliance with the applicable emission limit in Table 1 to this subpart for the web coating/printing operation(s). When calculating the organic HAP emission rate according to this section, do not include any coating, printing, thinning, or cleaning materials applied on web coating/printing operations for which you use the compliant material option, the emission rate with add-on controls option, the organic HAP overall control efficiency option, or the oxidizer outlet organic HAP concentration option. Use the procedures in this section on each regulated material in the condition it is in when it is received from its manufacturer or supplier and prior to any alteration.

(1) *Determine the mass fraction of organic HAP for each material.* Determine the mass fraction of organic HAP for each coating, printing, thinning, and cleaning material applied during the compliance period according to the requirements in § 63.4321(e)(1).

(2) *Determine the mass fraction of solids for each material.* Determine the mass fraction of solids (kg of solids per kg of coating or printing material) for each coating and printing material applied during the compliance period according to the requirements in § 63.4321(e)(2).

(3) *Determine the mass of each material.* Determine the mass (kg) of each coating, printing, thinning, or cleaning material applied during the compliance period by measurement or usage records.

(4) *Calculate the mass of organic HAP emissions.* The mass of organic HAP emissions is the combined mass of organic HAP contained in all coating, printing, thinning, and cleaning materials applied during the compliance period minus the organic HAP in certain waste materials. Calculate the mass of organic HAP emissions using Equation 1 of this section:

$$H_e = A + B - R_w \qquad \text{(Eq. 1)}$$

Where:

H_e = Mass of organic HAP emissions during the compliance period, kg.

A = Total mass of organic HAP in the coating and printing materials applied during the compliance period, kg, as calculated in Equation 1A of this section.

B = Total mass of organic HAP in the thinning and cleaning materials applied during the compliance period, kg, as calculated in Equation 1B of this section.

R_w = Total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste TSDF for treatment or disposal during the compliance period, kg, determined according to paragraph (a)(4)(iii) of this section. (You may assign a value of zero to R_w if you do not wish to use this allowance.)

(i) Calculate the kg organic HAP in the coating and printing materials applied during the compliance period using Equation 1A of this section:

$$A = \sum_{i=1}^{m} \left(M_{c,i}\right)\left(W_{c,i}\right) \qquad \text{(Eq. 1A)}$$

Where:

A = Total mass of organic HAP in the coating and printing materials applied during the compliance period, kg.

$M_{c,i}$ = Total mass of coating or printing material, i, applied during the compliance period, kg.

$W_{c,i}$ = Mass fraction of organic HAP in coating or printing material, i, kg organic HAP per kg of material.

m = Number of different coating and printing, materials applied during the compliance period.

(ii) Calculate the kg of organic HAP in the thinning and cleaning materials applied during the compliance period using Equation 1B of this section:

$$B = \sum_{j=1}^{n} \left(M_{t,j}\right)\left(W_{t,j}\right) \qquad \text{(Eq. 1B)}$$

Where:

B = Total mass of organic HAP in the thinning and cleaning materials applied during the compliance period, kg.

$M_{t,j}$ = Total mass of thinning or cleaning material, j, applied during the compliance period, kg.

$W_{t,j}$ = Mass fraction of organic HAP in thinning or cleaning material, j, kg organic HAP per kg thinning or cleaning material.

n = Number of different thinning and cleaning materials applied during the compliance period.

(iii) If you choose to account for the mass of organic HAP contained in waste materials sent or designated for shipment to a hazardous waste TSDF in Equation 1 of this section, then you must determine it according to paragraphs (a)(4)(iii)(A) through (D) of this section.

(A) You may include in the determination only waste materials that are generated by web coating/printing operations in the affected source for which you use Equation 1 of this section and that will be treated or disposed of by a facility that is regulated as a TSDF under 40 CFR part 262, 264, 265, or 266. The TSDF may be either off-site or on-site. You may not include organic HAP contained in wastewater.

(B) You must determine either the amount of the waste materials sent to a TSDF during the compliance period or the amount collected and stored during the compliance period designated for future transport to a TSDF. Do not include in your determination any waste materials sent to a TSDF during a compliance period if you have already included them in the amount collected and stored during that compliance period or a previous compliance period.

(C) Determine the total mass of organic HAP contained in the waste materials specified in paragraph (a)(4)(iii)(B) of this section.

(D) You must document the methodology you use to determine the amount of waste materials and the total mass of organic HAP they contain, as required in § 63.4312(g). To the extent that waste manifests include this, they may be used as part of the documentation of the amount of waste materials and mass of organic HAP contained in them.

(5) *Calculate the total mass of coating and printing solids.* Determine the total

mass of coating and printing solids applied, kg, which is the combined mass of the solids contained in all the coating and printing materials applied during the compliance period, using Equation 2 of this section:

$$H_t = \sum_{i=1}^{m} (M_{c,i})(W_{f,i}) \quad \text{(Eq. 2)}$$

Where:

H_t = Total mass of solids contained in coating and printing materials applied during the compliance period, kg.

$M_{c,i}$ = Mass of coating or printing material, i, applied during the compliance period, kg.

$W_{f,i}$ = mass fraction of solids in coating or printing material, i, applied during the compliance period, kg solids per kg of coating or printing material.

m = Number of coating and printing materials applied during the compliance period.

(6) Calculate the organic HAP emission rate for the compliance period, kg organic HAP emitted per kg solids used, using Equation 3 of this section:

$$H_{yr} = \frac{H_e}{H_t} \quad \text{(Eq. 3)}$$

Where:

H_{yr} = Organic HAP emission rate for the compliance period, kg of organic HAP emitted per kg of solids in coating and printing materials applied.

H_e = Total mass organic HAP emissions from all coating, printing, thinning, and cleaning materials applied during the compliance period, kg, as calculated by Equation 1 of this section.

H_t = Total mass of coating and printing solids in materials applied during the compliance period, kg, as calculated by Equation 2 of this section.

(7) *Compliance demonstration.* The organic HAP emission rate for the initial compliance period must be less than or equal to the applicable emission limit in Table 1 to this subpart. You must keep all records as required by §§ 63.4312 and 63.4313. As part of the Notification of Compliance Status required by § 63.4310, you must identify the web coating/printing operation(s) for which you used the emission rate without add-on controls option and submit a statement that the web coating/printing operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the organic HAP emission rate was less than, or equal to, the applicable emission limit in Table 1 to this subpart.

(b) For dyeing and finishing operations, you may use the emission rate without add-on controls option for any individual dyeing/finishing operation, for any group of dyeing/finishing operations in the affected source, or for dyeing/finishing operations as a group in the affected source. You must use either the compliant material option or the emission rate with add-on controls option for any dyeing/finishing operation in the affected source for which you do not use this option. You may not use the emission rate without add-on controls option for any dyeing/finishing operation in a dyeing/finishing affected source for which you use the equivalent emission rate option. To demonstrate initial compliance using the emission rate without add-on controls option, the dyeing/finishing operation or group of operations must meet the applicable emission limit in Table 1 to this subpart but is not required to meet the operating limits or work practice standards in §§ 63.4292 and 63.4293, respectively. You must meet all the requirements of paragraphs (b)(1) through (6) of this section to demonstrate initial compliance with the applicable emission limit in Table 1 to this subpart for the dyeing/finishing operation(s). When calculating the organic HAP emission rate according to this section, do not include any dyeing and finishing materials applied on dyeing/finishing operations for which you use the compliant material option or the emission rate with add-on controls option. Use the procedures in this section on each regulated material in the condition it is in when it is received from its manufacturer or supplier and prior to any alteration. Water added in mixing at the affected source is not a regulated material and should not be included in the determination of the total mass of dyeing and finishing materials applied during the compliance period, using Equation 5 of this section.

(1) *Determine the mass fraction of organic HAP for each material.* Determine the mass fraction of organic HAP for each dyeing and finishing material applied during the compliance period according to the requirements in § 63.4321(e)(1)(iv).

(2) *Determine the mass of each material.* Determine the mass (kg) of each dyeing and finishing material applied during the compliance period by measurement or usage records.

(3) *Calculate the mass of organic HAP emissions.* The mass of organic HAP emissions is the combined mass of organic HAP contained in all dyeing and finishing materials applied during the compliance period minus the organic HAP in certain waste materials and wastewater streams. Calculate the mass of organic HAP emissions using Equation 4 of this section:

$$H_e = A - R_w - WW \quad \text{(Eq. 4)}$$

Where:

H_e = Mass of organic HAP emissions during the compliance period, kg.

A = Total mass of organic HAP in the dyeing and finishing materials applied during the compliance period, kg, as calculated in Equation 4A of this section.

R_w = Total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste TSDF for treatment or disposal during the compliance period, kg, determined according to paragraph (b)(3)(ii) of this section. (You may assign a value of zero to R_w if you do not wish to use this allowance.)

WW = Total mass of organic HAP in wastewater discharged to a POTW or receiving onsite secondary treatment during the compliance period, kg, determined according to paragraph (b)(3)(iii) of this section. (You may assign a value of zero to WW if you do not wish to use this allowance.)

(i) Calculate the kg organic HAP in the dyeing and finishing materials applied during the compliance period using Equation 4A of this section:

$$A = \sum_{i=1}^{m} (M_{c,i})(W_{c,i}) \quad \text{(Eq. 4A)}$$

Where:

A = Total mass of organic HAP in the dyeing and finishing materials applied during the compliance period, kg.

$M_{c,i}$ = Mass of dyeing or finishing material, i, applied during the compliance period, kg.

$W_{c,i}$ = Mass fraction of organic HAP in dyeing or finishing material, i, kg organic HAP per kg of material.

m = Number of dyeing and finishing materials applied during the compliance period.

(ii) If you choose to account for the mass of organic HAP contained in waste materials sent or designated for shipment to a hazardous waste TSDF in Equation 4 of this section, then you must determine it according to paragraphs (b)(3)(ii)(A) through (D) of this section.

(A) You may include in the determination only waste materials that are generated by dyeing/finishing

operations in the affected source for which you use Equation 4 of this section and that will be treated or disposed of by a facility that is regulated as a TSDF under 40 CFR part 262, 264, 265, or 266. The TSDF may be either off-site or on-site. You may not include organic HAP contained in wastewater.

(B) You must determine either the amount of the waste materials sent to a TSDF during the compliance period or the amount collected and stored during the compliance period designated for future transport to a TSDF. Do not include in your determination any waste materials sent to a TSDF during a compliance period if you have already included them in the amount collected and stored during that compliance period or a previous compliance period.

(C) Determine the total mass of organic HAP contained in the waste materials specified in paragraph (b)(3)(ii)(B) of this section.

(D) You must document the methodology you use to determine the amount of waste materials and the total mass of organic HAP they contain, as required in § 63.4312(g). To the extent that waste manifests include this, they may be used as part of the documentation of the amount of waste materials and mass of organic HAP contained in them.

(iii) If you choose to account for the mass of organic HAP contained in wastewater discharged to a POTW or treated onsite prior to discharge in Equation 4 of this section, then you must determine it according to paragraph (c) of this section.

(4) *Calculate the total mass of dyeing and finishing materials.* Determine the total mass of dyeing and finishing materials applied, kg, which is the combined mass of all the dyeing and finishing materials applied during the compliance period, using Equation 5 of this section:

$$M_t = \sum_{i=1}^{m} \left(M_{c,i} \right) \qquad \text{(Eq. 5)}$$

Where:

M_t = Total mass of dyeing and finishing materials applied during the compliance period, kg.

$M_{c,i}$ = Mass of dyeing or finishing material, i, applied during the compliance period, kg.

m = Number of dyeing and finishing materials applied during the compliance period.

(5) Calculate the organic HAP emission rate, kg organic HAP emitted per kg dyeing and finishing material applied, using Equation 6 of this section:

$$H_{yr} = \frac{H_e}{M_t} \qquad \text{(Eq. 6)}$$

Where:

H_{yr} = The organic HAP emission rate for the compliance period, kg of organic HAP emitted per kg of dyeing and finishing materials.

H_e = Total mass of organic HAP emissions during the compliance period, kg, as calculated by Equation 4 of this section.

M_t = Total mass of dyeing and finishing materials applied during the compliance period, kg, as calculated by Equation 5 of this section.

(6) *Compliance demonstration.* The organic HAP emission rate for the initial compliance period must be less than or equal to the applicable emission limit in Table 1 to this subpart. You must keep all records as required by §§ 63.4312 and 63.4313. As part of the Notification of Compliance Status required by § 63.4310, you must identify the dyeing/finishing operation(s) for which you used the emission rate without add-on controls option and submit a statement that the dyeing/finishing operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the organic HAP emission rate was less than or equal to the applicable emission limit in Table 1 to this subpart.

(i) If your affected source performs only dyeing operations, paragraphs (b)(1) through (5) of this section apply to dyeing materials only, and you must demonstrate compliance with the emission limit in Table 1 to this subpart for dyeing operations.

(ii) If your affected source performs only finishing operations, paragraphs (b)(1) through (5) of this section apply to finishing materials only, and you must demonstrate compliance with the emission limit in Table 1 to this subpart for finishing operations.

(iii) If your affected source performs both dyeing and finishing operations, paragraphs (b)(1) through (5) of this section apply to dyeing and finishing materials combined, and you must demonstrate compliance with the emission limit in Table 1 to this subpart for dyeing and finishing operations.

(c) If you choose to account for the mass of organic HAP contained in wastewater discharged to a POTW or treated onsite prior to discharge in Equation 4 of this section, then you must determine it according to paragraphs (c)(1) through (5) of this section. You may include in the determination only wastewater streams that are generated by dyeing/finishing operations in the affected source for which you use Equation 4 of this section. You must determine the mass of organic HAP from the average organic HAP concentration and mass flow rate of each wastewater stream generated by the affected dyeing/finishing operation (or group of dyeing/finishing operations discharging to a common wastewater stream) for which you use this allowance. You must consider the actual or anticipated production over the compliance period and include all wastewater streams generated by the affected dyeing/finishing operation(s) during this period. A performance test of the organic HAP loading to the wastewater shall be performed for each operating scenario, as defined in § 63.4371, during the compliance period.

(1) *Procedure to determine average organic HAP concentration.* You must determine the average organic HAP concentration, H_w, of each wastewater stream according to paragraphs (c)(1)(i) through (vi) of this section.

(i) *Sampling.* Wastewater samples may be grab samples or composite samples. Samples shall be taken at approximately equally spaced time intervals over a 1-hour period (or over the period that wastewater is being discharged from a batch process if it is shorter than a 1-hour period). Each 1-hour period constitutes a run, and a performance test shall consist of a minimum of 3 runs.

(ii) *Methods.* You may use any of the methods specified in paragraphs (c)(1)(ii)(A) through (E) of this section to determine the organic HAP content of the wastewater stream. The method shall be an analytical method for wastewater which has the organic HAP compound discharged to the wastewater as a target analyte.

(A) *Method 305.* Use procedures specified in Method 305 of 40 CFR part 63, appendix A.

(B) *Methods 624 and 625.* Use procedures specified in Method 624 and Method 625 of 40 CFR part 136, appendix A and comply with the sampling protocol requirements specified in paragraph (c)(1)(iii) of this section. If these methods are used to analyze one or more compounds that are not on the method's published list of approved compounds, the Alternative Test Procedure specified in 40 CFR 136.4 and 136.5 shall be followed. For Method 625, make corrections to the compounds for which the analysis is being conducted based on the accuracy as recovery factors in Table 7 of the method.

(C) *Methods 1624 and 1625.* Use procedures specified in Method 1624

and Method 1625 of 40 CFR part 136, appendix A and comply with the sampling protocol requirements specified in paragraph (c)(1)(iii) of this section. If these methods are used to analyze one or more compounds that are not on the method's published list of approved compounds, the Alternative Test Procedure specified in 40 CFR 136.4 and 136.5 shall be followed.

(D) *Other EPA method(s).* Use procedures specified in the method and comply with the requirements specified in paragraphs (c)(1)(iii) and either paragraph (c)(1)(iv)(A) or (B) of this section.

(E) *Methods other than EPA method.* Use procedures specified in the method and comply with the requirements specified in paragraphs (c)(1)(iii) and paragraph (c)(1)(iv)(A) of this section.

(iii) *Sampling plan.* If you have been expressly referred to this paragraph by provisions of this subpart, you shall prepare a sampling plan. Wastewater samples shall be collected using sampling procedures which minimize loss of organic compounds during sample collection and analysis and maintain sample integrity. The sampling plan shall include procedures for determining recovery efficiency of the relevant organic HAP. An example of an example sampling plan would be one that incorporates similar sampling and sample handling requirements to those of Method 25D of 40 CFR part 60, appendix A. You shall maintain the sampling plan at the facility.

(iv) *Validation of methods.* You shall validate EPA methods other than Methods 305, 624, 625, 1624, 1625 using the procedures specified in paragraph (c)(1)(iv)(A) or (B) of this section.

(A) *Validation of EPA methods and other methods.* The method used to measure organic HAP concentrations in the wastewater shall be validated according to section 5.1 or 5.3, and the corresponding calculations in section 6.1 or 6.3, of Method 301 of appendix A of this part. The data are acceptable if they meet the criteria specified in section 6.1.5 or 6.3.3 of Method 301 of appendix A of this part. If correction is required under section 6.3.3 of Method 301 of appendix A of this part, the data are acceptable if the correction factor is within the range 0.7 to 1.30. Other sections of Method 301 of appendix A of this part are not required.

(B) *Validation for EPA methods.* Follow the procedures as specified in "Alternative Validation Procedure for EPA Waste Methods" 40 CFR part 63, appendix D.

(v) *Calculate the average concentration.* You shall calculate the average concentration for each individually speciated organic HAP compound by adding the individual values determined for the specific compound in each sample and dividing by the number of samples.

(vi) *Adjustment for concentrations determined downstream of the point of determination.* You shall make corrections to the specific compound average concentration or total organic HAP average concentration when the concentration is determined downstream of the point of determination at a location where either wastewater streams from outside of the affected dyeing/finishing operation or group of dyeing/finishing operations have been mixed with the affected wastewater stream or one or more affected wastewater streams have been treated. You shall make the adjustments either to the individual data points or to the final average organic HAP concentration.

(2) *Procedures to determine mass flow rate.* For each operating scenario, as defined in § 63.4371, for which you have determined the organic HAP content of the wastewater stream, you shall determine the annual average mass flow rate, F_w, of the wastewater stream either at the point of determination or downstream of the point of determination with adjustment for flow rate changes made according to paragraph (c)(2)(ii) of this section. The annual average mass flow rate for the wastewater stream shall be representative of actual or anticipated operation of the dyeing/finishing operation(s) generating the wastewater over the compliance period. You must determine the annual average mass flow rate of each wastewater stream according to paragraphs (c)(2)(i) and (ii) of this section.

(i) *Procedures.* The procedures specified in paragraphs (c)(2)(i)(A) through (C) of this section are considered acceptable procedures for determining the mass flow rate. They may be used in combination, and no one procedure shall take precedence over another.

(A) *Knowledge of the wastewater.* You may use knowledge of the wastewater stream and/or the process to determine the annual average mass flow rate. You shall use the maximum expected annual average production capacity of the dyeing/finishing operation(s), knowledge of the process, and/or mass balance information to either estimate directly the average wastewater mass flow rate for the compliance period or estimate the total wastewater mass flow for the compliance period and then factor the total mass by the percentage of time in the compliance period the operating scenario is expected to represent. Where you use knowledge to determine the annual average mass flow rate, you shall provide sufficient information to document the mass flow rate.

(B) *Historical records.* You may use historical records to determine the average annual mass flow rate. Derive the highest annual average mass flow rate of wastewater from historical records representing the most recent 5 years of operation, or if the dyeing/finishing operation(s) has(have) been in service for less than 5 years but at least 1 year, from historical records representing the total operating life of the process unit. Where historical records are used to determine the annual average mass flow rate, you shall provide sufficient information to document the mass flow rate.

(C) *Measurement of mass flow rate.* If you elect to measure mass flow rate, you shall comply with the requirements of this paragraph. Measurements shall be made at the point of determination, or at a location downstream of the point of determination with adjustments for mass flow rate changes made according to paragraph (c)(2)(ii) of this section. Where measurement data are used to determine the annual average mass flow rate, you shall provide sufficient information to document the mass flow rate.

(ii) *Adjustment for flow rates determined downstream of the point of determination.* You shall make corrections to the average annual mass flow rate of a wastewater stream when it is determined downstream of the point of determination at a location where either wastewater streams from outside of the affected dyeing/finishing operation or group of dyeing/finishing operations have been mixed with the affected wastewater stream or one or more wastewater streams have been treated. You shall make corrections for such changes in the annual average mass flow rate.

(3) *Wastewater treatment.* You shall document that the wastewater is either discharged to a POTW or onsite secondary wastewater treatment.

(4) *Determine the mass of organic HAP in the affected wastewater.* Determine the total mass of organic HAP, WW, contained in the wastewater streams characterized by the procedures in paragraphs (c)(1) and (2) of this section, using Equation 7 of this section:

$$WW = \sum_{k=1}^{o} \left(H_{w,k}\right)\left(F_{w,k}\right) \times 10^{-3} \quad \text{(Eq. 7)}$$

Where:

WW = The total mass of organic HAP contained in the wastewater streams characterized by the procedures in paragraphs (c)(1) and (2) of this section, kg/yr

$H_{w,k}$ = Average organic HAP concentration of wastewater stream k, ppmw

$F_{w,k}$ = Annual average mass flow rate of wastewater stream k, Mg/yr

o = Number of wastewater streams characterized by the procedures in paragraphs (c)(1) and (2) of this section.

This is your allowance for organic HAP discharged to wastewater and not emitted to the atmosphere, WW in Equation 4.

(5) *Determine the fraction of organic HAP applied that is discharged to the wastewater.* For the purpose of taking credit for the wastewater allowance in continuous compliance demonstrations, determine the fraction of organic HAP applied in affected dyeing/finishing processes that is discharged to the wastewater, *i.e.*, divide WW by the mass of organic HAP in the dyeing and finishing materials applied during the compliance period, A, as calculated in Equation 4A of this section. The wastewater allowance for this fraction of organic HAP that is not emitted from the affected dyeing/finishing operation(s) may be taken for each compliance period that the operating scenario, as defined in § 63.4371, does not change from conditions during the performance test in a way that could increase the fraction of organic HAP emitted (*e.g.*, an increase in process temperature or decrease in process pressure or a change in the type or mass fraction of organic HAP entering the dyeing/finishing operation.) The allowance, WW, must be calculated by multiplying the fraction of organic HAP applied in affected processes that is discharged to the wastewater determined from the most recent performance test by the mass of organic HAP in the dyeing and finishing materials applied during the compliance period, A, as calculated in Equation 4A of this section.

(d) If you are determining the fraction of organic HAP applied in your dyeing/finishing affected source that is discharged to the wastewater, to demonstrate compliance with the equivalent emission rate option of § 63.4291(c)(4), then you must determine it according to paragraphs (d)(1) through (5) of this section. You must include in the determination only wastewater streams generated by dyeing/finishing operations in your affected source. You shall determine the mass of organic HAP from the average organic HAP concentration and mass flow rate of each wastewater stream generated by each dyeing/finishing operation (or group of dyeing/finishing operations discharging to a common wastewater stream) in your affected source. You shall consider the actual or anticipated production over the compliance period and include all wastewater streams generated by the affected dyeing/finishing operation(s) during this period. A performance test of the organic HAP loading to the wastewater shall be conducted for each operating scenario, as defined in § 63.4371, during the compliance period.

(1) *Procedure to determine average organic HAP concentration.* You must determine the average organic HAP concentration of each wastewater stream according to paragraphs (c)(1)(i) through (vi) of this section.

(2) *Procedures to determine mass flow rate.* For each operating scenario, as defined in § 63.4371, for which you have determined the organic HAP content of the wastewater stream, you shall determine the annual average mass flow rate of the wastewater stream either at the point of determination, or downstream of the point of determination with adjustment for flow rate changes made according to paragraph (c)(2)(ii) of this section. The annual average mass flow rate for the wastewater stream shall be representative of actual or anticipated operation of the dyeing/finishing operation(s) generating the wastewater over the compliance period. You must determine the annual average mass flow rate of each wastewater stream according to paragraphs (c)(2)(i) and (ii) of this section.

(3) *Wastewater treatment.* You shall document that the wastewater is either discharged to a POTW or onsite secondary wastewater treatment.

(4) *Determine the mass of organic HAP in the affected wastewater.* Determine the total mass of organic HAP, WW, contained in the wastewater streams characterized by the procedures in paragraphs (d)(1) and (2) of this section, using Equation 7 of this section.

(5) *Determine the fraction of organic HAP applied that is discharged to the wastewater.* Determine the fraction of organic HAP applied in your dyeing/finishing affected source that is discharged to the wastewater, *i.e.*, divide WW by the mass of organic HAP in the dyeing and finishing materials applied during the compliance period, A, as calculated in Equation 4A of this section. One of the conditions that must be met to demonstrate compliance with the equivalent emission rate option is that the fraction of organic HAP applied in your dyeing/finishing affected source that is discharged to the wastewater must be at least 90 percent.

§ 63.4332 How do I demonstrate continuous compliance with the emission limitations?

(a) To demonstrate continuous compliance, the organic HAP emission rate for each compliance period, determined according to § 63.4331(a) for web coating/printing operations and according to § 63.4331(b) for dyeing/finishing operations, must be less than or equal to the applicable emission limit in Table 1 to this subpart. Each month following the initial compliance period described in § 63.4330 is a compliance period consisting of that month and the preceding 11 months. You must perform the calculations in § 63.4331 on a monthly basis.

(b) If the organic HAP emission rate for any compliance period exceeded the applicable emission limit in Table 1 to this subpart, this is a deviation from the emission limitations for that compliance period and must be reported as specified in §§ 63.4310(c)(6) and 63.4311(a)(6).

(c) As part of each semiannual compliance report required by § 63.4311, you must identify any web coating/printing operation or dyeing/finishing operation for which you used the emission rate without add-on controls option. If there were no deviations from the applicable emission limit in Table 1 to this subpart, you must submit a statement that, as appropriate, the web coating/printing operations or the dyeing/finishing operations were in compliance with the emission limitations during the reporting period because the organic HAP emission rate for each compliance period was less than or equal to the applicable emission limit in Table 1 to this subpart.

(d) You must maintain records as specified in §§ 63.4312 and 63.4313.

Compliance Requirements for the Emission Rate With Add-On Controls Option

§ 63.4340 By what date must I conduct performance tests and other initial compliance demonstrations?

(a) *New and reconstructed affected sources.* For a new or reconstructed affected source, you must meet the requirements of paragraphs (a)(1) through (4) of this section.

(1) All emission capture systems, add-on control devices, and CPMS must be installed and operating no later than the applicable compliance date specified in § 63.4283. Except for solvent recovery

systems for which you conduct liquid-liquid material balances according to § 63.4341(e)(5) or (f)(5), you must conduct a performance test of each capture system and add-on control device according to the procedures in §§ 63.4360, 63.4361, and 63.4362, and establish the operating limits required by § 63.4292, within 180 days of the applicable compliance date specified in § 63.4283. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4341(e)(5) or (f)(5), you must initiate the first material balance no later than the applicable compliance date specified in § 63.4283.

(2) You must develop and begin implementing the work practice plan required by § 63.4293 no later than the compliance date specified in § 63.4283.

(3) You must complete the compliance demonstration for the initial compliance period according to the requirements of § 63.4341. The initial compliance period begins on the applicable compliance date specified in § 63.4283 and ends on the last day of the 12th full month after the compliance date, or the date you conduct the performance tests of the emission capture systems and add-on control devices, or initiate the first liquid-liquid material balance for a solvent recovery system, whichever is later. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 63.4360, 63.4361, and 63.4362; results of liquid-liquid material balances conducted according to § 63.4341(e)(5) or (f)(5); calculations according to § 63.4341 and supporting documentation showing that during the initial compliance period the organic HAP emission rate was equal to or less than the applicable emission limit in Table 1 to this subpart; the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 63.4364; and documentation of whether you developed and implemented the work practice plan required by § 63.4293.

(4) You do not need to comply with the operating limits for the emission capture system and add-on control device required by § 63.4292 until after you have completed the performance tests specified in paragraph (a)(1) of this section. Instead, you must maintain a log detailing the operation and maintenance of the emission capture system, add-on control device, and continuous parameter monitors during the period between the compliance date and the performance test. You must begin complying with the operating limits for your affected source on the date you complete the performance tests specified in paragraph (a)(1) of this section. This requirement does not apply to solvent recovery systems for which you conduct liquid-liquid material balances according to the requirements of § 63.4341(e)(5) or (f)(5).

(b) *Existing sources.* For an existing affected source, you must meet the requirements of paragraphs (b)(1) through (3) of this section.

(1) All emission capture systems, add-on control devices, and CPMS must be installed and operating no later than the applicable compliance date specified in § 63.4283. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4341(e)(5) or (f)(5), you must conduct a performance test of each capture system and add-on control device according to the procedures in §§ 63.4360, 63.4361, and 63.4362, and establish the operating limits required by § 63.4292, within 180 days of the compliance date specified in § 63.4283. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4341(e)(5) or (f)(5), you must initiate the first material balance no later than the compliance date specified in § 63.4283.

(2) You must develop and begin implementing the work practice plan required by § 63.4293 no later than the compliance date specified in § 63.4283.

(3) You must complete the compliance demonstration for the initial compliance period according to the requirements of § 63.4341. The initial compliance period begins on the applicable compliance date specified in § 63.4283 and ends on the last day of the 12th full month after the compliance date. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 63.4360, 63.4361, and 63.4362; results of liquid-liquid material balances conducted according to § 63.4341(e)(5) or (f)(5); calculations according to § 63.4561 and supporting documentation showing that during the initial compliance period the organic HAP emission rate was equal to or less than the applicable emission limit in Table 1 to this subpart; the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 63.4364; and documentation of whether you developed and implemented the work practice plan required by § 63.4293.

§ 63.4341 How do I demonstrate initial compliance?

(a) You may use the emission rate with add-on controls option for any individual web coating/printing operation, for any group of web coating/printing operations in the affected source, or for all of the web coating/printing operations in the affected source. You may include both controlled and uncontrolled web coating/printing operations in a group for which you use this option. You must use either the compliant material option, the emission rate without add-on controls option, the organic HAP overall control efficiency option, or the oxidizer outlet organic HAP concentration option for any web coating/printing operation in the affected source for which you do not use the emission rate with add-on controls option. To demonstrate initial compliance, any web coating/printing operation for which you use the emission rate with add-on controls option must meet the applicable emission limitations in Table 1 to this subpart, and in §§ 63.4292 and 63.4293. You must meet all the requirements of paragraphs (a), (c), (d), and (e) of this section. When calculating the organic HAP emission rate according to this section, do not include any coating, printing, thinning, or cleaning materials applied on web coating/printing operations for which you use the compliant material option, the emission rate without add-on controls option, the organic HAP overall control efficiency option, or the oxidizer outlet organic HAP concentration option. You do not need to redetermine the mass of organic HAP in coating, printing, thinning, or cleaning materials that have been reclaimed onsite and reused in the web coating/printing operation(s) for which you use the emission rate with add-on control option.

(b) You may use the emission rate with add-on controls option for any individual dyeing/finishing operation, for any group of dyeing/finishing operations in the affected source, or for all of the dyeing/finishing operations in the affected source. You may include both controlled and uncontrolled dyeing/finishing operations in a group for which you use this option. You must use either the compliant material option or the emission rate without add-on controls option for any dyeing/finishing operation in the affected source for which you do not use the emission rate with add-on controls option. You may not use the emission rate with add-on controls option for any dyeing/finishing operation in a dyeing/finishing affected source for which you use the equivalent

emission rate option. To demonstrate initial compliance, any dyeing/finishing operation for which you use the emission rate with add-on controls option must meet the applicable emission limitations in Table 1 to this subpart, and in §§ 63.4292 and 63.4293. You must meet all the requirements of paragraphs (b), (c), (d), and (f) this section. When calculating the organic HAP emission rate according to this section, do not include any dyeing or finishing materials applied on dyeing/finishing operations for which you use the compliant material option or the emission rate without add-on controls option. You do not need to redetermine the mass of organic HAP in dyeing or finishing materials that have been reclaimed onsite and reused in the dyeing/finishing operation(s) for which you use the emission rate with add-on controls option.

(c) *Compliance with operating limits.* Except as provided in § 63.4340(a)(4), and except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4341(e)(5) or (f)(5), you must establish and demonstrate continuous compliance during the initial compliance period with the operating limits required by § 63.4292, using the procedures specified in §§ 63.4363 and 63.4364.

(d) *Compliance with work practice requirements.* You must develop, implement, and document your implementation of the work practice plan required by § 63.4293 during the initial compliance period as specified in § 63.4312.

(e) *Compliance with web coating/printing emission limits.* You must follow the procedures in paragraphs (e)(1) through (8) of this section to demonstrate compliance with the applicable web coating/printing emission limit in Table 1 to this subpart.

(1) *Determine the mass fraction of organic HAP, the mass fraction of solids, and mass of materials.* Follow the procedures specified in § 63.4331(a)(1), (2), and (3) to determine the mass fraction of organic HAP for each coating, printing, thinning, and cleaning material applied during the compliance period; the mass fraction of solids for each coating and printing material applied during the compliance period; and mass of each coating, printing, thinning, and cleaning material applied during the compliance period.

(2) *Calculate the mass of organic HAP emissions before add-on controls.* Using Equation 1 of § 63.4331, calculate the mass of organic HAP emissions before add-on controls from all coating, printing, thinning, and cleaning materials applied during the compliance period minus the organic HAP in certain waste materials in the web coating/printing operation or group of web coating/printing operations for which you use the emission rate with add-on controls.

(3) *Calculate the organic HAP emissions reductions for each controlled web coating/printing operation.* Determine the mass of organic HAP emissions reduced for each controlled web coating/printing operation during the compliance period. The emissions reductions determination quantifies the total organic HAP emissions that pass through the emission capture system and are destroyed or removed by the add-on control device. Use the procedures in paragraph (e)(4) of this section to calculate the mass of organic HAP emissions reductions for each controlled web coating/printing operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances. For each controlled web coating/printing operation using a solvent recovery system for which you conduct a liquid-liquid material balance, use the procedures in paragraph (e)(5) of this section to calculate the organic HAP emissions reductions.

(4) *Calculate the organic HAP emission reduction for each controlled web coating/printing operation not using liquid-liquid material balance.* For each controlled web coating/printing operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances, calculate the organic HAP emissions reductions using Equation 1 of this section. The equation applies the emission capture system efficiency and add-on control device efficiency to the mass of organic HAP contained in the coating, printing, thinning, and cleaning materials applied in the web coating/printing operation served by the emission capture system and add-on control device during the compliance period. For any period of time a deviation specified in § 63.4342(c) or (d) occurs in the controlled web coating/printing operation, including a deviation during startup, shutdown, or malfunction, then you must assume zero efficiency for the emission capture system and add-on control device. Equation 1 of this section treats the coating, printing, thinning, and cleaning materials applied during such a deviation as if they were used on an uncontrolled web coating/printing operation for the time period of the deviation.

$$H_C = (A_I + B_I - H_{UNC})\left(\frac{CE}{100} \times \frac{DRE}{100}\right) \qquad \text{(Eq. 1)}$$

Where:

H_C = Mass of organic HAP emission reduction for the controlled web coating/printing operation during the compliance period, kg.

A_I = Total mass of organic HAP in the coating and printing materials applied in the controlled web coating/printing operation during the compliance period, kg, as calculated in Equation 1A of this section.

B_I = Total mass of organic HAP in the thinning and cleaning materials applied in the controlled web coating/printing operation during the compliance period, kg, as calculated in Equation 1B of this section.

H_{UNC} = Total mass of organic HAP in the coating, printing, thinning, and cleaning materials applied during all deviations specified in § 63.4342(c) and (d) that occurred during the compliance period in the controlled web coating/printing operation, kg, as calculated in Equation 1C of this section.

CE = Capture efficiency of the emission capture system vented to the add-on control device, percent. Use the test methods and procedures specified in §§ 63.4360 and 63.4361 to measure and record capture efficiency.

DRE = Organic HAP destruction or removal efficiency of the add-on control device, percent. Use the test methods and procedures in §§ 63.4360 and 63.4362 to measure and record the organic HAP destruction or removal efficiency.

(i) Calculate the total mass of organic HAP in the coating and printing materials applied in the controlled web

coating/printing operation(s) during the compliance period, kg, using Equation 1A of this section:

$$A_I = \sum_{i=1}^{m} (M_{c,i})(W_{c,i}) \quad \text{(Eq. 1A)}$$

Where:

A_I = Total mass of organic HAP in the coating and printing materials applied in the controlled web coating/printing operation(s) during the compliance period, kg.

$M_{c,i}$ = Mass of coating or printing material, i, applied during the compliance period, kg.

$W_{c,i}$ = Mass fraction of organic HAP in coating or printing material, i, kg per kg.

m = Number of different coating and printing materials applied during compliance period.

(ii) Calculate the total mass of organic HAP in the thinning and cleaning materials applied in the controlled web coating/printing operation(s) during the compliance period, kg, using Equation 1B of this section:

$$B_I = \sum_{j=1}^{n} (M_{t,j})(W_{t,j}) \quad \text{(Eq. 1B)}$$

Where:

B_I = Total mass of organic HAP in the thinning and cleaning materials applied in the controlled web coating/printing operation(s) during the compliance period, kg.

$M_{t,j}$ = Total mass of thinning or cleaning material, j, applied during the compliance period, kg.

$W_{t,j}$ = Mass fraction of organic HAP in thinning or cleaning material, j, kg per kg.

n = Number of different thinning and cleaning materials applied during the compliance period.

(iii) Calculate the mass of organic HAP in the coating, printing, thinning, and cleaning materials applied in the controlled web coating/printing operation during deviations specified in § 63.4342(c) and (d), using Equation 1C of this section.

$$H_{UNC} = \sum_{h=1}^{q} (M_h)(W_h) \quad \text{(Eq. 1C)}$$

Where:

H_{UNC} = Total mass of organic HAP in the coating, printing, thinning, and cleaning materials applied during all deviations specified in § 63.4342 (c) and (d) that occurred during the compliance period in the controlled web coating/printing operation, kg.

M_h = Total mass of coating, printing, thinning, or cleaning material, h, applied in the controlled web coating/printing operation during deviations, kg.

W_h = Mass fraction of organic HAP in coating, printing, thinning, or cleaning material, h, kg organic HAP per kg material.

q = Number of different coating, printing, thinning, and cleaning materials applied and used.

(5) *Calculate the organic HAP emissions reductions for controlled web coating/printing operation using liquid-liquid material balances.* For each controlled web coating/printing operation using a solvent recovery system for which you conduct liquid-liquid material balances, calculate the organic HAP emissions reductions by applying the volatile organic matter collection and recovery efficiency to the mass of organic HAP contained in the coating, printing, thinning, and cleaning materials applied in the web coating/printing operation controlled by the solvent recovery system during the compliance period. Perform a liquid-liquid material balance for the compliance period as specified in paragraphs (e)(5)(i) through (v) of this section. Calculate the mass of organic HAP emissions reductions by the solvent recovery system as specified in paragraph (e)(5)(vi) of this section.

(i) For each solvent recovery system, install, calibrate, maintain, and operate according to the manufacturer's specifications, a device that indicates the cumulative amount of volatile organic matter recovered by the solvent recovery system for the compliance period. The device must be initially certified by the manufacturer to be accurate to within ±2.0 percent of the mass of volatile organic matter recovered.

(ii) For each solvent recovery system, determine the mass of volatile organic matter recovered for the compliance period, kg, based on measurement with the device required in paragraph (e)(5)(i) of this section.

(iii) Determine the mass fraction of volatile organic matter for each coating, printing, cleaning, and thinning material applied in the web coating/printing operation controlled by the solvent recovery system during the compliance period, kg volatile organic matter per kg coating, printing, cleaning, and thinning material. You may determine the volatile organic matter mass fraction using Method 24 of 40 CFR part 60, appendix A, or an EPA approved alternative method, or you may use information provided by the manufacturer or supplier of the coating or printing material. In the event of any inconsistency between information provided by the manufacturer or supplier and the results of Method 24 of 40 CFR part 60, appendix A, or an approved alternative method, the test method results will govern.

(iv) Measure the mass of each coating, printing, thinning, and cleaning material applied in the web coating/printing operation controlled by the solvent recovery system during the compliance period, kg.

(v) For the compliance period, calculate the solvent recovery system's volatile organic matter collection and recovery efficiency using Equation 2 of this section:

$$R_V = 100 \frac{M_{VR}}{\sum_{i=1}^{m} M_i WV_{c,i} + \sum_{j=1}^{n} M_j WV_{t,j}} \quad \text{(Eq. 2)}$$

Where:

R_V = Volatile organic matter collection and recovery efficiency of the solvent recovery system during the compliance period, percent.

M_{VR} = Mass of volatile organic matter recovered by the solvent recovery system during the compliance period, kg.

M_i = Mass of coating or printing material, i, applied in the web coating/printing operation controlled by the solvent recovery system during the compliance period, kg.

$WV_{c,i}$ = Mass fraction of volatile organic matter for coating or printing material, i, kg volatile organic matter per kg coating or printing material.

M_j = Mass of thinning or cleaning material, j, applied in the web coating/printing operation controlled by the solvent recovery

system during the compliance period, kg.

$WV_{t,j}$ = Mass fraction of volatile organic matter for thinning or cleaning material, j, kg volatile organic matter per kg thinning or cleaning material.

m = Number of different coating and printing materials applied in the web coating/printing operation controlled by the solvent recovery system during the compliance period.

n = Number of different thinning and cleaning materials applied in the web coating/printing operation controlled by the solvent recovery system during the compliance period.

(vi) Calculate the mass of organic HAP emission reductions for the web coating/printing operation controlled by the solvent recovery system during the compliance period using Equation 3 of this section and according to paragraphs (e)(5)(vi)(A) and (B) of this section:

$$H_{CSR} = \left(A_{CSR} + B_{CSR}\right)\left(\frac{R_V}{100}\right) \quad \text{(Eq. 3)}$$

Where:

H_{CSR} = Mass of organic HAP emission reduction for the web coating/printing operation controlled by the solvent recovery system during the compliance period, kg.

A_{CSR} = Total mass of organic HAP in the coating and printing material applied in the web coating/printing operation controlled by the solvent recovery system during the compliance period, kg, calculated using Equation 3A of this section.

B_{CSR} = Total mass of organic HAP in the thinning and cleaning materials applied in the web coating/printing operation controlled by the solvent recovery system during the compliance period, kg, calculated using Equation 3B of this section.

R_V = Volatile organic matter collection and recovery efficiency of the solvent recovery system, percent, from Equation 2 of this section.

(A) Calculate the total mass of organic HAP in the coating and printing materials applied in the web coating/printing operation(s) controlled by the solvent recovery system during the compliance period, kg, using Equation 3A of this section:

$$A_{CSR} = \sum_{i=1}^{m}\left(M_{c,i}\right)\left(W_{c,i}\right) \quad \text{(Eq. 3A)}$$

Where:

A_{CSR} = Total mass of organic HAP in the coating and printing materials applied in the web coating/printing operations(s) controlled by the solvent recovery system during the compliance period, kg.

$M_{c,i}$ = Mass of coating or printing material, i, applied during the compliance period in the web coating/printing operation(s) controlled by the solvent recovery system, kg.

$W_{c,i}$ = Mass fraction of organic HAP in coating or printing material, i, kg per kg.

m = Number of different coating and printing materials applied during compliance period.

(B) Calculate the total mass of organic HAP in the thinning and cleaning materials applied in the web coating/printing operation(s) controlled by the solvent recovery system during the compliance period, kg, using Equation 3B of this section:

$$B_{CSR} = \sum_{j=1}^{n}\left(M_{t,j}\right)\left(W_{t,j}\right) \quad \text{(Eq. 3B)}$$

Where:

B_{CSR} = Total mass of organic HAP in the thinning and cleaning materials applied in the web coating/printing operation(s) controlled by the solvent recovery system during the compliance period, kg.

$M_{t,j}$ = Total mass of thinning or cleaning material, j, applied during the compliance period in the web coating/printing operation(s) controlled by the solvent recovery system, kg.

$W_{t,j}$ = Mass fraction of organic HAP in thinning or cleaning material, j, kg per kg.

n = Number of different thinning and cleaning materials applied during the compliance period.

(6) *Calculate the total mass of coating and printing solids.* Determine the total mass of coating and printing solids applied, kg, which is the combined mass of the solids contained in all the coating and printing material applied during the compliance period in the web coating/printing operation(s) for which you use the emission rate with add-on controls option, using Equation 2 of § 63.4331.

(7) *Calculate the organic HAP emission rate with add-on controls for the compliance period.* Determine the organic HAP emission rate with add-on controls for the compliance period, kg organic HAP emitted per kg solids applied during the compliance period, using Equation 4 of this section.

$$H_{HAP} = \frac{H_e - \sum_{i=1}^{q}\left(H_{C,i}\right) - \sum_{j=i}^{r}\left(H_{CSR,j}\right)}{H_t} \quad \text{(Eq. 4)}$$

Where:

H_{HAP} = Organic HAP emission rate with add-on controls for the compliance period, kg organic HAP emitted per kg solids applied.

H_e = Total mass of organic HAP emissions before add-on controls from all the coating, printing, thinning, and cleaning materials applied during the compliance period, kg, determined according to paragraph (e)(2) of this section.

$H_{C,i}$ = Total mass of organic HAP emissions reduction for controlled web coating/printing operation, i, not using a liquid-liquid material balance, during the compliance period, kg, from Equation 1 of this section.

$H_{CSR,j}$ = Total mass of organic HAP emissions reduction for web coating/printing operation, j, controlled by a solvent recovery system using a liquid-liquid material balance, during the compliance period, kg, from Equation 3 of this section.

H_t = Total mass of coating and printing solids applied during the compliance period, kg, from Equation 2 of § 63.4331.

q = Number of controlled web coating/printing operations not using a liquid-liquid material balance.

r = Number of web coating/printing operations controlled by a solvent recovery system using a liquid-liquid material balance.

(8) *Compliance demonstration.* To demonstrate initial compliance with the emission limit, the organic HAP emission rate with add-on controls for the compliance period, calculated using Equation 4 of this section, must be less

than or equal to the applicable emission limit in Table 1 to this subpart. You must keep all records as required by §§ 63.4312 and 63.4313. As part of the Notification of Compliance Status required by § 63.4310, you must identify the web coating/printing operation(s) for which you used the emission rate with add-on controls option and submit a statement that the web coating/printing operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the organic HAP emission rate was less than or equal to the applicable emission limit in Table 1 to this subpart, and that you achieved the operating limits required by § 63.4292 and the work practice standards required by § 63.4293.

(f) *Compliance with dyeing/finishing emission limits.* You must follow the procedures in paragraphs (f)(1) through (8) of this section to demonstrate compliance with the applicable dyeing/finishing emission limit in Table 1 to this subpart.

(1) *Determine the mass fraction of organic HAP and mass of materials.* Follow the procedures specified in § 63.4331(b)(1) and (2) to determine the mass fraction of organic HAP for each dyeing and finishing material applied and mass of each dyeing and finishing material applied during the compliance period.

(2) *Calculate the mass of organic HAP emissions before add-on controls.* Using Equation 4 of § 63.4331, calculate the mass of organic HAP emissions before add-on controls from all dyeing and finishing materials applied during the compliance period minus the organic HAP in certain waste materials and wastewaters in the dyeing/finishing operation or group of dyeing/finishing operations for which you use the emission rate with add-on controls option.

(3) *Calculate the organic HAP emissions reductions for each controlled dyeing/finishing operation.* Determine the mass of organic HAP emissions reduced for each controlled dyeing/finishing operation during the compliance period. The emissions reductions determination quantifies the total organic HAP emissions that pass through the emission capture system and are destroyed or removed by the add-on control device. Use the procedures in paragraph (f)(4) of this section to calculate the mass of organic HAP emissions reductions for each controlled dyeing/finishing operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances. For each controlled dyeing/finishing operation using a solvent recovery system for which you conduct a liquid-liquid material balance, use the procedures in paragraph (f)(5) of this section to calculate the organic HAP emissions reductions.

(4) *Calculate the organic HAP emission reduction for each controlled dyeing/finishing operation not using liquid-liquid material balance.* For each controlled dyeing/finishing operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances, calculate the organic HAP emissions reductions using Equation 5 of this section. The equation applies the emission capture system efficiency and add-on control device efficiency to the mass of organic HAP contained in the dyeing and finishing materials applied in the dyeing/finishing operation served by the emission capture system and add-on control device during the compliance period. For any period of time a deviation specified in § 63.4342(c) or (d) occurs in the controlled dyeing/finishing operation, including a deviation during startup, shutdown, or malfunction, then you must assume zero efficiency for the emission capture system and add-on control device. Equation 5 of this section treats the dyeing and finishing materials applied during such a deviation as if they were applied on an uncontrolled dyeing/finishing operation for the time period of the deviation.

$$H_C = (A_I - H_{UNC})\left(\frac{CE}{100} \times \frac{DRE}{100}\right) \quad \text{(Eq. 5)}$$

Where:

H_C = Mass of organic HAP emission reduction for the controlled dyeing/finishing operation during the compliance period, kg.

A_I = Total mass of organic HAP in the dyeing and finishing materials applied in the controlled dyeing/finishing operation during the compliance period, kg, as calculated in Equation 5A of this section.

H_{UNC} = Total mass of organic HAP in the dyeing and finishing materials applied during all deviations specified in § 63.4342(c) and (d) that occurred during the compliance period in the controlled dyeing/finishing operation, kg, as calculated in Equation 5B of this section.

CE = Capture efficiency of the emission capture system vented to the add-on control device, percent. Use the test methods and procedures specified in §§ 63.4360 and 63.4361 to measure and record capture efficiency.

DRE = Organic HAP destruction or removal efficiency of the add-on control device, percent. Use the test methods and procedures in §§ 63.4360 and 63.4362 to measure and record the organic HAP destruction or removal efficiency.

(i) Calculate the total mass of organic HAP in the dyeing and finishing materials applied in the controlled dyeing/finishing operation(s) during the compliance period, kg, using Equation 5A of this section:

$$A_I = \sum_{i=1}^{m}\left(M_{c,i}\right)\left(W_{c,i}\right) \quad \text{(Eq. 5A)}$$

Where:

A_I = Total mass of organic HAP in the dyeing and finishing materials applied in the controlled dyeing/finishing operations(s) during the compliance period, kg.

$M_{c,i}$ = Mass of dyeing or finishing material, i, applied during the compliance period, kg.

$W_{c,i}$ = Mass fraction of organic HAP in dyeing or finishing material, i, kg per kg.

m = Number of different dyeing and finishing materials applied during compliance period.

(ii) Calculate the mass of organic HAP in the dyeing and finishing materials applied in the controlled dyeing/finishing operation during deviations specified in § 63.4342(c) and (d), using Equation 5B of this section.

$$H_{UNC} = \sum_{h=1}^{q}\left(M_h\right)\left(W_h\right) \quad \text{(Eq. 5B)}$$

Where:

H_{UNC} = Total mass of organic HAP in the dyeing and finishing materials applied during all deviations specified in § 63.4342(c) and (d) that occurred during the compliance period in the controlled dyeing/finishing operation, kg.

M_h = Total mass of dyeing and finishing material, h, applied in the controlled dyeing/finishing operation during deviations, kg.

W_h = Mass fraction of organic HAP in dyeing or finishing material, h, kg organic HAP per kg material.

q = Number of different dyeing and finishing materials applied.

(5) *Calculate the organic HAP emissions reductions for controlled dyeing/finishing operation using liquid-liquid material balances.* For each controlled dyeing/finishing operation using a solvent recovery system for which you conduct liquid-liquid

material balances, calculate the organic HAP emissions reductions by applying the volatile organic matter collection and recovery efficiency to the mass of organic HAP contained in the dyeing and finishing materials applied in the dyeing/finishing operation controlled by the solvent recovery system during the compliance period. Perform a liquid-liquid material balance for the compliance period as specified in paragraphs (f)(5)(i) through (v) of this section. Calculate the mass of organic HAP emissions reductions by the solvent recovery system as specified in paragraph (f)(5)(vi) of this section.

(i) For each solvent recovery system, install, calibrate, maintain, and operate according to the manufacturer's specifications, a device that indicates the cumulative amount of volatile organic matter recovered by the solvent recovery system for the compliance period. The device must be initially certified by the manufacturer to be accurate to within ±2.0 percent of the mass of volatile organic matter recovered.

(ii) For each solvent recovery system, determine the mass of volatile organic matter recovered for the compliance period, kg, based on measurement with the device required in paragraph (f)(5)(i) of this section.

(iii) Determine the mass fraction of volatile organic matter for each dyeing and finishing material applied in the dyeing/finishing operation controlled by the solvent recovery system during the compliance period, kg volatile organic matter per kg dyeing and finishing material. You may determine the volatile organic matter mass fraction using information provided by the manufacturer or supplier of the dyeing or finishing material.

(iv) Measure the mass of each dyeing and finishing material applied in the dyeing/finishing operation controlled by the solvent recovery system during the compliance period, kg.

(v) For the compliance period, calculate the solvent recovery system's volatile organic matter collection and recovery efficiency using Equation 6 of this section:

$$R_V = 100\frac{M_{VR}}{\sum_{i=1}^{m} M_i WV_{c,i}} \qquad \text{(Eq. 6)}$$

Where:

R_V = Volatile organic matter collection and recovery efficiency of the solvent recovery system during the compliance period, percent.

M_{VR} = Mass of volatile organic matter recovered by the solvent recovery system during the compliance period, kg.

M_i = Mass of dyeing or finishing material, i, applied in the dyeing/finishing operation controlled by the solvent recovery system during the compliance period, kg.

$WV_{c,i}$ = Mass fraction of volatile organic matter for dyeing or finishing material, i, kg volatile organic matter per kg dyeing or finishing material.

m = Number of different dyeing and finishing materials applied in the dyeing/finishing operation controlled by the solvent recovery system during the compliance period.

(vi) Calculate the mass of organic HAP emission reductions for the dyeing/finishing operation controlled by the solvent recovery system during the compliance period using Equation 7 of this section and according to paragraph (f)(5)(vi)(A) of this section:

$$H_{CSR} = (A_{CSR})\left(\frac{R_V}{100}\right) \qquad \text{(Eq. 7)}$$

Where:

H_{CSR} = Mass of organic HAP emission reduction for the dyeing/finishing operation controlled by the solvent recovery system during the compliance period, kg.

A_{CSR} = Total mass of organic HAP in the dyeing and finishing material applied in the dyeing/finishing operation controlled by the solvent recovery system during the compliance period, kg, calculated using Equation 7A of this section.

R_V = Volatile organic matter collection and recovery efficiency of the solvent recovery system, percent, from Equation 6 of this section.

(A) Calculate the total mass of organic HAP in the dyeing and finishing materials applied in the dyeing/finishing operation(s) controlled by the solvent recovery system during the compliance period, kg, using Equation 7A of this section:

$$A_{CSR} = \sum_{i=1}^{m}(M_{c,i})(W_{c,i}) \qquad \text{(Eq. 7A)}$$

Where:

A_{CSR} = Total mass of organic HAP in the dyeing and finishing materials applied in the dyeing/finishing operations(s) controlled by the solvent recovery system during the compliance period, kg.

$M_{c,i}$ = Mass of dyeing or finishing material, i, applied during the compliance period in the dyeing/finishing operation(s) controlled by the solvent recovery system, kg.

$W_{c,i}$ = Mass fraction of organic HAP in dyeing or finishing material, i, kg per kg.

m = Number of different dyeing and finishing materials applied during compliance period.

(6) *Calculate the total mass of dyeing and finishing materials.* Determine the total mass of dyeing and finishing materials applied, kg, which is the combined mass of all the dyeing and finishing materials applied during the compliance period in the dyeing/finishing operation(s) for which you use the emission rate with add-on controls option, using Equation 5 of § 63.4331.

(7) *Calculate the organic HAP emission rate with add-on controls for the compliance period.* Determine the organic HAP emission rate with add-on controls for the compliance period, kg organic HAP emitted per kg dyeing and finishing materials applied during the compliance period, using Equation 8 of this section.

$$H_{HAP} = \frac{H_e - \sum_{i=1}^{q}(H_{C,i}) - \sum_{j=1}^{r}(H_{CSR,j})}{M_t} \qquad \text{(Eq. 8)}$$

Where:

H_{HAP} = Organic HAP emission rate with add-on controls for the compliance period, kg organic HAP emitted per kg dyeing and finishing materials applied.

H_e = Total mass of organic HAP emissions before add-on controls from all the dyeing and finishing materials applied during the compliance period, kg, determined according to paragraph (f)(2) of this section.

$H_{C,i}$ = Total mass of organic HAP emissions reductions for controlled dyeing/finishing operation, i, not using a liquid-liquid material balance, during the compliance period, kg, from Equation 5 of this section.

$H_{CSR,j}$ = Total mass of organic HAP emissions reductions for dyeing/finishing operation, j, controlled by a solvent recovery system using a liquid-liquid material balance, during the compliance period, kg, from Equation 7 of this section.

M_t = Total mass of dyeing and finishing materials applied during the compliance period, kg, from Equation 5 of § 63.4331.

q = Number of controlled dyeing/finishing operations not using a liquid-liquid material balance.

r = Number of dyeing/finishing operations controlled by a solvent recovery system using a liquid-liquid material balance.

(8) *Compliance demonstration.* To demonstrate initial compliance with the emission limit, the organic HAP emission rate with add-on controls for the compliance period, calculated using Equation 8 of this section, must be less than or equal to the applicable emission limit in Table 1 to this subpart. You must keep all records as required by §§ 63.4312 and 63.4313. As part of the Notification of Compliance Status required by § 63.4310, you must identify the dyeing/finishing operation(s) for which you used the emission rate with add-on controls option and submit a statement that the dyeing/finishing operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the organic HAP emission rate was less than or equal to the applicable emission limit in Table 1 to this subpart, and that you achieved the operating limits required by § 63.4292 and the work practice standards required by § 63.4293.

§ 63.4342 How do I demonstrate continuous compliance with the emission limitations?

(a) To demonstrate continuous compliance with the applicable emission limit in Table 1 to this subpart, the organic HAP emission rate for each compliance period, determined according to § 63.4341(e) for web coating/printing operations and according to § 63.4341(f) for dyeing/finishing operations, must be equal to or less than the applicable emission limit in Table 1 to this subpart. Each month following the initial compliance period described in § 63.4340 is a compliance period consisting of that month and the preceding 11 months. You must perform the calculations in § 63.4341 on a monthly basis.

(b) If the organic HAP emission rate with add-on controls for any compliance period exceeded the applicable emission limit in Table 1 to this subpart, this is a deviation from the emission limitation for that compliance period and must be reported as specified in §§ 63.4310(c)(6) and 63.4311(a)(7).

(c) You must demonstrate continuous compliance with each operating limit required by § 63.4292 that applies to you, as specified in Table 2 to this subpart.

(1) If an operating parameter is out of the allowed range specified in Table 2 to this subpart, this is a deviation from the operating limit that must be reported as specified in §§ 63.4310(c)(6) and 63.4311(a)(7).

(2) If an operating parameter deviates from the operating limit specified in Table 2 to this subpart, then you must assume that the emission capture system and add-on control device were achieving zero efficiency during the time period of the deviation. For the purposes of completing the compliance calculations specified in § 63.4341 (e)(4) and (f)(4), you must treat the regulated materials applied during a deviation on a controlled coating/printing or dyeing/finishing operation as if they were applied on an uncontrolled coating/printing or dyeing/finishing operation for the time period of the deviation, as indicated in Equation 1 of § 63.4341 for a web coating/printing operation, and in Equation 5 of § 63.4341 for a dyeing/finishing operation.

(d) You must meet the requirements for bypass lines in § 63.4364(b) for controlled coating/printing or dyeing/finishing operations for which you do not conduct liquid-liquid material balances. If any bypass line is opened and emissions are diverted to the atmosphere when the web coating/printing or dyeing/finishing operation is running, this is a deviation that must be reported as specified in §§ 63.4310(c)(6) and 63.4311(a)(7). For the purposes of completing the compliance calculations specified in § 63.4341(e)(4), you must treat the coating, printing, thinning, and cleaning materials applied during a deviation on a controlled web coating/printing operation as if they were used on an uncontrolled web coating/printing operation for the time period of the deviation, as indicated in Equation 1 of § 63.4341. For the purposes of completing the compliance calculations specified in § 63.4341(f)(4), you must treat the dyeing and finishing materials applied during a deviation on a controlled dyeing/finishing operation as if they were used on an uncontrolled dyeing/finishing operation for the time period of the deviation, as indicated in Equation 5 of § 63.4341.

(e) You must demonstrate continuous compliance with the work practice standards in § 63.4293. If you did not develop a work practice plan, or you did not implement the plan, or you did not keep the records required by § 63.4312(j)(8), this is a deviation from the work practice standards that must be reported as specified in §§ 63.4310(c)(6) and 63.4311(a)(7).

(f) As part of each semiannual compliance report required in § 63.4311, you must identify the coating/printing and dyeing/finishing operation(s) for which you use the emission rate with add-on controls option. If there were no deviations from the applicable emission limit in Table 1 to this subpart, you must submit a statement that, as appropriate, the web coating/printing operations or the dyeing/finishing operations were in compliance with the emission limitations during the reporting period because the organic HAP emission rate for each compliance period was less than or equal to the applicable emission limit in Table 1 to this subpart, and you achieved the operating limits required by § 63.4292 and the work practice standards required by § 63.4293 during each compliance period.

(g) During periods of startup, shutdown, or malfunction of the emission capture system, add-on control device, or web coating/printing or dyeing/finishing operation that may affect emission capture or control device efficiency, you must operate in accordance with the startup, shutdown, and malfunction plan required by § 63.4300(c).

(h) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction of the emission capture system, add-on control device, or web coating/printing or dyeing/finishing operation that may affect emission capture or control device efficiency are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the startup, shutdown, and malfunction plan. The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations according to the provisions in § 63.6(e).

(i) [Reserved]

(j) You must maintain records as specified in §§ 63.4312 and 63.4313.

Compliance Requirements for the Organic HAP Overall Control Efficiency and Oxidizer Outlet Organic HAP Concentration Options

§ 63.4350 By what date must I conduct performance tests and other initial compliance demonstrations?

(a) *New and reconstructed affected sources.* For a new or reconstructed affected source, you must meet the requirements of paragraphs (a)(1) through (4) of this section.

(1) All emission capture systems, add-on control devices, and CPMS must be installed and operating no later than the applicable compliance date specified in § 63.4283. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4351(d)(5), you must conduct a performance test of each capture system and add-on control device according to the procedures in §§ 63.4360, 63.4361, and 63.4362, and establish the operating limits required by § 63.4292, within 180 days of the applicable compliance date specified in § 63.4283. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4351(d)(5), you must initiate the first material balance no later than the applicable compliance date specified in § 63.4283.

(2) You must develop and begin implementing the work practice plan required by § 63.4293 no later than the compliance date specified in § 63.4283.

(3) You must complete the compliance demonstration for the initial compliance period according to the requirements of § 63.4351. The initial compliance period begins on the applicable compliance date specified in § 63.4283 and ends on the last day of the first full month after the compliance date, or the date you conduct the performance tests of the emission capture systems and add-on control devices, or initiate the first liquid-liquid material balance for a solvent recovery system, whichever is later. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 63.4360, 63.4361, and 63.4362; results of liquid-liquid material balances conducted according to § 63.4351(d)(5); calculations according to § 63.4351 and supporting documentation showing that during the initial compliance period either the organic HAP overall control efficiency was equal to or greater than the applicable overall control efficiency limit in Table 1 to this subpart or the oxidizer outlet organic HAP concentration was no greater than 20 parts per million by weight (ppmw) on a dry basis; the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 63.4364; and documentation of whether you developed and implemented the work practice plan required by § 63.4293.

(4) You do not need to comply with the operating limits for the emission capture system and add-on control device required by § 63.4292 until after you have completed the performance tests specified in paragraph (a)(1) of this section. Instead, you must maintain a log detailing the operation and maintenance of the emission capture system, add-on control device, and continuous parameter monitors during the period between the compliance date and the performance test. You must begin complying with the operating limits for your affected source on the date you complete the performance tests specified in paragraph (a)(1) of this section. This requirement does not apply to solvent recovery systems for which you conduct liquid-liquid material balances according to the requirements of § 63.4351(d)(5).

(b) *Existing sources.* For an existing affected source, you must meet the requirements of paragraphs (b)(1) through (3) of this section.

(1) All emission capture systems, add-on control devices, and CPMS must be installed and operating no later than the applicable compliance date specified in § 63.4283. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4351(d)(5), you must conduct a performance test of each capture system and add-on control device according to the procedures in §§ 63.4360, 63.4361, and 63.4362, and establish the operating limits required by § 63.4292, within 180 days of the compliance date specified in § 63.4283. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4351(d)(5), you must initiate the first material balance no later than the compliance date specified in § 63.4283.

(2) You must develop and begin implementing the work practice plan required by § 63.4293 no later than the compliance date specified in § 63.4283.

(3) You must complete the compliance demonstration for the initial compliance period according to the requirements of § 63.4351. The initial compliance period begins on the applicable compliance date specified in § 63.4283 and ends on the last day of the first full month after the compliance date. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 63.4360, 63.4361, and 63.4362; results of liquid-liquid material balances conducted according to § 63.4351(d)(5); calculations according to § 63.4351 and supporting documentation showing that during the initial compliance period the organic HAP overall control efficiency was equal to or greater than the applicable organic HAP overall control efficiency limit in Table 1 to this subpart or the oxidizer outlet organic HAP concentration was no greater than 20 ppmw on a dry basis and the efficiency of the capture system was 100 percent; the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 63.4364; and documentation of whether you developed and implemented the work practice plan required by § 63.4293.

§ 63.4351 How do I demonstrate initial compliance?

(a) You may use the organic HAP overall control efficiency option or the oxidizer outlet organic HAP concentration option for any individual web coating/printing operation, for any group of web coating/printing operations in the affected source, or for all of the web coating/printing operations in the affected source. You may include both controlled and uncontrolled web coating/printing operations in a group for which you use the organic HAP overall control efficiency option. You must use either the compliant material option, the emission rate without add-on controls option, or the emission rate with add-on controls option for any web coating/printing operation(s) in the affected source for which you do not use either the organic HAP overall control efficiency option or the oxidizer outlet organic HAP concentration option. To demonstrate initial compliance, any web coating/printing operation for which you use the organic HAP overall control efficiency option must meet the applicable organic HAP overall control efficiency limitations in Table 1 to this subpart according to the procedures in paragraph (d) of this section. Any web coating/printing operation for which you use the oxidizer outlet organic HAP concentration option must meet the 20 ppmw on a dry basis limit and achieve 100 percent capture efficiencies according to the procedures in paragraph (e) of this section. To demonstrate initial compliance with either option, you also must meet the applicable operating limits in § 63.4292 according to the procedures in paragraph (b) of this section and the

work practice standards in § 63.4293 according to the procedures in paragraph (c) of this section. When calculating the organic HAP overall control efficiency according to this section, do not include any coating, printing, thinning, or cleaning materials applied on web coating/printing operations for which you use the compliant material option, the emission rate without add-on controls option, the emission rate with add-on controls option, or the oxidizer outlet organic HAP concentration option. You do not need to redetermine the mass of organic HAP in coating, printing, thinning, or cleaning materials that have been reclaimed onsite and reused in web coating/printing operation(s) for which you use the organic HAP overall control efficiency option.

(b) *Compliance with operating limits.* Except as provided in § 63.4350(a)(4), and except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4351(d)(5), you must establish and demonstrate continuous compliance during the initial compliance period with the operating limits required by § 63.4292, using the procedures specified in §§ 63.4363 and 63.4364.

(c) *Compliance with work practice requirements.* You must develop, implement, and document your implementation of the work practice plan required by § 63.4293 during the initial compliance period as specified in § 63.4312.

(d) *Compliance with organic HAP overall control efficiency limits.* You must follow the procedures in paragraphs (d)(1) through (7) of this section to demonstrate compliance with the applicable organic HAP overall control efficiency limit in Table 1 to this subpart.

(1) *Determine the mass fraction of organic HAP and mass of coating or printing materials.* Follow the procedures specified in § 63.4331(a)(1) and (3) to determine the mass fraction of organic HAP and mass of each coating, printing, thinning, and cleaning material applied during the compliance period.

(2) *Calculate the total mass of organic HAP emissions before add-on controls.* Using Equation 1 of § 63.4331, calculate the total mass of organic HAP emissions before add-on controls from all coating, printing, thinning, and cleaning materials applied during the compliance period minus the organic HAP in certain waste materials in the web coating/printing operation or group of web coating/printing operations for which you use the organic HAP overall control efficiency option.

(3) *Calculate the organic HAP emissions reductions for each controlled web coating/printing operation.* Determine the mass of organic HAP emissions reduced for each controlled web coating/printing operation during the compliance period. The emissions reductions determination quantifies the total organic HAP emissions that pass through the emission capture system and are destroyed or removed by the add-on control device. Use the procedures in paragraph (d)(4) of this section to calculate the mass of organic HAP emissions reductions for each controlled web coating/printing operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances. For each controlled web coating/printing operation using a solvent recovery system for which you conduct a liquid-liquid material balance, use the procedures in paragraph (d)(5) of this section to calculate the organic HAP emissions reductions.

(4) *Calculate the organic HAP emissions reductions for controlled web coating/printing operations not using liquid-liquid material balance.* For each controlled web coating/printing operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances, calculate the organic HAP emissions reductions using Equation 1 of § 63.4341. The equation applies the emission capture system efficiency and add-on control device efficiency to the mass of organic HAP contained in the coating, printing, thinning, and cleaning materials applied in the web coating/printing operation served by the emission capture system and add-on control device during the compliance period. For any period of time a deviation specified in § 63.4352(c) or (d) occurs in the controlled web coating/printing operation, including a deviation during startup, shutdown, or malfunction, then you must assume zero efficiency for the emission capture system and add-on control device. Equation 1 of § 63.4341 treats the coating, printing, thinning, and cleaning materials applied during such a deviation as if they were applied on an uncontrolled web coating/printing operation for the time period of the deviation.

(i) Calculate the total mass of organic HAP in the coating and printing material(s) applied in the controlled web coating/printing operation during the compliance period, kg, using Equation 1A of § 63.4341.

(ii) Calculate the total mass of organic HAP in the thinning and cleaning materials applied in the controlled web coating/printing operation(s) during the compliance period, kg, using Equation 1B of § 63.4341.

(iii) Calculate the mass of organic HAP in the coating, printing, thinning, and cleaning materials applied in the controlled web coating/printing operation during deviations specified in § 63.4352(c) and (d), using Equation 1C of § 63.4341.

(5) *Calculate the organic HAP emissions reductions for controlled web coating/printing operations using liquid-liquid material balance.* For each controlled web coating/printing operation using a solvent recovery system for which you conduct liquid-liquid material balances, calculate the organic HAP emissions reductions by applying the volatile organic matter collection and recovery efficiency to the mass of organic HAP contained in the coating, printing, thinning, and cleaning materials applied in the web coating/printing operation controlled by the solvent recovery system during the compliance period. Perform a liquid-liquid material balance for the compliance period as specified in paragraphs (d)(5)(i) through (vi) of this section.

(i) For each solvent recovery system, install, calibrate, maintain, and operate according to the manufacturer's specifications, a device that indicates the cumulative amount of volatile organic matter recovered by the solvent recovery system for the compliance period. The device must be initially certified by the manufacturer to be accurate to within ±2.0 percent of the mass of volatile organic matter recovered.

(ii) For each solvent recovery system, determine the mass of volatile organic matter recovered for the compliance period, kg, based on measurement with the device required in paragraph (d)(5)(i) of this section.

(iii) Determine the mass fraction of volatile organic matter for each coating and printing material applied in the web coating/printing operation controlled by the solvent recovery system during the compliance period, kg volatile organic matter per kg coating and printing material. You may determine the volatile organic matter mass fraction using Method 24 of 40 CFR part 60, appendix A, or an EPA approved alternative method, or you may use information provided by the manufacturer or supplier of the coating or printing material. In the event of any inconsistency between information provided by the manufacturer or

supplier and the results of Method 24 of 40 CFR part 60, appendix A, or an approved alternative method, the test method results will govern.

(iv) Measure the mass of each coating, printing, thinning, and cleaning material applied in the web coating/printing operation controlled by the solvent recovery system during the compliance period, kg.

(v) For the compliance period, calculate the solvent recovery system's volatile organic matter collection and recovery efficiency using Equation 2 of § 63.4341.

(vi) Calculate the mass of organic HAP emissions reductions for the web coating/printing operation controlled by the solvent recovery system during the compliance period, using Equation 3 of § 63.4341.

(6) *Calculate the organic HAP overall control efficiency.* Determine the organic HAP overall control efficiency, kg organic HAP emissions reductions per kg organic HAP emissions before add-on controls during the compliance period, using Equation 1 of this section.

$$E_{HAP} = \frac{\sum_{i=1}^{q}\left(H_{C,i}\right) + \sum_{j=1}^{r}\left(H_{CSR,j}\right)}{H_e} \times 100 \qquad \text{(Eq. 1)}$$

Where:

E_{HAP} = Organic HAP overall control efficiency for the compliance period, kg organic HAP emissions reductions per kg organic HAP emissions before add-on controls during the compliance period.

$H_{C,i}$ = Total mass of organic HAP emissions reductions for controlled web coating/printing operation, i, during the compliance period, kg, from Equation 1 of § 63.4341.

$H_{CSR,j}$ = Total mass of organic HAP emissions reductions for controlled web coating/printing operation, j, during the compliance period, kg, from Equation 3 of § 63.4341.

H_e = Total mass of organic HAP emissions before add-on controls from all the coating, printing, thinning, and cleaning materials applied during the compliance period, kg, determined according to paragraph (d)(2) of this section.

q = Number of controlled web coating/printing operations except those controlled with a solvent recovery system.

r = Number of web coating/printing operations controlled with a solvent recovery system.

(7) *Compliance demonstration.* To demonstrate initial compliance with the organic HAP overall control efficiency in Table 1 to this subpart, the organic HAP overall control efficiency calculated using Equation 1 of this section must be at least 98 percent for new or reconstructed affected sources and at least 97 percent for existing affected sources. You must keep all records as required by §§ 63.4312 and 63.4313. As part of the Notification of Compliance Status required by § 63.4310, you must identify the web coating/printing operation(s) for which you used the organic HAP overall control efficiency option and submit a statement that the web coating/printing operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the organic HAP overall control efficiency was greater than or equal to the applicable organic HAP overall control efficiency in Table 1 to this subpart, and you achieved the operating limits required by § 63.4292 and the work practice standards required by § 63.4293.

(e) *Compliance with oxidizer outlet organic HAP concentration limit.* You must follow the procedures in paragraphs (e)(1) through (3) of this section to demonstrate compliance with the oxidizer outlet organic HAP concentration limit of no greater than 20 ppmw on a dry basis.

(1) *Install and operate a PTE.* Install and operate a PTE around each work station and associated drying or curing oven in the web coating/printing operation. An enclosure that meets the requirements in § 63.4361(a) is considered a PTE. Route all organic HAP emissions from each PTE to an oxidizer.

(2) *Determine oxidizer outlet organic HAP concentration.* Determine oxidizer outlet organic HAP concentration through performance tests using the procedures in § 63.4362(a) and (b).

(3) *Compliance demonstration.* To demonstrate initial compliance with the oxidizer outlet organic HAP concentration limit in Table 1 to this subpart, the oxidizer outlet organic HAP concentration must be no greater than 20 ppmv on a dry basis and the efficiency of the capture system must be 100 percent. You must keep all records as required by §§ 63.4312 and 63.4313. As part of the Notification of Compliance Status required by § 63.4310, you must identify the web coating/printing operation(s) for which you used the oxidizer outlet organic HAP concentration option and submit a statement that the web coating/printing operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the oxidizer outlet organic HAP concentration was no greater than 20 ppmv on a dry basis, the efficiency of the capture system was 100 percent, and you achieved the operating limits required by § 63.4292 and the work practice standards required by § 63.4293.

§ 63.4352 How do I demonstrate continuous compliance with the emission limitations?

(a) You must meet all the requirements of this section to demonstrate continuous compliance with the organic HAP overall control efficiency. The organic HAP overall control efficiency for each compliance period, determined according to the procedures in § 63.4351(d), must be equal to or greater than the applicable organic HAP overall control efficiency limit in Table 1 to this subpart. Each month following the initial compliance period described in § 63.4350 is a compliance period. You must perform the calculations in § 63.4351(d) on a monthly basis. You must meet the applicable requirements of paragraphs (c) through (j) of this section to demonstrate continuous compliance with the oxidizer outlet organic HAP concentration limit.

(b) If the organic HAP overall control efficiency for any compliance period failed to meet the applicable organic HAP overall control efficiency in Table 1 to this subpart, this is a deviation from the emission limitation for that compliance period and must be reported as specified in §§ 63.4310(c)(6) and 63.4311(a)(7).

(c) You must demonstrate continuous compliance with each operating limit required by § 63.4292 that applies to you, as specified in Table 2 to this subpart.

(1) If an operating parameter is out of the allowed range specified in Table 2

to this subpart, this is a deviation from the operating limit that must be reported as specified in §§ 63.4310(c)(6) and 63.4311(a)(7).

(2) If an operating parameter deviates from the operating limit specified in Table 2 to this subpart, then you must assume that the emission capture system and add-on control device were achieving zero efficiency during the time period of the deviation. For the purposes of completing the compliance calculations specified in § 63.4351(d)(4), you must treat the coating, printing, thinning, and cleaning materials applied during a deviation on a controlled web coating/printing operation as if they were applied on an uncontrolled web coating/printing operation for the time period of the deviation as indicated in Equation 1 of § 63.4341.

(d) You must meet the requirements for bypass lines in § 63.4364(b) for controlled web coating/printing operations for which you do not conduct liquid-liquid material balances. If any bypass line is opened and emissions are diverted to the atmosphere when the web coating/printing operation is running, this is a deviation that must be reported as specified in §§ 63.4310(c)(6) and 63.4311(a)(7). For the purposes of completing the compliance calculations specified in § 63.4351(d)(4), you must treat the coating, printing, thinning, and cleaning materials applied during a deviation on a controlled web coating/printing operation as if they were applied on an uncontrolled web coating/printing operation for the time period of the deviation as indicated in Equation 1 of § 63.4341.

(e) You must demonstrate continuous compliance with the work practice standards in § 63.4293. If you did not develop a work practice plan, or you did not implement the plan, or you did not keep the records required by § 63.4312(j)(8), this is a deviation from the work practice standards that must be reported as specified in §§ 63.4310(c)(6) and 63.4311(a)(7).

(f) As part of each semiannual compliance report required in § 63.4311, you must identify the web coating/printing operation(s) for which you use the organic HAP overall control efficiency option or the oxidizer outlet organic HAP concentration option. If there were no deviations from the organic HAP overall control efficiency limitations, submit a statement that you were in compliance with the emission limitations during the reporting period because the organic HAP overall control efficiency for each compliance period was greater than or equal to the applicable organic HAP overall control efficiency in Table 1 to this subpart, and you achieved the operating limits required by § 63.4292 and the work practice standards required by § 63.4293 during each compliance period. If there were no deviations from the oxidizer outlet organic HAP concentration limit, submit a statement that you were in compliance with the oxidizer outlet organic HAP concentration limit, the efficiency of the capture system is 100 percent, and you achieved the operating limits required by § 63.4292 and the work practice standards required by § 63.4293 during each compliance period.

(g) During periods of startup, shutdown, or malfunction of the emission capture system, add-on control device, or web coating/printing operation that may affect emission capture or control device efficiency, you must operate in accordance with the startup, shutdown, and malfunction plan required by § 63.4300(c).

(h) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction of the emission capture system, add-on control device, or web coating/printing operation that may affect emission capture or control device efficiency are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the startup, shutdown, and malfunction plan. The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations according to the provisions in § 63.6(e).

(i) [Reserved]

(j) You must maintain records as specified in §§ 63.4312 and 63.4313.

Performance Testing and Monitoring Requirements

§ 63.4360 What are the general requirements for performance tests?

(a) You must conduct each performance test required by §§ 63.4340 or 63.4350 according to the requirements in § 63.7(e)(1) and under the conditions in this section, unless you obtain a waiver of the performance test according to the provisions in § 63.7(h).

(1) *Representative web coating/printing or dyeing/finishing operation operating conditions.* You must conduct the performance test under representative operating conditions for the web coating/printing or dyeing/finishing operation. Operations during periods of startup, shutdown, or malfunction and during periods of nonoperation do not constitute representative conditions. You must record the process information that is necessary to document operating conditions during the test and explain why the conditions represent normal operation.

(2) *Representative emission capture system and add-on control device operating conditions.* You must conduct the performance test when the emission capture system and add-on control device are operating at a representative flow rate, and the add-on control device is operating at a representative inlet concentration. You must record information that is necessary to document emission capture system and add-on control device operating conditions during the test and explain why the conditions represent normal operation.

(b) You must conduct each performance test of an emission capture system according to the requirements in § 63.4361. You must conduct each performance test of an add-on control device according to the requirements in § 63.4362.

§ 63.4361 How do I determine the emission capture system efficiency?

You must use the procedures and test methods in this section to determine capture efficiency as part of the performance test required by §§ 63.4340 or 63.4350.

(a) *Assuming 100 percent capture efficiency.* You may assume the capture system efficiency is 100 percent if both of the conditions in paragraphs (a)(1) and (2) of this section are met.

(1) The capture system meets the criteria in Method 204 of appendix M to 40 CFR part 51 for a PTE and directs all the exhaust gases from the enclosure to an add-on control device.

(2) All regulated materials applied in the web coating/printing or dyeing/finishing operation are applied within the capture system; regulated material solvent flash-off, curing, and drying occurs within the capture system; and the removal or evaporation of cleaning materials from the web coating/printing operation surfaces they are applied to occurs within the capture system. For example, this criterion is not met if the web enters the open shop environment when moving between the application station and a curing oven.

(b) *Measuring capture efficiency.* If the capture system does not meet both of the criteria in paragraphs (a)(1) and (2) of this section, then you must use one of the three protocols described in paragraphs (c), (d), and (e) of this section to measure capture efficiency. The capture efficiency measurements use TVH capture efficiency as a

surrogate for organic HAP capture efficiency. For the protocols in paragraphs (c) and (d) of this section, the capture efficiency measurement must consist of three test runs. Each test run must be at least 3 hours duration or the length of a production run, up to 8 hours.

(c) *Liquid-to-uncaptured-gas protocol using a temporary total enclosure or building enclosure.* The liquid-to-uncaptured-gas protocol compares the mass of liquid TVH in regulated materials applied in the web coating/printing or dyeing/finishing operation to the mass of TVH emissions not captured by the emission capture system. Use a temporary total enclosure or a building enclosure and the procedures in paragraphs (c)(1) through (6) of this section to measure emission capture system efficiency using the liquid-to-uncaptured-gas protocol.

(1) Either use a building enclosure or construct an enclosure around the web coating/printing or dyeing/finishing operation where regulated materials are applied, and all areas where emissions from these applied regulated materials subsequently occur, such as flash-off, curing, and drying areas. The areas of the web coating/printing or dyeing/finishing operation where capture devices collect emissions for routing to an add-on control device, such as the entrance and exit areas of an oven or tenter frame, must also be inside the enclosure. The enclosure must meet the applicable definition of a temporary total enclosure or building enclosure in Method 204 of appendix M to 40 CFR part 51.

(2) Use Method 204A or 204F of appendix M to 40 CFR part 51 to determine the mass fraction of TVH liquid input from each regulated material used in the web coating/printing or dyeing/finishing operation during each capture efficiency test run. To make the determination, substitute TVH for each occurrence of the term volatile organic compounds (VOC) in the methods.

(3) Use Equation 1 of this section to calculate the total mass of TVH liquid input from all the regulated materials applied in the web coating/printing or dyeing/finishing operation during each capture efficiency test run.

$$TVH_{applied} = \sum_{i=1}^{n} (TVH_i)(M_i) \qquad \text{(Eq. 1)}$$

Where:

$TVH_{applied}$ = Mass of liquid TVH in regulated materials applied in the web coating/printing or dyeing/finishing operation during the capture efficiency test run, kg.

TVH_i = Mass fraction of TVH in regulated material, i, that is applied in the web coating/printing or dyeing/finishing operation during the capture efficiency test run, kg TVH per kg material.

M_i = Total mass of regulated material, i, applied in the web coating/printing or dyeing/finishing operation during the capture efficiency test run, kg.

n = Number of different regulated materials applied in the web coating/printing or dyeing/finishing operation during the capture efficiency test run.

(4) Use Method 204D or E of appendix M to 40 CFR part 51 to measure the total mass, kg, of TVH emissions that are not captured by the emission capture system; they are measured as they exit the temporary total enclosure or building enclosure during each capture efficiency test run. To make the measurement, substitute TVH for each occurrence of the term VOC in the methods.

(i) Use Method 204D if the enclosure is a temporary total enclosure.

(ii) Use Method 204E if the enclosure is a building enclosure. During the capture efficiency measurement, all organic compound-emitting operations inside the building enclosure, other than the web coating/printing or dyeing/finishing operation for which capture efficiency is being determined, must be shut down, but all fans and blowers must be operating normally.

(5) For each capture efficiency test run, determine the percent capture efficiency of the emission capture system using Equation 2 of this section:

$$CE = \frac{(TVH_{applied} - TVH_{uncaptured})}{TVH_{applied}} \times 100 \qquad \text{(Eq. 2)}$$

Where:

CE = Capture efficiency of the emission capture system vented to the add-on control device, percent.

$TVH_{applied}$ = Total mass of TVH liquid input applied in the web coating/printing or dyeing/finishing operation during the capture efficiency test run, kg.

$TVH_{uncaptured}$ = Total mass of TVH that is not captured by the emission capture system and that exits from the temporary total enclosure or building enclosure during the capture efficiency test run, kg.

(6) Determine the capture efficiency of the emission capture system as the average of the capture efficiencies measured in the three test runs.

(d) *Gas-to-gas protocol using a temporary total enclosure or a building enclosure.* The gas-to-gas protocol compares the mass of TVH emissions captured by the emission capture system to the mass of TVH emissions not captured. Use a temporary total enclosure or a building enclosure and the procedures in paragraphs (d)(1) through (5) of this section to measure emission capture system efficiency using the gas-to-gas protocol.

(1) Either use a building enclosure or construct an enclosure around the web coating/printing or dyeing/finishing operation where regulated materials are applied, and all areas where emissions from these applied regulated materials subsequently occur, such as flash-off, curing, and drying areas. The areas of the web coating/printing or dyeing/finishing operation where capture devices collect emissions generated by the web coating/printing or dyeing/finishing operation for routing to an add-on control device, such as the entrance and exit areas of an oven or a tenter frame, must also be inside the enclosure. The enclosure must meet the applicable definition of a temporary total enclosure or building enclosure in Method 204 of appendix M to 40 CFR part 51.

(2) Use Method 204B or 204C of appendix M to 40 CFR part 51 to measure the total mass, kg, of TVH emissions captured by the emission capture system during each capture efficiency test run as measured at the inlet to the add-on control device. To make the measurement, substitute TVH for each occurrence of the term VOC in the methods.

(i) The sampling points for the Method 204B or 204C measurement must be upstream from the add-on control device and must represent total emissions routed from the capture system and entering the add-on control device.

(ii) If multiple emission streams from the capture system enter the add-on control device without a single common duct, then the emissions entering the add-on control device must be simultaneously measured in each duct and the total emissions entering the add-on control device must be determined.

(3) Use Method 204D or 204E of appendix M to 40 CFR part 51 to measure the total mass, kg, of TVH emissions that are not captured by the emission capture system; they are measured as they exit the temporary total enclosure or building enclosure during each capture efficiency test run. To make the measurement, substitute TVH for each occurrence of the term VOC in the methods.

(i) Use Method 204D if the enclosure is a temporary total enclosure.

(ii) Use Method 204E if the enclosure is a building enclosure. During the capture efficiency measurement, all organic compound-emitting operations inside the building enclosure, other than the web coating/printing or dyeing/finishing operation for which capture efficiency is being determined, must be shut down, but all fans and blowers must be operating normally.

(4) For each capture efficiency test run, determine the percent capture efficiency of the emission capture system using Equation 3 of this section:

$$CE = \frac{TVH_{captured}}{\left(TVH_{captured} + TVH_{uncaptured}\right)} \times 100 \qquad \text{(Eq. 3)}$$

Where:

CE = Capture efficiency of the emission capture system vented to the add-on control device, percent.

$TVH_{captured}$ = Total mass of TVH captured by the emission capture system as measured at the inlet to the add-on control device during the emission capture efficiency test run, kg.

$TVH_{uncaptured}$ = Total mass of TVH that is not captured by the emission capture system and that exits from the temporary total enclosure or building enclosure during the capture efficiency test run, kg.

(5) Determine the capture efficiency of the emission capture system as the average of the capture efficiencies measured in the three test runs.

(e) *Alternative capture efficiency protocol.* As an alternative to the procedures specified in paragraphs (c) and (d) of this section, you may determine capture efficiency using any other capture efficiency protocol and test methods that satisfy the criteria of either the DQO or LCL approach as described in appendix A to subpart KK of this part.

§ 63.4362 How do I determine the add-on control device emission destruction or removal efficiency?

You must use the procedures and test methods in this section to determine the add-on control device emission destruction or removal efficiency as part of the performance test required by §§ 63.4340 and 63.4350. You must conduct three test runs as specified in § 63.7(e)(3) and each test run must last at least 1 hour.

(a) For all types of add-on control devices, use the test methods as specified in paragraphs (a)(1) through (5) of this section.

(1) Use Method 1 or 1A of appendix A to 40 CFR part 60, as appropriate, to select sampling sites and velocity traverse points.

(2) Use Method 2, 2A, 2C, 2D, 2F, or 2G of appendix A to 40 CFR part 60, as appropriate, to measure gas volumetric flow rate.

(3) Use Method 3, 3A, or 3B of appendix A to 40 CFR part 60, as appropriate, for gas analysis to determine dry molecular weight. You may also use as an alternative to Method 3B, the manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas in ANSI/ASME, PTC 19.10–1981, "Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]" (incorporated by reference, see § 63.14).

(4) Use Method 4 of appendix A to 40 CFR part 60 to determine stack gas moisture.

(5) Methods for determining gas volumetric flow rate, dry molecular weight, and stack gas moisture must be performed, as applicable, during each test run.

(b) Measure the volatile organic matter concentration as carbon at the inlet and outlet of the add-on control device simultaneously, using Method 25 or 25A of appendix A to 40 CFR part 60. If you are demonstrating compliance with the oxidizer outlet organic HAP concentration limit, only the outlet volatile organic matter concentration must be determined. The outlet volatile organic matter concentration is determined as the average of the three test runs.

(1) Use Method 25 if the add-on control device is an oxidizer and you expect the total gaseous organic concentration as carbon to be more than 50 parts per million (ppm) at the control device outlet.

(2) Use Method 25A if the add-on control device is an oxidizer and you expect the total gaseous organic concentration as carbon to be 50 ppm or less at the control device outlet. Method 25A must be used to demonstrate compliance with the oxidizer outlet organic HAP concentration limit.

(3) Use Method 25A if the add-on control device is not an oxidizer.

(c) If two or more add-on control devices are used for the same emission stream, then you must measure emissions at the outlet to the atmosphere of each device. For example, if one add-on control device is a concentrator with an outlet to the atmosphere for the high-volume, dilute stream that has been treated by the concentrator, and a second add-on control device is an oxidizer with an outlet to the atmosphere for the low-volume, concentrated stream that is treated with the oxidizer, you must measure emissions at the outlet of the oxidizer and the high volume dilute stream outlet of the concentrator.

(d) For each test run, determine the total gaseous organic emissions mass flow rates for the inlet and the outlet of the add-on control device, using Equation 1 of this section. If there is more than one inlet or outlet to the add-on control device, you must calculate the total gaseous organic mass flow rate using Equation 1 of this section for each

inlet and each outlet and then total all of the inlet emissions and total all of the outlet emissions:

$$M_f = Q_{sd} C_c [12] [0.0416] [10^{-6}] \qquad \text{(Eq. 1)}$$

Where:

M_f = Total gaseous organic emissions mass flow rate, kg/hour (h).

C_c = Concentration of organic compounds as carbon in the vent gas, as determined by Method 25 or Method 25A, ppmv, dry basis.

Q_{sd} = Volumetric flow rate of gases entering or exiting the add-on control device, as determined by Method 2, 2A, 2C, 2D, 2F, or 2G, dry standard cubic meters/hour (dscm/h).

0.0416 = Conversion factor for molar volume, kg-moles per cubic meter (mole/m^3) (@ 293 Kelvin (K) and 760 millimeters of mercury (mmHg)).

(e) For each test run, determine the add-on control device organic emissions destruction or removal efficiency using Equation 2 of this section.

$$DRE = \frac{M_{fi} - M_{fo}}{M_{fi}} \qquad \text{(Eq. 2)}$$

Where:

DRE = Organic emissions destruction or removal efficiency of the add-on control device, percent.

M_{fi} = Total gaseous organic emissions mass flow rate at the inlet(s) to the add-on control device, using Equation 1 of this section, kg/h.

M_{fo} = Total gaseous organic emissions mass flow rate at the outlet(s) of the add-on control device, using Equation 1 of this section, kg/h.

(f) Determine the emission destruction or removal efficiency of the add-on control device as the average of the efficiencies determined in the three test runs and calculated in Equation 2 of this section.

§ 63.4363 How do I establish the add-on control device operating limits during the performance test?

During the performance test required by §§ 63.4340 or 63.4350 and described in §§ 63.4360, 63.4361, and 63.4362, you must establish the operating limits required by § 63.4292 according to this section, unless you have received approval for alternative monitoring and operating limits under § 63.8(f) as specified in § 63.4292.

(a) *Thermal oxidizers.* If your add-on control device is a thermal oxidizer, establish the operating limits according to paragraphs (a)(1) and (2) of this section.

(1) During the performance test, you must monitor and record the temperature at least once every 15 minutes during each of the three test runs. You must monitor the temperature in the firebox of the thermal oxidizer or immediately downstream of the firebox before any substantial heat exchange occurs.

(2) Use the data collected during the performance test to calculate and record the average temperature maintained during the performance test. This average temperature is the minimum operating limit for your thermal oxidizer.

(b) *Catalytic oxidizers.* If your add-on control device is a catalytic oxidizer, establish the operating limits according to either paragraphs (b)(1) and (2) or paragraphs (b)(3) and (4) of this section.

(1) During the performance test, you must monitor and record the temperature at the inlet to the catalyst bed and the temperature difference across the catalyst bed at least once every 15 minutes during each of the three test runs.

(2) Use the data collected during the performance test to calculate and record the average temperature at the inlet to the catalyst bed and the average temperature difference across the catalyst bed maintained during the performance test. These are the minimum operating limits for your catalytic oxidizer.

(3) As an alternative to monitoring the temperature difference across the catalyst bed, you may monitor the temperature at the inlet to the catalyst bed and implement a site-specific inspection and maintenance plan for your catalytic oxidizer as specified in paragraph (b)(4) of this section. During the performance test, you must monitor and record the temperature just before the catalyst bed at least once every 15 minutes during each of the three test runs. Use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed during the performance test. This is the minimum operating limit for your catalytic oxidizer.

(4) You must develop and implement an inspection and maintenance plan for your catalytic oxidizer(s) for which you elect to monitor according to paragraph (b)(3) of this section. The plan must address, at a minimum, the elements specified in paragraphs (b)(4)(i) through (iii) of this section.

(i) Annual sampling and analysis of the catalyst activity (*i.e.*, conversion efficiency) following the manufacturer's or catalyst supplier's recommended procedures.

(ii) Monthly inspection of the oxidizer system, including the burner assembly and fuel supply lines for problems and, as necessary, adjust the equipment to assure proper air-to-fuel mixtures.

(iii) Annual internal and monthly external visual inspection of the catalyst bed to check for channeling, abrasion, and settling. If problems are found, you must take corrective action consistent with the manufacturer's recommendations and conduct a new performance test to determine destruction efficiency according to § 63.4362.

§ 63.4364 What are the requirements for CPMS installation, operation, and maintenance?

(a) *General.* If you are using a control device to comply with the emission standards in § 63.4290, you must install, operate, and maintain each CPMS specified in paragraphs (c) and (d) and (e) of this section according to the requirements in paragraphs (a)(1) through (8) of this section. You must install, operate, and maintain each CPMS specified in paragraph (b) of this section according to paragraphs (a)(5) through (7) of this section.

(1) Each CPMS must complete a minimum of one cycle of operation for each successive 15-minute period. You must have a minimum of four equally spaced successive cycles of CPMS operation to have a valid hour of data.

(2) You must have valid data from at least 90 percent of the hours during which the process operated.

(3) You must determine the hourly average of all recorded readings according to paragraphs (a)(3)(i) and (ii) of this section.

(i) To calculate a valid hourly value, you must have at least three of four equally spaced data values from that hour from a continuous monitoring system (CMS) that is not out-of-control.

(ii) Provided all of the readings recorded in accordance with paragraph (a)(3) of this section clearly demonstrate continuous compliance with the standard that applies to you, then you

are not required to determine the hourly average of all recorded readings.

(4) You must determine the rolling 3-hour average of all recorded readings for each operating period. To calculate the average for each 3-hour averaging period, you must have at least two of three of the hourly averages for that period using only average values that are based on valid data (*i.e.*, not from out-of-control periods).

(5) You must record the results of each inspection, calibration, and validation check of the CPMS.

(6) At all times, you must maintain the monitoring system in proper working order including, but not limited to, maintaining necessary parts for routine repairs of the monitoring equipment.

(7) Except for monitoring malfunctions, associated repairs, or required quality assurance or control activities (including calibration checks or required zero and span adjustments), you must conduct all monitoring at all times that the unit is operating. Data recorded during monitoring malfunctions, associated repairs, out-of-control periods, or required quality assurance or control activities shall not be used for purposes of calculating the emissions concentrations and percent reductions specified in Table 1 to this subpart. You must use all the valid data collected during all other periods in assessing compliance of the control device and associated control system. A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(8) Any averaging period for which you do not have valid monitoring data and such data are required constitutes a deviation, and you must notify the Administrator in accordance with § 63.4311(a).

(b) *Capture system bypass line.* You must meet the requirements of paragraphs (a)(5) through (6) and (b)(1) and (2) of this section for each emission capture system that contains bypass lines that could divert emissions away from the add-on control device to the atmosphere.

(1) You must monitor or secure the valve or closure mechanism controlling the bypass line in a nondiverting position in such a way that the valve or closure mechanism cannot be opened without creating a record that the valve was opened. The method used to monitor or secure the valve or closure mechanism must meet one of the requirements specified in paragraphs (b)(1)(i) through (iv) of this section.

(i) *Flow control position indicator.* Install, calibrate, maintain, and operate according to the manufacturer's specifications a flow control position indicator that takes a reading at least once every 15 minutes and provides a record indicating whether the emissions are directed to the add-on control device or diverted from the add-on control device. The time of occurrence and flow control position must be recorded, as well as every time the flow direction is changed. The flow control position indicator must be installed at the entrance to any bypass line that could divert the emissions away from the add-on control device to the atmosphere.

(ii) *Car-seal or lock-and-key valve closures.* Secure any bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. You must visually inspect the seal or closure mechanism at least once every month to ensure that the valve is maintained in the closed position, and the emissions are not diverted away from the add-on control device to the atmosphere.

(iii) *Valve closure continuous monitoring.* Ensure that any bypass line valve is in the closed (non-diverting) position through monitoring of valve position at least once every 15 minutes. You must inspect the monitoring system at least once every month to verify that the monitor will indicate valve position.

(iv) *Automatic shutdown system.* Use an automatic shutdown system in which the web coating/printing or dyeing/finishing operation is stopped when flow is diverted by the bypass line away from the add-on control device to the atmosphere when the web coating/printing or dyeing/finishing operation is running. You must inspect the automatic shutdown system at least once every month to verify that it will detect diversions of flow and shutdown the web coating/printing or dyeing/finishing operation.

(2) If any bypass line is opened, you must include a description of why the bypass line was opened and the length of time it remained open in the semiannual compliance reports required in § 63.4311.

(c) *Oxidizers.* If you are using an oxidizer to comply with the emission standards, you must comply with paragraphs (c)(i) through (iii) of this section.

(i) Install, calibrate, maintain, and operate temperature monitoring equipment according to the manufacturer's specifications. The calibration of the chart recorder, data logger, or temperature indicator must be verified every 3 months or the chart recorder, data logger, or temperature indicator must be replaced.

(ii) For an oxidizer other than a catalytic oxidizer, install, calibrate, operate, and maintain a temperature monitoring device equipped with a continuous recorder. The device must have an accuracy of ±1 percent of the temperature being monitored in degrees Celsius, or ±1°Celsius, whichever is greater. The thermocouple or temperature sensor must be installed in the combustion chamber at a location in the combustion zone.

(iii) For a catalytic oxidizer, install, calibrate, operate, and maintain a temperature monitoring device equipped with a continuous recorder. The device must be capable of monitoring temperature with an accuracy of ±1 percent of the temperature being monitored in degrees Celsius or ± 1 degree Celsius, whichever is greater. The thermocouple or temperature sensor must be installed in the vent stream at the nearest feasible point to the inlet and outlet of the catalyst bed. Calculate the temperature rise across the catalyst.

(d) *Other types of control devices.* If you use a control device other than an oxidizer or wish to monitor an alternative parameter and comply with a different operating limit, you must apply to the Administrator for approval of an alternative monitoring method under § 63.8(f).

(e) *Capture system monitoring.* If you are complying with the emission standards in § 63.4290 through the use of a capture system and control device, you must develop a site-specific monitoring plan containing the information specified in paragraphs (e)(1) and (2) of this section for these capture systems. You must monitor the capture system in accordance with paragraph (e)(3) of this section. You must make the monitoring plan available for inspection by the permitting authority upon request.

(1) The monitoring plan must:

(i) Identify the operating parameter to be monitored to ensure that the capture efficiency determined during the initial compliance test is maintained; and

(ii) Explain why this parameter is appropriate for demonstrating ongoing compliance; and

(iii) Identify the specific monitoring procedures.

(2) The monitoring plan must specify the operating parameter value or range of values that demonstrate compliance with the emission standards in § 63.4290. The specified operating parameter value or range of values must represent the conditions present when

the capture system is being properly operated and maintained.

(3) You must conduct all capture system monitoring in accordance with the plan.

(4) Any deviation from the operating parameter value or range of values which are monitored according to the plan will be considered a deviation from the operating limit.

(5) You must review and update the capture system monitoring plan at least annually.

Other Requirements and Information

§ 63.4370 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. EPA, or a delegated authority such as your State, local, or tribal agency. If the Administrator has delegated authority to your State, local, or tribal agency, then that agency (as well as the U.S. EPA), has the authority to implement and enforce this subpart. You should contact your EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator and are not transferred to the State, local, or tribal agency.

(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) Approval of alternatives to the work practice standards in § 63.4293 under § 63.6(g).

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.4371 What definitions apply to this subpart?

Terms used in this subpart are defined in the CAA, in 40 CFR 63.2, and in this section as follows:

Add-on control means an air pollution control device, such as a thermal oxidizer or carbon adsorber, that reduces pollution in an air stream by destruction or removal before discharge to the atmosphere.

As-applied means the condition of a coating at the time of application to a substrate, including any added solvent.

As purchased means the condition of a coating, printing, slashing, dyeing, or finishing material as delivered to the affected source, before alteration.

Capture device means a hood, enclosure, room, floor sweep, or other means of containing or collecting emissions and directing those emissions into an add-on air pollution control device.

Capture efficiency means the portion (expressed as a percentage) of the pollutants from an emission source that is delivered to an add-on control device.

Capture system means one or more capture devices intended to collect emissions generated by a web coating/printing or dyeing/finishing operation in the use of regulated materials, both at the point of application and at subsequent points where emissions from the regulated materials occur, such as flashoff, drying, or curing. As used in this subpart, multiple capture devices that collect emissions generated by a web coating/printing or dyeing/finishing operation are considered a single capture system.

Cleaning material means a solvent used to remove contaminants and other materials, such as dirt, grease, or oil, from a textile before a web coating/printing operation (surface preparation) or from equipment associated with the web coating/ printing operation, such as tanks, rollers, rotary screens, and knife or wiper blades. Thus, it includes any cleaning material used in the web coating and printing subcategory for surface preparation of substrates or process operation equipment cleaning or both with the exception of cleaning material applied to the substrate using handheld, non-refillable aerosol containers.

Coating means the application of a semi-liquid coating material to one or both sides of a textile web substrate. Once the coating material is dried (and cured, if necessary), it bonds with the textile to form a continuous solid film for decorative, protective, or functional purposes. Coating does not include finishing where the fiber is impregnated with a chemical or resin to impart certain properties, but a solid film is not formed.

Coating material means an elastomer, polymer, or prepolymer material applied as a thin layer to a textile web. Such materials include, but are not limited to, coatings, sealants, inks, and adhesives. Decorative, protective, or functional materials that consist only of acids, bases, or any combination of these substances are not considered coating material for the purposes of this subpart. Thinning materials also are not included in this definition of coating materials, but are accounted for separately.

Coating operation means equipment used to apply cleaning materials to a web substrate to prepare it for coating material application (surface preparation), to apply coating material to a web substrate (coating application) and to dry or cure the coating material after application by exposure to heat or radiation (coating drying or curing), or to clean coating operation equipment (equipment cleaning). A single coating operation may include any combination of these types of equipment, but always includes at least the point at which a coating or cleaning material is applied and all subsequent points in the affected source where organic HAP emissions from that coating or cleaning material occur. There may be multiple coating operations in an affected source. Coating material application with handheld, non-refillable aerosol containers, touch-up markers, or marking pens is not a coating operation for the purposes of this subpart. Polyurethane foam carpet backing operations are not coating operations for the purposes of this subpart.

Container means any portable device in which a material is stored, conveyed, treated, disposed of, or otherwise handled.

Continuous parameter monitoring system means the total equipment that may be required to meet the data acquisition and availability requirements of this subpart, used to sample, condition (if applicable), analyze, and provide a record of coating or printing operation, or capture system, or add-on control device parameters.

Controlled web coating/printing or dyeing/finishing operation means a web coating/printing or dyeing/finishing operation from which some or all of the organic HAP emissions are routed through an emission capture system and add-on control device.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limit, or operating limit, or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limit, or operating limit, or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of

whether or not such failure is permitted by this subpart.

Dyeing means the process of applying color to the whole body of a textile substrate with either natural or synthetic dyes. Dyes are applied to yarn, fiber, cord, or fabric in aqueous solutions and dried before or after finishing, depending on the process. Continuous dyeing processes include, but are not limited to thermosol, pad/steam, pad/dry, and rope range dyeing. Batch dyeing processes include, but are not limited to, jet, beck, stock, yarn, kier, beam, pad, package and skein dyeing.

Dyeing materials means the purchased dyes and dyeing auxiliaries that are used in the dyeing process. The dyes are the substances that add color to textiles through incorporation into the fiber by chemical reaction, absorption or dispersion. Dyeing auxiliaries are various substances that can be added to the dyebath to aid dyeing. Dyeing auxiliaries may be necessary to transfer the dye from the dyebath to the fiber or they may provide improvements in the dyeing process or characteristics of the dyed fiber.

Dyeing operation means the collection of equipment used to dye a textile substrate and includes equipment used for dye application, dye fixation, and textile substrate rinsing and drying. A single dyeing operation may include any combination of these types of equipment, but always includes at least the point at which a dyeing material is applied and all subsequent points in the affected source where organic HAP emissions from that dyeing material occur. There may be multiple dyeing operations in an affected source. Dyeing material application with handheld, non-refillable aerosol containers, touch-up markers, brushes, or marking pens is not a dyeing operation for the purposes of this subpart.

Emission limitation means an emission limit, operating limit, or work practice standard.

Enclosure means a structure that surrounds a source of emissions and captures and directs the emissions to an add-on control device.

Fabric means any woven, knitted, plaited, braided, felted, or non-woven material made of filaments, fibers, or yarns including thread. This term includes material made of fiberglass, natural fibers, synthetic fibers, or composite.

Finishing means the chemical treatment of a textile (*e.g.*, with resins, softeners, stain resist or soil release agents, water repellants, flame retardants, antistatic agents, or hand builders) that improves the appearance and/or usefulness of the textile substrate.

Finishing materials means the purchased substances (including auxiliaries added to the finish to improve the finishing process or the characteristics of the finished textile) that are applied individually or as mixtures to textile substrates to impart desired properties.

Finishing operations means the collection of equipment used to finish a textile substrate including chemical finish applicator(s), flashoff area(s) and drying or curing oven(s).

Laminated fabric means fabric composed of a high-strength reinforcing base fabric between two plies of flexible thermoplastic film. Two or more fabrics or textiles or a fabric and a paper substrate may be bonded with an adhesive to form a laminate. The bonding of a fabric substrate to paper is not subject to the requirements of this subpart.

Manufacturer's formulation data means data on a material (such as a coating, printing, slashing, dyeing and finishing) that are supplied by the material manufacturer based on knowledge of the ingredients used to manufacture that material, rather than based on testing of the material. Manufacturer's formulation data may include, but are not limited to, information on density, organic HAP content, and coating, printing, dyeing, slashing, finishing, thinning, or cleaning material content.

Mass fraction of organic HAP means the ratio of the mass of organic HAP to the mass of a material in which it is contained; kg of organic HAP per kg of material.

Month means a calendar month or a pre-specified period of 28 days to 35 days to allow for flexibility in recordkeeping when data are based on a business accounting period.

No organic HAP means no organic HAP is present at 0.1 percent by mass or more for OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and at 1.0 percent by mass or more for other compounds. The organic HAP content of a regulated material is determined according to § 63.4321(e)(1).

Operating scenario means for a dyeing/finishing process operation or group of process operations, the combination of operating conditions (including but not limited to, type of substrate, type and mass fraction of organic HAP in dyeing/finishing materials applied, and the process operation temperature and pressure) affecting the fraction of organic HAP applied in dyeing and finishing operations discharged to wastewater. For example, a dyeing process operation run at atmospheric pressure would be a different operating scenario from the same dyeing process operation run under pressure.

Organic HAP content means the mass of organic HAP per mass of solids for a coating or printing material calculated using Equation 1 of § 63.4321. The organic HAP content is determined for the coating or printing material as purchased.

Organic HAP overall control efficiency means the total efficiency of a control system, determined either by:

(1) The product of the capture efficiency as determined in accordance with the requirements of § 63.4361 and the control device organic emissions destruction or removal efficiency determined in accordance with the requirements of § 63.4362; or

(2) A liquid-liquid material balance in accordance with the requirements of § 63.4341(e)(5) or (f)(5) or § 63.4351(d)(5).

Permanent total enclosure (PTE) means a permanently installed enclosure that meets the criteria of Method 204 of appendix M, 40 CFR part 51, for a PTE and that directs all the exhaust gases from the enclosure to an add-on control device.

Point of determination means each point where process wastewater exits the dyeing/finishing process unit.

Printing means the application of color and patterns to textiles, usually in the form of a paste, using a variety of techniques including, but not limited to roller, rotary screen, and ink jet printing. After application of the printing material, the textile usually is treated with steam, heat, or chemicals to fix the color.

Printing material means the purchased substances, usually including gums or thickeners, dyes and appropriate chemicals such as defoamers and resins that are mixed to produce the print pastes applied to textile substrates as patterns and colors.

Printing operation means equipment used to apply cleaning materials to a web substrate to prepare it for printing material application (surface preparation), to apply printing material to one or both sides of a web substrate (printing application) and to dry or cure the printing material after application by exposure to heat or radiation (printing material drying or curing), or to clean printing operation equipment (equipment cleaning). A single printing operation may include any combination of these types of equipment, but always includes at least the point at which a printing or cleaning material is applied and all subsequent points in the affected

source where organic HAP emissions from that printing or cleaning material occur. There may be multiple printing operations in an affected source.

Publically owned treatment works or *POTW* means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a "State" or "municipality" (as defined by section 502(4) of the CWA). This definition includes sewers, pipes or other conveyances only if they convey wastewater to a POTW providing treatment.

Regulated materials means the organic-containing materials that are used in the three printing, coating, and dyeing subcategories defined in § 63.4281(a). Organic-HAP containing regulated materials are the source of the organic HAP emissions limited by the requirements of this subpart. The specific regulated materials for each subcategory are defined in § 63.4282.

Research or laboratory operation means an operation whose primary purpose is for research and development of new processes and products that is conducted under the close supervision of technically trained personnel and is not engaged in the manufacture of final or intermediate products for commercial purposes, except in a *de minimis* manner.

Responsible official means responsible official as defined in 40 CFR 70.2.

Slashing means the application of a chemical sizing solution to warp yarns prior to weaving to protect against snagging or abrasion that could occur during weaving.

Slashing materials, also known as sizing, means the purchased compounds that are applied to warp yarns prior to weaving. Starch, gelatin, oil, wax, and manufactured polymers such as polyvinyl alcohol, polystyrene, polyacrylic acid and polyacetates are used as sizing compounds.

Slashing operation means the equipment used to mix and prepare size for application and the slasher, which is the equipment used to apply and dry size on warp yarn.

Solids means the nonvolatile portion of the coating and printing materials that makes up the dry film on a coated substrate and the pattern or color on a printed substrate.

Startup, initial means the first time equipment is brought online in a facility.

Surface preparation means chemical treatment of part or all of a substrate to prepare it for coating or printing material application.

Temporary total enclosure means an enclosure constructed for the purpose of measuring the capture efficiency of pollutants emitted from a given source as defined in Method 204 of appendix M, 40 CFR part 51.

Textile means any one of the following:

(1) Staple fibers and filaments suitable for conversion to or use as yarns, or for the preparation of woven, knit, or nonwoven fabrics;

(2) Yarns made from natural or manufactured fibers;

(3) Fabrics and other manufactured products made from staple fibers and filaments and from yarn; and

(4) Garments and other articles fabricated from fibers, yarns, or fabrics.

Thinning material means an organic solvent that is added to a coating or printing material after the coating or printing material is received from the supplier.

Total volatile hydrocarbon (TVH) means the total amount of nonaqueous volatile organic material determined according to Methods 204A through 204C of appendix M to 40 CFR part 51 and substituting the term TVH each place in the methods where the term VOC is used. The TVH includes both VOC and non-VOC.

Uncontrolled web coating/printing or dyeing/finishing operation means acoating/printing or dyeing/finishing operation from which none of the organic HAP emissions are routed through an emission capture system and add-on control device.

Volatile organic compounds (VOC) means any compounds defined as VOC in 40 CFR 51.100(s).

Wastewater means water that is generated in a web coating, web printing, slashing, dyeing or finishing operation and is collected, stored, or treated prior to being discarded or discharged.

Web means a continuous textile substrate which is flexible enough to be wound or unwound as rolls.

Tables to Subpart OOOO of Part 63

If you are required to comply with emission limitations in accordance with §§ 63.4290 and 63.4291, you must comply with the applicable emission limits in the following table:

TABLE 1 TO SUBPART OOOO OF PART 63.—EMISSION LIMITS FOR NEW OR RECONSTRUCTED AND EXISTING AFFECTED SOURCES IN THE PRINTING, COATING AND DYEING OF FABRICS AND OTHER TEXTILES SOURCE CATEGORY

If your affected source is a . . .	And it conducts . . .	Then this is the organic HAP emission limit for each compliance period . . .
1. New or reconstructed coating and printing affected source.	Coating operations only, *or* Printing operations only, *or* Both coating and printing operations.	You may choose any one of the following limits: Reduce organic HAP emissions to the atmosphere by achieving at least a 98 percent organic HAP overall control efficiency; Limit organic HAP emissions to the atmosphere to no more than 0.08 kg of organic HAP per kg of solids applied; or If you use an oxidizer to control organic HAP emissions, operate the oxidizer such that an outlet organic HAP concentration of no greater than 20 ppmv on a dry basis is achieved and the efficiency of the capture system is 100 percent.

TABLE 1 TO SUBPART OOOO OF PART 63.—EMISSION LIMITS FOR NEW OR RECONSTRUCTED AND EXISTING AFFECTED SOURCES IN THE PRINTING, COATING AND DYEING OF FABRICS AND OTHER TEXTILES SOURCE CATEGORY—Continued

If your affected source is a . . .	And it conducts . . .	Then this is the organic HAP emission limit for each compliance period . . .
2. Existing coating and printing affected source	Coating operations only, *or* Printing operations only, *or* Both coating and printing operations.	You may choose any one of the following limits: Reduce organic HAP emissions to the atmosphere by achieving at least a 97 percent organic HAP overall control efficiency; Limit organic HAP emissions to the atmosphere to no more than 0.12 kg of organic HAP per kg of solids applied; or If you use an oxidizer to control organic HAP emissions, operate the oxidizer such that an outlet organic HAP concentration of no greater than 20 ppmv on a dry basis is achieved and the efficiency of the capture system is 100 percent.
3. New, reconstructed or existing dyeing finishing affected source.	a. Dyeing operations only	You must limit organic HAP emissions to the atmosphere to no more than 0.016 kg of organic HAP per kg of dyeing materials applied.
	b. Finishing operations only	You must limit organic HAP emissions to the atmosphere to no more than 0.0003 kg of organic HAP per kg of finishing materials applied.
	c. Both dyeing and finishing operations	You must limit organic HAP emissions to the atmosphere to no more than 0.016 kg of organic HAP per kg of dyeing and finishing materials applied.
4. New, reconstructed or existing slashing affected source.	Slashing operations only	You must limit organic HAP emissions to the atmosphere to no more than zero kg organic HAP per kg of slashing materials as determined according to §63.4321(e)(1)(iv) of this subpart.

If you are required to comply with the operating limits by §63.4292, you must comply with the applicable operating limits in the following table:

TABLE 2 TO SUBPART OOOO OF PART 63.—OPERATING LIMITS IF USING ADD-ON CONTROL DEVICES AND CAPTURE SYSTEM

For the following device . . .	You must meet the following operating limit . . .	And you must demonstrate continuous compliance with the operating limit by . . .
1. Thermal oxidizer	a. The average temperature in any 3-hour block period must not fall below the temperature limit established according to §63.4363(a)	i. Collecting the temperature data according to §63.4364(c); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour block average temperature at or above the temperature limit.
2. Catalytic oxidizer	a. The average temperature measured at the inlet to the catalyst bed in any 3-hour block period must not fall below the limit established according to §63.4363(b); and either	i. Collecting the temperature data according to §63.4364(c); ii. reducing the data to 3-hour block averages; and iii. maintaining the 3-hour block average catalyst bed inlet temparature at or above temperature limit.
	b. Ensure that the average temperature difference across the catalyst bed in any 3-hour block period does not fall below the temperature difference limit established according to §63.4363(b)(2); or	Collecting the temperature data according to §63.4364(c), reducing the data to 3-hour block averages, and maintaining the 3-hour block average temperature difference at or above the temperature difference limit.

TABLE 2 TO SUBPART OOOO OF PART 63.—OPERATING LIMITS IF USING ADD-ON CONTROL DEVICES AND CAPTURE SYSTEM—Continued

For the following device . . .	You must meet the following operating limit . . .	And you must demonstrate continuous compliance with the operating limit by . . .
	c. Develop and implement an inspection and maintenance plan according to § 63.4363(b)(4).	Maintaining an up-to-date inspection and maintenance plan, records of annual catalyst activity checks, records of monthly inspections of the oxidizer system, and records of the annual internal inspections of the catalyst bed. If a problem is discovered during a monthly or annual inspection required by § 63.4363(b)(4), you must take corrective action as soon as practicable consistent with the manufacturer's recommendations.
3. Emission capture system	Submit monitoring plan to the Administrator that identifies operating parameters to be monitored according to § 63.4364(e).	Conduct monitoring according to the plan (§ 63.4364(e)(3)).

You must comply with the applicable General Provisions requirements according to the following table:

TABLE 3 TO SUBPART OOOO OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOOO

Citation	Subject	Applicable to subpart OOOO	Explanation
§ 63.1(a)(1)–(12)	General Applicability	Yes.	
§ 63.1(b)(1)–(3)	Initial Applicability Determination	Yes	Applicability to subpart OOOO is also specified in § 63.4281.
§ 63.1(c)(1)	Applicability After Standard Established	Yes.	
§ 63.1(c)(2)–(3)	Applicability of Permit Program for Area Sources.	No	Area sources are not subject to subpart OOOO.
§ 63.1(c)(4)–(5)	Extensions and Notifications	Yes.	
§ 63.1(e)	Applicability of Permit Program Before Relevant Standard is Set.	Yes.	
§ 63.2	Definitions	Yes	Additional definitions are specified in § 63.4371.
§ 63.3(a)–(c)	Units and Abbreviations	Yes.	
§ 63.4(a)(1)–(5)	Prohibited Activities	Yes.	
§ 63.4(b)–(c)	Circumvention/Severability	Yes.	
§ 63.5(a)	Construction/Reconstruction	Yes.	
§ 63.5(b)(1)–(6)	Requirements for Existing, Newly Constructed, and Reconstructed Sources.	Yes.	
§ 63.5(d)	Application for Approval of Construction/Reconstruction.	Yes.	
§ 63.5(e)	Approval of Construction/Reconstruction	Yes.	
§ 63.5(f)	Approval of Construction/Reconstruction Based on Prior State Review.	Yes.	
§ 63.6(a)	Compliance With Standards and Maintenance Requirements—Applicability.	Yes.	
§ 63.6(b)(1)–(7)	Compliance Dates for New and Reconstructed Sources.	Yes	Section 63.4283 specifies the compliance dates.

TABLE 3 TO SUBPART OOOO OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOOO—Continued

Citation	Subject	Applicable to subpart OOOO	Explanation
§63.6(c)(1)–(5)	Compliance Dates for Existing Sources	Yes	Section 63.4283 specifies the compliance dates.
§63.6(e)(1)–(2)	Operation and Maintenance	Yes.	
§63.6(e)(3)	Startup, Shutdown, and Malfunction Plan	Yes	Only sources using an add-on control device to comply with the standards must complete startup, shutdown, and malfunction plans.
§63.6(f)(1)	Compliance Except During Startup, Shutdown, and Malfunction.	Yes	Applies only to sources using an add-on control device to comply with the standards.
§63.6(f)(2)–(3)	Methods for Determining Compliance	Yes.	
§63.6(g)(1)–(3)	Use of an Alternative Standard	Yes.	
§63.6(h)	Compliance With Opacity/Visible Emission Standards.	No	Subpart OOOO does not establish opacity standards and does not require continuous opacity monitoring systems (COMS).
§63.6(i)(1)–(16)	Extension of Compliance	Yes.	
§63.6(j)	Presidential Compliance Exemption	Yes.	
§63.7(a)(1)	Performance Test Requirements—Applicability	Yes	Applies to all affected sources. Additional requirements for performance testing are specified in §§63.4360, 63.4361, and 63.4362.
§63.7(a)(2)	Performance Test Requirements—Dates	Yes	Applies only to performance tests for capture system and control device efficiency at sources using these to comply with the standard.
§63.7(a)(3)	Performance Tests Required by the Administrator.	Yes.	
§63.7(b)–(e)	Performance Test Requirements—Notification, Quality Assurance, Facilities Necessary for Safe Testing, Conditions During Test.	Yes	Applies only to performance tests for capture system and control device efficiency at sources using these to comply with the standard.
§63.7(f)	Performance Test Requirements—Use of Alternative Test Method.	Yes	Applies to all test methods except those used to determine capture system efficiency.
§63.7(g)–(h)	Performance Test Requirements—Data Analysis, Recordkeeping, Waiver of Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standards.
§63.8(a)(1)–(3)	Monitoring Requirements—Applicability	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standards. Additional requirements for monitoring are specified in §63.4364.
§63.8(a)(4)	Additional Monitoring Requirements	No	Subpart OOOO does not have monitoring requirements for flares.
§63.8(b)	Conduct of Monitoring	Yes.	
§63.8(c)(1)–(3)	Continuous Monitoring Systems (CMS) Operation and Maintenance.	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standards. Additional requirements for CMS operations and maintenance are specified in §63.4364.
§63.8(c)(4)	CMS	No	Section 63.4364 specifies the requirements for the operation of CMS for capture systems and add-on control devices at sources using these to comply.

TABLE 3 TO SUBPART OOOO OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOOO—Continued

Citation	Subject	Applicable to subpart OOOO	Explanation
§63.8(c)(5)	COMS	No	Subpart OOOO does not have opacity or visible emission standards.
§63.8(c)(6)	CMS Requirements	No	Section 63.4364 specifies the requirements for monitoring systems for capture systems and add-on control devices at sources using these to comply.
§63.8(c)(7)–(8)	CMS Out of Control Periods and Reporting	Yes.	
§63.8(d)—(e)	Quality Control Program and CMS Performance Evaluation.	No	Subpart OOOO does not require the use of continuous emissions monitoring systems.
§63.8(f)(1)–(5)	Use of an Alternative Monitoring Method	Yes.	
§63.8(f)(6)	Alternative to Relative Accuracy Test	No	Subpart OOOO does not require the use of continuous emissions monitoring systems.
§63.8(g)(1)–(5)	Data Reduction	No	Sections 63.4342 and 63.4352 specify monitoring data reduction.
§63.9(a)	Applicability and General Information	Yes.	
§63.9(b)	Initial Notifications	No	Subpart OOOO provides 1 year for an existing source to submit an initial notification.
§63.9(c)	Request for Extension of Compliance	Yes.	
§63.9(d)	Notification that Source is Subject to Special Compliance Requirements.	Yes.	
§63.9(e)	Notification of Performance Test	Yes	Applies only to capture system and add-on control device performance tests at sources using these to comply with the standards.
§63.9(f)	Notification of Visible Emissions/Opacity Test	No	Subpart OOOO does not have opacity or visible emission standards.
§63.9(g)(1)–(3)	Additional Notifications When Using CMS	No	Subpart OOOO does not require the use of continuous emissions monitoring systems.
§63.9(h)	Notification of Compliance Status	Yes	Section 63.4310 specifies the dates for submitting the notification of compliance status.
§63.9(i)	Adjustment of Submittal Deadlines	Yes.	
§63.9(j)	Change in Previous Information	Yes.	
§63.10(a)	Recordkeeping/Reporting—Applicability and General Information	Yes.	
§63.10(b)(1)	General Recordkeeping Requirements	Yes	Additional Requirements are specified in §§63.4312 and 63.4313.
§63.10(b)(2)(i)–(v)	Recordkeeping Relevant to Startup, Shutdown, and Malfunction Periods and CMS.	Yes	Requirements for Startup, Shutdown, and Malfunction records only apply to add-on control devices used to comply with the standards.
§63.10(b)(2)(vi)–(xi)		Yes.	
§63.10(b)(2)(xii)	Records	Yes.	
§63.10(b)(2)(xiii)		No	Subpart OOOO does not require the use of continuous emissions monitoring systems.
§63.10(b)(2)(xiv)		Yes.	
§63.10(b)(3)	Recordkeeping Requirements for Applicability Determinations.	Yes.	

TABLE 3 TO SUBPART OOOO OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOOO—Continued

Citation	Subject	Applicable to subpart OOOO	Explanation
§63.10(c)(1)–(6)	Additional Recordkeeping Requirements for Sources with CMS.	Yes.	
§63.10(c)(7)–(8)		No	The same records are required in §63.4311(a)(7).
§63.10(c)(9)–(15)		Yes.	
§63.10(d)(1)	General Reporting Requirements	Yes	Addtional requirements are specified in §63.4311.
§63.10(d)(2)	Report of Performance Test Results	Yes	Additional requirements are specified in §63.4311(b).
§63.10(d)(3)	Reporting Opacity or Visible Emissions Observations.	No	Subpart OOOO does not require opacity or visible emissions observations.
§63.10(d)(4)	Progress Reports for Sources With Compliance Extensions.	Yes.	
§63.10(d)(5)	Startup, Shutdown, and Malfunction Reports	Yes	Applies only to add-on control devices at sources using these to comply with the standards.
§63.10(e)(1)–(2)	Additional CMS Reports	No	Subpart OOOO does not require the use of continuous emissions monitoring systems.
§63.10(e)(3)	Excess Emissions/CMS Performance Reports	No	Section 63.4311(a) specifies the contents of periodic compliance reports.
§63.10(e)(4)	COMS Data Reports	No	Subpart OOOO does not specify requirements for opacity or COMS.
§63.10(f)	Recordkeeping/Reporting Waiver	Yes.	
§63.11	Control Device Requirements/Flares	No	Subpart OOOO does not specify use of flares for compliance.
§63.12	State Authority and Delegations	Yes.	
§63.13	Addresses	Yes.	
§63.14	Incorporation by Reference	Yes	ASNI/ASME PTC 19.10–1981, Part 10
§63.15	Availability of Information/Confidentiality	Yes.	

You may use the mass fraction values in the following table for solvent blends for which you do not have test data or manufacturer's formulation data.

TABLE 4 TO SUBPART OOOO OF PART 63.—DEFAULT ORGANIC HAP MASS FRACTION FOR SOLVENTS AND SOLVENT BLENDS

Solvent/solvent blend	CAS. No.	Average organic HAP mass fraction	Typical organic HAP, percent by mass
1. Toluene	108–88–3	1.0	Toluene.
2. Xylene(s)	1330–20–7	1.0	Xylenes, ethylbenzene.
3. Hexane	110–54–3	0.5	n-hexane.
4. n-Hexane	110–54–3	1.0	n-hexane.
5. Ethylbenzene	100–41–4	1.0	Ethylbenzene.
6. Aliphatic 140		0	None.
7. Aromatic 100		0.02	1% xylene, 1% cumene.
8. Aromatic 150		0.09	Naphthalene.
9. Aromatic naphta	64742–95–6	0.02	1% xylene, 1% cumene.
10. Aromatic solvent	64742–94–5	0.1	Naphthalene.
11. Exempt mineral spirits	8032–32–4	0	None.
12. Ligroines (VM & P)	8032–32–4	0	None.
13. Lactol spirits	64742–89–6	0.15	Toluene.

TABLE 4 TO SUBPART OOOO OF PART 63.—DEFAULT ORGANIC HAP MASS FRACTION FOR SOLVENTS AND SOLVENT BLENDS—Continued

Solvent/solvent blend	CAS. No.	Average organic HAP mass fraction	Typical organic HAP, percent by mass
14. Low aromatic white spirit	64742–82–1	0	None.
15. Mineral spirits	64742–88–7	0.01	Xylenes.
16. Hydrotreated naphtha	64742–48–9	0	None.
17. Hydrotreated light distillate	64742–47–8	0.001	Toluene.
18. Stoddard solvent	8052–41–3	0.01	Xylenes.
19. Super high-flash naphtha	64742–95–6	0.05	Xylenes.
20. Varsol® solvent	8052–49–3	0.01	0.5% xylenes, 0.5% ethylbenzene.
21. VM & P naphtha	64742–89–8	0.06	3% toluene, 3% xylene.
22. Petroleum distillate mixture	68477–31–6	0.08	4% naphthalene, 4% biphenyl.

You may use the mass fraction values in the following table for solvent blends for which you do not have test data or manufacturer's formulation data:

TABLE 5 TO SUBPART OOOO OF PART 63.—DEFAULT ORGANIC HAP MASS FRACTION FOR PETROLEUM SOLVENT GROUPS [a]

Solvent type	Average organic HAP mass fraction	Typical organic HAP, percent by mass
Aliphatic [b]	0.03	1% Xylene, 1% Toluene, and 1% Ethylbenzene.
Aromatic [c]	0.06	4% Xylene, 1% Toluene, and 1% Ethylbenzene.

[a] Use this table only if the solvent blend does not match any of the solvent blends in Table 4 to this subpart and you only know whether the blend is aliphatic or aromatic.

[b] Mineral Spirits 135, Mineral Spirits 150 EC, Naphtha, Mixed Hydrocarbon, Aliphatic Hydrocarbon, Aliphatic Naphtha, Naphthol Spirits, Petroleum Spirits, Petroleum Oil, Petroleum Naphtha, Solvent Naphtha, Solvent Blend.

[c] Medium-flash Naphtha, High-flash Naphtha, Aromatic Naphtha, Light Aromatic Naphtha, Light Aromatic Hydrocarbons, Aromatic Hydrocarbons, Light Aromatic Solvent.

[FR Doc. 03–5738 Filed 5–28–03; 8:45 am]

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Federal Register

Friday,
May 30, 2003

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions; and Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j); Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL –7498–8]

RIN 2060–AK52

National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions; and Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: In this action, we are adopting final amendments to the General Provisions for national emission standards for hazardous air pollutants (NESHAP) and to the rule which establishes criteria and procedures for equivalent emission limitations adopted pursuant to Clean Air Act (CAA) section 112(j). These final rule amendments establish a new timetable for the submission of section 112(j) Part 2 applications, which is based on the timetable we have agreed to follow for promulgation of the remaining NESHAP, and modify the content requirements for Part 2 applications. These final rule amendments also establish revised procedures for requests for applicability determination previously submitted under the section 112(j) rule, and for section 112(j) applications submitted by sources that previously obtained a case-by-case determination under CAA section 112(g). These final rule amendments also adopt various amendments to the NESHAP General Provisions governing startup, shutdown, and malfunction (SSM) plans, some of which were proposed by EPA pursuant to a settlement agreement in a judicial action concerning the prior amendments published on April 5, 2002.

EFFECTIVE DATE: May 30, 2003.

ADDRESSES: Docket No. OAR–2002–0038 (formerly A–2002–21) is located at the EPA Docket Center, EPA West, U.S. EPA (6102T), 1301 Constitution Avenue, NW., Room B–102, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: For information concerning applicability and rule determinations, contact your State or local permitting agency representative or the appropriate EPA Regional Office representative. For further information concerning the development of these rule amendments, contact Mr. Rick Colyer, U.S. EPA, Office of Air Quality Planning and Standards, Minerals and Inorganic Chemicals Group, C504–05, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5262, e-mail *colyer.rick@epa.gov.*

SUPPLEMENTARY INFORMATION: *Docket.* We have established an official public docket for this action under Docket ID No. OAR–2002–0038. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Office of Air and Radiation Docket and Information Center (Air Docket) in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC 20460. The EPA Docket Center 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 Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

Electronic Docket Access. You may access the final rule electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility in the above paragraph entitled "Docket." Once in the system, select "search," then key in the appropriate docket identification number.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's promulgated rule amendments will also be available on the WWW through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the rule amendments 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. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. Categories and entities potentially regulated by this action include all section 112 source categories listed under section 112(c) of the CAA.

Industry Group: Source Category

Fuel Combustion

Combustion Turbines
Engine Test Facilities
Industrial Boilers
Institutional/Commercial Boilers
Process Heaters
Reciprocating Internal Combustion Engines
Rocket Testing Facilities

Non-Ferrous Metals Processing

Primary Aluminum Production
Primary Copper Smelting
Primary Lead Smelting
Primary Magnesium Refining
Secondary Aluminum Production
Secondary Lead Smelting

Ferrous Metals Processing

Coke By-Product Plants
Coke Ovens: Charging, Top Side, and Door Leaks
Coke Ovens: Pushing, Quenching, Battery Stacks
Ferroalloys Production: Silicomanganese and Ferromanganese
Integrated Iron and Steel Manufacturing
Iron Foundries Electric Arc Furnace (EAF) Operation
Steel Foundries
Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration

Mineral Products Processing

Alumina Processing
Asphalt Concrete Manufacturing
Asphalt Processing
Asphalt Roofing Manufacturing
Asphalt/Coal Tar Application—Metal Pipes
Clay Products Manufacturing
Lime Manufacturing
Mineral Wool Production
Portland Cement Manufacturing
Refractories Manufacturing
Taconite Iron Ore Processing
Wool Fiberglass Manufacturing

Petroleum and Natural Gas Production and Refining

Oil and Natural Gas Production
Natural Gas Transmission and Storage
Petroleum Refineries—Catalytic Cracking (Fluid and other) Units, Catalytic Reforming Units, and Sulfur Plant Units
Petroleum Refineries—Other Sources Not Distinctly Listed

Liquids Distribution

Gasoline Distribution (Stage 1)
Marine Vessel Loading Operations
Organic Liquids Distribution (Non-Gasoline)

Surface Coating Processes

Aerospace Industries
Auto and Light Duty Truck
Large Appliance
Magnetic Tapes
Manufacture of Paints, Coatings, and Adhesives
Metal Can
Metal Coil
Metal Furniture
Miscellaneous Metal Parts and Products
Paper and Other Webs
Plastic Parts and Products
Printing, Coating, and Dyeing of Fabrics
Printing/Publishing
Shipbuilding and Ship Repair
Wood Building Products
Wood Furniture

Waste Treatment and Disposal

Hazardous Waste Incineration
Municipal Landfills
Off-Site Waste and Recovery Operations
Publicly Owned Treatment Works (POTW) Emissions
Sewage Sludge Incineration
Site Remediation
Solid Waste Treatment, Storage and Disposal Facilities (TSDF)

Agricultural Chemicals Production

Pesticide Active Ingredient Production

Fibers Production Processes

Acrylic Fibers/Modacrylic Fibers Production
Rayon Production
Spandex Production

Food and Agriculture Processes

Manufacturing of Nutritional Yeast
Cellulose Food Casing Manufacturing
Vegetable Oil Production

Pharmaceutical Production Processes

Pharmaceuticals Production

Polymers and Resins Production

Acetal Resins Production
Acrylonitrile-Butadiene-Styrene Production
Alkyd Resins Production
Amino Resins Production
Boat Manufacturing
Butyl Rubber Production
Carboxymethylcellulose Production
Cellophane Production
Cellulose Ethers Production
Epichlorohydrin Elastomers Production
Epoxy Resins Production
Ethylene-Propylene Rubber Production
Flexible Polyurethane Foam Production
Hypalon (tm) Production
Maleic Anhydride Copolymers Production
Methylcellulose Production
Methyl Methacrylate-Acrylonitrile-Butadiene-Styrene Production
Methyl Methacrylate-Butadiene-Styrene Terpolymers Production
Neoprene Production
Nitrile Butadiene Rubber Production
Nitrile Resins Production
Non-Nylon Polyamides Production
Phenolic Resins Production
Polybutadiene Rubber Production
Polycarbonates Production
Polyester Resins Production
Polyether Polyols Production
Polyethylene Terephthalate Production
Polymerized Vinylidene Chloride Production
Polymethyl Methacrylate Resins Production
Polystyrene Production
Polysulfide Rubber Production
Polyvinyl Acetate Emulsions Production
Polyvinyl Alcohol Production
Polyvinyl Butyral Production
Polyvinyl Chloride and Copolymers Production
Reinforced Plastic Composites Production
Styrene-Acrylonitrile Production
Styrene-Butadiene Rubber and Latex Production

Production of Inorganic Chemicals

Ammonium Sulfate Production—Caprolactam By-Product Plants
Carbon Black Production
Chlorine Production
Cyanide Chemicals Manufacturing
Fumed Silica Production
Hydrochloric Acid Production
Hydrogen Fluoride Production
Phosphate Fertilizers Production
Phosphoric Acid Manufacturing
Uranium Hexafluoride Production

Production of Organic Chemicals

Ethylene Processes
Quaternary Ammonium Compounds Production
Synthetic Organic Chemical

Miscellaneous Processes

Benzyltrimethylammonium Chloride Production
Butadiene Dimers Production
Carbonyl Sulfide Production
Cellulosic Sponge Manufacturing
Chelating Agents Production
Chlorinated Paraffins
Chromic Acid Anodizing
Commercial Dry Cleaning (Perchloroethylene)—Transfer Machines
Commercial Sterilization Facilities
Decorative Chromium Electroplating
Dry Cleaning (Petroleum Solvent)
Ethylidene Norbornene Production
Explosives Production
Flexible Polyurethane Foam Fabrication Operations
Friction Products Manufacturing
Halogenated Solvent Cleaners
Hard Chromium Electroplating
Hydrazine Production
Industrial Cleaning (Perchloroethylene)—Dry-to-Dry Machines
Industrial Dry Cleaning (Perchloroethylene)—Transfer Machines
Industrial Process Cooling Towers
Leather Tanning and Finishing Operations
OBPA/1,3-Diisocyanate Production
Paint Stripping Operations
Photographic Chemicals Production
Phthalate Plasticizers Production
Plywood and Composite Wood Products
Polyether Polyols Production
Pulp and Paper Production
Rubber Chemicals Manufacturing
Rubber Tire Manufacturing
Semiconductor Manufacturing
Symmetrical Tetrachloropyridine Production

Categories of Area Sources

Chromic Acid Anodizing
Commercial Dry Cleaning (Perchloroethylene)—Dry-to-Dry Machines
Commercial Dry Cleaning (Perchloroethylene)—Transfer Machines
Commercial Sterilization Facilities
Decorative Chromium Electroplating
Halogenated Solvent Cleaners
Hard Chromium Electroplating
Secondary Lead Smelting

This list 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 you are regulated by this action, you should examine the section 112(d) regulation for your source category. 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. Only source categories listed in Table 1 for which standards have not been promulgated are affected by the section 112(j) regulation.

TABLE 1.—SECTION 112(j) PART 2 APPLICATION DUE DATES

Due date	MACT standard
10/30/03	Combustion Turbines. Lime Manufacturing. Site Remediation. Iron and Steel Foundries. Taconite Iron Ore Processing. Miscellaneous Organic Chemical Manufacturing (MON) [1]. Organic Liquids Distribution. Primary Magnesium Refining. Metal Can (Surface Coating). Plastic Parts and Products (Surface Coating). Chlorine Production. Miscellaneous Metal Parts and Products (Surface Coating) (and Asphalt/Coal Tar Application—Metal Pipes) [2].
4/28/04	Industrial Boilers, Institutional/Commercial Boilers and Process Heaters [3] Plywood and Composite Wood Product Reciprocating Internal Combustion Engines [4] Auto and Light-Duty Truck (Surface Coating).
8/13/05	Industrial Boilers, Institutional/Commercial Boilers, and Process Heaters [5] Hydrochloric Acid Production [6].

[1] Covers 23 source categories, *see* Table 2 of this preamble.
[2] Two source categories.
[3] Includes all sources in the three categories, Industrial Boilers, Institutional/Commercial Boilers, and Process Heaters that burn no hazardous waste.
[4] Includes engines greater than 500 brake horsepower.
[5] Includes all sources in the three categories, Industrial Boilers, Institutional/Commercial Boilers, and Process Heaters that burn hazardous waste.
[6] Includes furnaces that produce acid from hazardous waste at sources in the category Hydrochloric Acid Production.

TABLE 2.—MON SOURCE CATEGORIES

Manufacture of Paints, Coatings, and Adhesives.
Alkyd Resins Production.
Maleic Anhydride Copolymers Production.
Polyester Resins Production.
Polymerized Vinylidene Chloride Production.
Polymethyl Methacrylate Resins Production.
Polyvinyl Acetate Emulsions Production.
Polyvinyl Alcohol Production.
Polyvinyl Butyral Production.
Ammonium Sulfate Production-Caprolactam By-Product Plants.
Quaternary Ammonium Compounds Production.
Benzyltrimethylammonium Chloride Production.
Carbonyl Sulfide Production.
Chelating Agents Production.
Chlorinated Paraffins Production.
Ethylidene Norbornene Production.
Explosives Production.
Hydrazine Production.
OBPA/1,3-Diisocyanate Production.
Photographic Chemicals Production.
Phthalate Plasticizers Production.
Rubber Chemicals Manufacturing.
Symmetrical Tetrachloropyridine Production.

Judicial Review. The amendments to the General Provisions and the section 112(j) provisions were proposed on December 9, 2002 (67 FR 72875). Today's action announces EPA's final decision concerning the amendments. Under section 307(b)(1) of the CAA, judicial review of these amendments is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by July 29, 2003. Under section 307(d)(7)(B) of the CAA, only those objections to this rule that were raised with reasonable specificity during the period for public comment may be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements that are the subject of today's final rule may not be challenged separately in civil or criminal proceedings brought by the EPA to enforce these requirements.

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

I. Background
A. General Provisions
B. CAA Section 112(j) Provisions
C. The Sierra Club Litigation
D. Review of Proposed Settlement Under CAA Section 113(g)
E. Proposed Rule
II. Final Amendments to the General Provisions
A. Startup, Shutdown, and Malfunction Plans
B. Other Sections of the General Provisions
III. Final Amendments to the Section 112(j) Provisions
A. General Applicability
B. New Schedule for Part 2 Applications
C. Requests for Applicability Determination
D. Prior Section 112(g) Determinations
E. Later Part 1 Applications
F. Content of Part 2 Applications
IV. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act (RFA)
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer Advancement Act
J. Congressional Review Act

I. Background

A. General Provisions

Section 112 of the CAA requires us 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. Major sources of HAP are those that have the potential to emit 10 tons/yr or more of any one HAP or 25 tons/yr or more of any combination of HAP. Area sources of HAP are those sources that do not have potential to emit 10 tons/yr or more of any one HAP and 25 tons/yr or more of any combination of HAP.

The General Provisions in 40 CFR part 63 establish the framework for emission standards and other requirements developed pursuant to section 112 of the CAA. The General Provisions eliminate the repetition of general information and requirements in individual NESHAP by consolidating all generally applicable information in one location. They include sections on applicability, definitions, compliance dates and requirements, monitoring, recordkeeping and reporting, among others. In addition, they include administrative sections concerning actions that the EPA (or delegated authorities) must take, such as making determinations of applicability, reviewing applications for approval of new construction, responding to requests for extensions or waivers of applicable requirements, and generally enforcing national air toxics standards. The General Provisions become

applicable to a CAA section 112(d) source category rule when the source category rule is promulgated and becomes effective.

The NESHAP General Provisions were first promulgated on March 16, 1994 (59 FR 12408). We subsequently proposed a variety of amendments to that initial rule, based in part on settlement negotiations with industrial trade organizations which had sought judicial review of the rule and in part on our practical experience in developing and implementing NESHAP, also know as maximum achievable control technology (MACT) standards, under the General Provisions (66 FR 16318, March 23, 2001). We then promulgated final amendments to the General Provisions pursuant to that proposal (67 FR 16582, April 5, 2002).

B. CAA Section 112(j) Provisions

The 1990 Amendments to section 112 of the CAA included a new section 112(j), which is entitled "Equivalent Emission Limitation by Permit." Section 112(j)(2) provides that the provisions of section 112(j) apply if EPA misses a deadline for promulgation of a standard under section 112(d) established in the source category schedule for standards. After the effective date of a title V permit program in a State, section 112(j)(3) requires the owner or operator of a major source in a source category, for which the EPA failed to promulgate a section 112(d) standard, to submit a permit application 18 months after the missed promulgation deadline.

We first promulgated a rule to implement section 112(j) on May 20, 1994 (59 FR 26429). We subsequently proposed a variety of amendments to that initial rule, based in part on settlement negotiations with industrial trade organizations which had sought judicial review of the rule and in part on our own further evaluation of the existing procedures (66 FR 16318, March 23, 2001). We then promulgated final amendments to the section 112(j) rule, along with our final amendments to the General Provisions (67 FR 16582, April 5, 2002).

C. The Sierra Club Litigation

We promulgated the final rule amending the NESHAP General Provisions and the requirements for case-by-case determinations under CAA section 112(j) on April 5, 2002 (67 FR 16582). The Sierra Club filed a petition seeking judicial review of that final rule on April 25, 2002, *Sierra Club* v. *U.S. Environmental Protection Agency,* No. 02–1135 (DC Circuit). The Sierra Club also filed a petition seeking administrative reconsideration of certain provisions in the final rule, pursuant to CAA section 307(d)(7)(B).

Shortly after the filing of the petition, EPA commenced discussions with the Sierra Club concerning a settlement agreement. We reached initial agreement with the Sierra Club on the terms of a settlement and lodged the tentative agreement with the court on August 15, 2002. Under the proposed settlement, we agreed to propose a rule to make specified amendments to the General Provisions and section 112(j) rules no later than 2 months after signature and to take final action on the proposed amendments within 7 months after signature.

D. Review of Proposed Settlement Under CAA Section 113(g)

As required by section 113(g) of the CAA, EPA published a notice in the **Federal Register** affording interested persons an opportunity to comment on the terms of the proposed settlement in *Sierra Club* v. *U.S. Environmental Protection Agency,* No. 02–1135 (DC Circuit) (67 FR 54804, August 26, 2002). In response to that notice, we received 110 timely comments, the vast majority of which opposed one or more provisions of the proposed settlement.

Virtually all of the commenters expressed concern about the practical consequences of a provision in the proposed settlement which required us to propose reducing the time between section 112(j) Part 1 and Part 2 applications from 24 months to 12 months. We agreed with the commenters that this approach would have resulted in wasteful expenditures by the applicants and the permitting agencies to prepare and to process applications which in all likelihood would never have been acted upon. Given the strong opposition to this approach reflected in the comments both by industry sources and organizations and by State and local permitting authorities, we were pleased when the Sierra Club agreed to discuss modifying the proposed settlement to establish an alternative timetable for submission of section 112(j) Part 2 applications.

The EPA and the Sierra Club then negotiated a revised settlement based on a new approach suggested by organizations representing State and local governments. In the revised settlement, we agreed to propose a schedule requiring that section 112(j) Part 2 applications for affected sources in those categories for which MACT standards were scheduled to be promulgated prior to May 15, 2002, be submitted by May 15, 2003, and section 112(j) Part 2 applications for all remaining source categories be submitted by 60 days after the scheduled promulgation date for the source category in question. We also agreed to propose the same amendments to the General Provisions concerning SSM plans which were set forth in the original settlement. The EPA and the Sierra Club executed a final settlement agreement in *Sierra Club* v. *U.S. Environmental Protection Agency,* No. 02–1135 (DC Circuit), and filed it with the court on November 26, 2002.

E. Proposed Rule

Following execution of the final settlement agreement, we published a proposed rule effectuating its terms (67 FR 72875, December 9, 2002). In addition to the proposed amendments required by the settlement, we also proposed to revise a new recordkeeping provision concerning SSM plans we adopted in the April 5, 2002 final rule, and we requested comment on issues presented by the section governing the content of section 112(j) Part 2 applications and on certain other sections in the NESHAP General Provisions we amended in the April 5, 2002 final rule.

We received 73 public comment letters in response to our proposal. We have carefully evaluated all of these comments and have modified the amendments we proposed in certain respects. Our responses to some of the major comments we received, and the decisions we have made concerning appropriate final amendments to the NESHAP General Provisions and the section 112(j) rule, are discussed in the sections which follow.

II. Final Amendments to the General Provisions

A. Startup, Shutdown, and Malfunction Plans

1. The General Duty To Minimize Emissions

We proposed revisions in the language in 40 CFR 63.6(e)(1)(i) to correct a potential problem in interpreting the relationship between the general duty to minimize emissions established by that section and the compliance of a source with its SSM plan. The section in question was modified in the April 5, 2002 final rule because the prior language appeared to impose on a source a general duty to further reduce emissions even when the source is already in full compliance with the applicable MACT standard. We deemed this result to be unreasonable and made corresponding changes in the language of the rule.

However, when we made that change, we inadvertently adopted some language which could be construed as contrary to the policies regarding the relationship between the general duty to minimize emissions and SSM plans which we stated in the proposal preamble for the preceding amendments. The SSM plans must be drafted in a manner which satisfies the general duty to minimize emissions (40 CFR 63.6(e)(3)(i)(A)). Thus, compliance with a properly drafted SSM plan during a period of startup, shutdown, or malfunction will necessarily also constitute compliance with the duty to minimize emissions, even though compliance with the MACT standard itself during a period of SSM may not be practicable. When we proposed the preceding amendments, we stated explicitly that "* * * compliance with an inadequate or improperly developed SSM plan is no defense for failing to minimize emissions." (66 FR 16327, March 23, 2001).

The Sierra Club subsequently pointed out to us that the actual language of the section as promulgated could be construed to indicate that a facility that complies with its SSM plan—regardless of whether the plan is inadequate or improperly developed—thereby satisfies its general duty to minimize emissions. We did not intend this result. Such a construction could encourage abuse because SSM plans do not have to be reviewed or approved by the permitting authority before they take effect, and because such plans may also be revised by the owner or operator of the source without prior notice to the permitting authority. The revisions to 40 CFR 63.6(e)(1)(i) which we proposed in this rulemaking were intended to assure that this section would not be construed in this manner.

We received numerous comments from industry opposing the proposed revised language. In general, the commenters did not disagree with the general principles concerning the relationship between the general duty to minimize emissions and the compliance of a source with its SSM plan which we articulated in the proposal preamble. Rather, the commenters expressed concerns about the interpretation of the proposed language.

We believe that much of the concern expressed by the commenters is based on one alternative construction of the phrase "to the levels required by the relevant standards," which replaced the phrase "at least to the levels required by the relevant standards" in several sections of the April 5, 2002 final rule. While we intended this phrase to mean that emissions must be minimized to the greatest extent which is practicable, unless and until the levels required by the applicable MACT standard are achieved, some commenters were concerned that this phrase would be construed to require that the standard be met at all times. While we believe that such a construction would be unreasonable in the context of the remainder of the rule, we do understand how the literal language could be construed in this manner. The parenthetical phrase which followed this language in one section of the April 5, 2002 final rule helped to mitigate the potential that readers might adopt this alternative construction. However, as we have explained, it also created the significant problem identified by the Sierra Club.

Many commenters suggested that we modify the language of the rule itself to more clearly establish those general principles which we stated in the proposal preamble. We agree with these commenters. Accordingly, we have adopted new language for § 63.6(e)(1)(i), which establishes the general duty to minimize emissions. This new language makes it clear that during a period of SSM, the general duty to minimize emissions requires the owner or operator to reduce emissions to the greatest extent consistent with safety and good air pollution control practices. However, during an SSM event, the general duty to minimize emissions does not require an owner or operator to achieve the levels required by the applicable MACT standard at other times, or to make further efforts to reduce emissions if such levels have been successfully achieved.

Rather than restating these principles in other sections of the rule, we have instead cross-referenced the revised language of § 63.6(e)(1)(i) in § 63.6(e)(3)(i)(A) and § 63.6(e)(3)(vii)(B). This assures that the same principles concerning the duty to minimize emissions will also be applied in the drafting of an SSM plan and in determining whether a particular SSM plan requires revision. We believe that this combination of amendments is responsive to the concerns expressed by the industry commenters. However, it also achieves our original purpose by assuring that a source will not be considered to have satisfied the duty to minimize emissions merely because it has complied with the provisions of an inadequate SSM plan.

We note that the Sierra Club argued in its comments that the whole concept that a MACT standard does not apply during periods of SSM has a questionable legal basis, and that any exemption for such activities should be strictly limited to those instances where violation of emission limitations is "unavoidable." We believe that we have discretion to make reasonable distinctions concerning those particular activities to which the emission limitations in a MACT standard apply, and we, therefore, disagree with the legal position taken by the Sierra Club. However, we note that the general duty to minimize emissions is intended to be a legally enforceable duty which applies when the emission limitations in a MACT standard do not apply, thereby limiting exceedances of generally applicable emission limitations to those instances where they cannot be reasonably avoided.

The general duty to minimize emissions requires that owners or operators review their SSM plans on an ongoing basis and make appropriate improvements to assure that excess emissions are avoided. Our experience in another regulatory context illustrates how sources and regulatory authorities can work together to improve procedures for SSM events. We have been working with the petroleum refining industry to reduce the number and significance of refinery acid gas flaring episodes, and a refinery flaring reduction protocol has now been implemented at about 35 refinery facilities nationwide. The protocol helps sources to determine the root cause of certain flaring events, determine the corrective action(s) for such problems, and then to implement the corrections.

Use of this protocol has resulted in a dramatic drop in the number of SSM events. For example, one company reduced the percentage of time in flare at its refineries (including all startup, shutdown, maintenance, upset activities) from 29.0% in 1998 to 1.6% in 2002. The EPA intends to develop guidance this year that will highlight the best practices that have been implemented by various refiners around the country to improve their response to SSM events. We believe that the experience we have gained in this process may also be beneficial to other facilities as they work to improve the quality and comprehensiveness of their SSM plans.

2. Public Access to SSM Plans

We also proposed some changes to 40 CFR 63.6(e)(3)(v), the section that governs submission of SSM plans to the EPA Administrator, and to the State or local permitting authorities which operate as the Administrator's designated representatives. That section provides that the current SSM plan must be made available upon request to the Administrator for "inspection and

copying." The "Administrator" is defined to include a State which has received delegation and is therefore the Administrator's "authorized representative" (40 CFR 63.2).

We stated in the proposal preamble for the previous rulemaking (66 FR 16326, March 23, 2001) that the permit writer or the Administrator may also require submission of the SSM plan. However, Sierra Club observed during settlement discussions that the rule as amended in April 5, 2002 did not expressly require that SSM plans be submitted to the Administrator or to the permitting authority upon request.

Because SSM plans are required for facilities subject to CAA section 112, they clearly are covered by CAA section 114(a). Therefore, to address the concern expressed by Sierra Club, we have revised the rule to make it clear that the owner or operator of an affected facility is required to submit its SSM plan to the Administrator or the permitting authority upon request. We also note that SSM plans are considered to be submitted to the Administrator under CAA section 114 even if they are submitted to a State or local agency acting on the Administrator's behalf (40 CFR 2.301(b)(2)). Under CAA section 114(c), any plan that is submitted to EPA or the permitting authority must also be made available to the public, unless the submitter makes a satisfactory showing that disclosure would divulge methods or processes that are entitled to protection under the Trade Secrets Act, 18 U.S.C. 1905.

During settlement discussions, the Sierra Club also expressed concern that some permitting authorities might not construe the rule to require that an SSM plan be obtained from the affected source when it is requested by a member of the public. We agreed to propose some revisions to the rule to facilitate better public access. We proposed to require sources to submit a copy of the SSM plan to the permitting authority at the time it is first adopted and each time it is subsequently revised.

Many commenters vigorously opposed these proposed amendments. A number of industry commenters argued that there is no general obligation to provide public access to SSM plans, and that only those plans that the States or EPA actually elect to obtain from the sources must be made available to the public. These commenters argued that EPA has incorrectly construed the SSM plan as an integral part of the permit documentation that must be made available to the public under CAA sections 114(c) and 503(e).

Industry commenters also argued that requiring routine submission of SSM plans would be very burdensome for sources, because SSM plans are often fully integrated into other operating procedures at a source, and production of a complete SSM plan might, therefore, require copying and compilation of other documents. Commenters also expressed concern about the burden on sources associated with identification and segregation of claimed Confidential Business Information (CBI), and the danger that permitting authorities might inadvertently disclose such information. Commenters also argued that routine submission of SSM plans would be burdensome for the permitting authorities.

A number of commenters suggested that appropriate public access to SSM plans could be assured by a less burdensome approach, focusing on the specific problems with the current rule that we identified in the proposal. Some commenters suggested that EPA could adopt new regulatory language specifically requiring sources to submit SSM plans when requested by the permitting authority. Others suggested that EPA provide clearer guidance to permitting authorities indicating that they are responsible and have the authority to obtain SSM plans when requested by the public. We think that these ideas are constructive.

We acknowledge that adopting a requirement that copies of SSM plans be routinely submitted to the permitting authorities would be burdensome. In particular, we think that significant resources would be expended on the process of identifying and segregating claimed CBI in each plan. We also acknowledge that the proper maintenance of these extra records would necessarily involve additional resource expenditures by the permitting authorities.

We have concluded that these additional burdens are not necessary to assure appropriate public access to SSM plans. As suggested by some commenters, we have decided instead to adopt a less burdensome approach tailored to the specific problems we identified in the proposal.

We believe that SSM plans will be most effective in minimizing emissions during periods of startup, shutdown, or malfunction if they are fully integrated with the detailed process and operating procedures of a facility. We also recognize that these types of procedures may contain trade secrets and other sensitive information, and that the integration of SSM plans with these other procedures may make it more difficult and costly for a facility to redact them in a way that would be suitable for public disclosure. We do not wish to discourage facilities from integrating SSM plans with other procedures.

On the other hand, we recognize that there will sometimes be substantial public interest in the details of SSM plans. There is increasing concern about emissions that may occur during a period of startup, shutdown, or malfunction. In addition, SSM plans may include basic information about when the emission limitations in a MACT standard apply to a particular facility and when they do not. To strike the right balance between public disclosure and the need to make SSM plans comprehensive and effective, we have adopted the following approach in this final rule.

First, we believe that the permitting authorities, acting on behalf of the public, can and should play the primary role in reviewing SSM plans and ensuring that affected sources take the necessary steps to minimize emissions during periods of startup, shutdown, or malfunction. We know that some permitting authorities review these plans during the process for initial permit issuance. In other instances, we expect that permitting authorities will review SSM plans in conjunction with inspections and other site visits, when they can more readily observe how the SSM plan relates to other operational procedures at the facility. In addition, under the language we are adopting, owners or operators must promptly submit a copy of any SSM plan (or any portion thereof) maintained at the affected source if requested by the permitting authority.

If a member of the public wishes to review the SSM plan for a particular facility, or a specific portion of that plan, he or she can ask that the permitting authority request the plan from the facility. We are also adding language requiring that the permitting authority request that the owner or operator submit to the permitting authority a particular SSM plan (or the relevant portion thereof) whenever a member of the public makes a specific and reasonable request to examine or receive a copy. Upon receipt of such a request, the permitting authority should take prompt action to make the plan available to the requestor. We also expect that, upon receiving a request that is insufficiently specific or may be overly broad, the permitting authority will work with the requestor to clarify the request and to assure that it is focused on the requestor's specific needs or interests.

As in our proposal, the owner or operator may elect to submit the

requested SSM plan in an electronic format, and any portion of the plan that is claimed to be CBI entitled to protection under CAA section 114(c) or the Trade Secrets Act must be clearly designated in the submission. Moreover, we want to encourage all parties to adopt procedures for providing public access to SSM plans which avoid unnecessary burdens or delays. Therefore, if an owner or operator and a requestor both agree that it would be more expedient or convenient for the requestor to examine the SSM plan (or a portion thereof) at the facility where it is maintained, this approach could be utilized instead of requiring submission of the SSM plan to the permitting authority. This on-site inspection procedure would be most practicable in those instances where the owner or operator has concluded that it is not necessary to redact claimed CBI when the plan is being examined at the facility that maintains it.

We think this approach assures appropriate public access to SSM plans, but dramatically reduces the aggregate expenditure of resources by sources and permitting authorities. We recognize that this approach could result in some additional delay before a member of the public could obtain a copy of the non-confidential portions of an SSM plan. However, we think that requiring routine submission of every SSM plan, without regard for whether any member of the public will ultimately seek access to it, involves a resource burden which is disproportionate to the time which may be saved when a specific plan is actually requested by a member of the public.

As for the concern of some commenters that claimed CBI information might be inadvertently disclosed, we think this is less probable when SSM plans must be submitted only on demand rather than routinely. If a submitter knows that the non-confidential portions of a plan will definitely be disclosed, we believe the submitter will be more likely to do a good job of segregating claimed CBI and preparing to properly substantiate its claim.

Some commenters expressed concern about the Homeland Security implications of public access to SSM plans. It may be that some information in a particular SSM plan could be sensitive from a Homeland Security perspective. In most instances, we think that such sensitive information would also be entitled to confidential treatment under CAA section 114(c). However, we note that the entire Federal government is presently reviewing public access requirements to assure that they are compatible with Homeland Security, and it is possible that we may in the future propose other changes in public access to SSM plans as part of this important effort.

3. Reporting Requirements

During the April 5, 2002, rulemaking concerning revisions to the General Provisions and section 112(j) rules, we received a comment from representatives of the State and local permitting authorities indicating that it would assist them in performing their oversight function if facilities were required to include the number and a description of all malfunctions that occurred during the prior reporting period in the required semiannual report. In response to that comment, we added a new reporting obligation to the language governing periodic SSM reporting in 40 CFR 63.10(d)(5)(i). However, the language we added was not limited to malfunctions and required that the facility report "the number, duration, and a brief description of each startup, shutdown, and malfunction." We later concluded that the inclusion of startups and shutdowns in this reporting requirement was unnecessary and burdensome, and we proposed to delete these events from this provision.

Many commenters supported that proposal. The Sierra Club opposed the deletion of startups and shutdowns from this reporting requirement, arguing that sources might improperly define events as startups and shutdowns. We consider this type of abuse unlikely, and we do not believe in any case that the routine reporting of all startups and shutdowns would be particularly helpful in preventing it.

In some industries, startup and shutdown events are numerous and routine. So long as the provisions of the SSM plan are followed, there does not appear to be any real utility in requiring that each individual startup and shutdown be reported or described. As many commenters noted, in those instances where a startup or shutdown includes actions which do not conform to the SSM plan and the standard is exceeded, the facility is otherwise required to promptly report these deviations from the plan.

Some commenters objected to our retention of the new malfunction reporting requirement. These commenters argue that a requirement to report all malfunctions is duplicative of other requirements, except in those instances where an SSM plan was followed during an event and no excess emissions occurred. We do not agree with these commenters that the malfunction reporting requirement should be entirely eliminated, but we have concluded that its scope can be narrowed.

With respect to malfunctions, the rule expressly requires that the SSM plan must be revised by the facility if there is an event meeting the characteristics of a malfunction which is not addressed by the plan (40 CFR 63.6(e)(3)(vii)). At the time of proposal, we believed that reporting of all malfunctions is necessary to assure that this requirement is satisfied. However, after reviewing the comments and evaluating this issue in the context of the rule as a whole, we believe that the problem of identifying new kinds of malfunctions which would require revision of the SSM plan is adequately addressed by other provisions in the rule. If a type of malfunction is not addressed by the current SSM plan, we believe that any actions taken during such a malfunction cannot be reasonably construed as actions consistent with the plan and that such actions would otherwise be reportable under § 63.10(d)(5)(i) or § 63.10(d)(5)(ii). We discuss these reporting provisions further below.

However, we also agree with a comment by the Sierra Club that reporting of malfunctions would help permitting authorities determine whether sources are attempting to circumvent the standard by improperly defining events as malfunctions. To prevent this type of potential abuse, we do not think that all malfunctions need to be reported. Rather, we think this problem can be addressed by requiring that the affected source report only those malfunctions which occurred during the reporting period and which caused or may have caused an emission limitation in the relevant standard to be exceeded. Thus, we have decided to retain the requirement that the owner or operator report malfunctions in the periodic report, but to limit its scope to those malfunctions which caused or may have caused an emission limitation in the relevant standard to be exceeded.

Moreover, we stated in the proposal that minor or routine events that do not have a significant impact on the ability of a source to meet the standard need not be classified as a malfunction, addressed by the SSM plan, or included in periodic reports. We think there is no reason to classify an event as a malfunction if it does not cause, or have the potential to cause, the emission limitations in an applicable standard to be exceeded.

A number of commenters requested that we make this policy clear in the regulatory language, rather than only in the preamble. These commenters

suggested that the definition of malfunction could be revised to accomplish this. We think this is a good idea, and we have revised the definition accordingly. We think that this change will make it clear that events that do not cause, or have the potential to cause, emission limitations in an applicable standard to be exceeded need not be included either in the SSM plan or in periodic malfunction reports.

We note that 40 CFR 63.10(d) describes two distinct types of SSM reports. Periodic SSM reports are submitted on a semiannual basis and are described in § 63.10(d)(5)(i). Immediate SSM reports which are triggered by a particular event, and which require an oral or facsimile report within 2 working days and a written report within 7 working days, are described in § 63.10(d)(5)(ii). During our review of the comments concerning the various SSM reporting provisions, we realized that there is an unresolved conflict between an amendment we made in the April 5, 2002 final rule and the language of 40 CFR 63.10(d) as it is currently codified. Although we amended 40 CFR 63.6(e)(3)(iv) to limit the immediate reporting obligation for actions which are not consistent with the SSM plan to those instances where the source exceeds the relevant emission standard, we did not make a similar conforming change in 40 CFR 63.10(d)(5)(ii). This discrepancy was also specifically identified by one commenter. We are amending § 63.10(d)(5)(ii) to correct this problem.

We are also making another conforming amendment in § 63.10(d)(5)(i). Since immediate reports of actions not consistent with the SSM plan are not required if the emission limitations in the standard are not exceeded, we believe that the periodic SSM report should identify any instances in which actions taken were not consistent with the plan but no emission limitations were exceeded.

4. Correction of Plan Deficiencies

We proposed another small change to 40 CFR 63.6(e)(7). The rule as amended in April 5, 2002 provides that EPA or the permitting authority "may" require that an SSM plan be revised if certain specified deficiencies are found. In the proposal, we stated that we could not foresee any circumstance where revision of an SSM plan should not be mandatory if it has been specifically found to be deficient under one of the criteria set forth in this section. Therefore, we proposed to change the language to make such revisions mandatory rather than discretionary.

Some commenters objected to this proposal, but their principal concern was that the criterion requiring the SSM plan to satisfy the duty to minimize emissions might be interpreted in a manner contrary to the other general principles we have articulated. We believe this concern is fully resolved by the amendments to the provisions concerning the general duty to minimize emissions which we are adopting and described above.

Some commenters also argued that the current practice of giving permitting authorities discretion concerning whether to require changes in an SSM plan works well, and there is no reason to change it unless a problem can be demonstrated. We find this argument unpersuasive. If a permitting authority has specifically found that a plan is deficient according to one of the criteria, we see no reason why it should not be mandatory for corrective action to be taken.

B. Other Sections of the General Provisions

1. Monitoring Definition

During the April 5, 2002, rulemaking, one commenter suggested that we revise the definition of "monitoring" in 40 CFR 63.2 to include the phrase "or to verify a work practice standard." There are times when we must adopt a work practice standard under CAA section 112(h) rather than an emission standard under CAA section 112(d), and compliance with such a work practice standard is sometimes verified by activities which are similar in character to those required to monitor compliance with an emission standard. Therefore, we thought that the suggested revision was a sensible one. However, because the additional language was not originally proposed by EPA, we decided to take additional comment concerning this language.

One industry commenter supported the revised monitoring definition. Other commenters expressed concern that the revised definition could make changes in work practice verification a significant permit modification, or that the revised definition might require verification of work practices beyond the procedures specified in a particular MACT standard. We do not intend either of these results, and we are not persuaded that the revised definition will cause either of these problems. Therefore, we have retained the revised definition without change.

2. Combined Compliance Reports

In the April 5, 2002, rulemaking, we also made a small change in the language of 40 CFR 63.9(h)(2)(ii), by adding the phrase "(or activities that have the same compliance date)" in response to a industry commenter. The commenter was concerned that separate compliance reports might be required for compliance obligations that have the same date and requested the option of filing a single compliance status report covering multiple compliance obligations. Because the new language we adopted was not originally proposed by EPA, and some questioned whether it clearly achieved the intended purpose, we decided to request additional comment concerning this revision and potential alternatives.

All commenters on this change agreed with our original intent in making the change, but some commenters suggested that the language is confusing and proposed alternative language. We have adopted new language for § 63.9(h)(2)(ii) which is similar to the alternative language suggested by one of these commenters.

III. Final Amendments to the Section 112(j) Provisions

A. General Applicability

In the proposed rule, we stated our intent to include new language concerning general applicability in the final amendments to the section 112(j) rule. We proposed to state explicitly that no further process to develop a case-by-case MACT determination under section 112(j) is required for any source once a generally applicable Federal MACT standard governing that source has been promulgated. In our view, it is obvious that no further process to implement section 112(j) with respect to a particular source is required or appropriate once a Federal standard governing that source has been promulgated under CAA section 112(d) or 112(h). All commenters who addressed this issue supported our proposal. A new paragraph effectuating it has been added to the general applicability provisions as 40 CFR 63.50(c).

Just as it is obvious that all activities to develop an equivalent emission limitation under CAA section 112(j) should end following promulgation of a generally applicable Federal standard, it is also clear from the statutory language that any final equivalent emission limitation which may be issued prior to adoption of such a standard is itself an enforceable Federal requirement, which remains in force until revised or supplanted pursuant to section 112(j)(6) and 40 CFR 63.56. Although it is clear from the statute that permitting authorities are expected to utilize the

title V permitting procedures to adopt and issue an equivalent emission limitation under section 112(j), it is also clear that the authority to establish and require compliance with such a limitation is provided by section 112(j) itself rather than title V. Section 112(j)(4) requires that each equivalent emission limitation be submitted for review and approval by EPA under the procedures established by CAA section 505, and upon final adoption at the time of permit issuance such an equivalent emission limitation is a binding order which may be enforced directly under Federal law. An equivalent emission limitation takes effect upon issuance of the permit containing it under section 112(j)(5), and it remains applicable to the source until it is revised or superceded, regardless of the subsequent status of the permit in which it was initially contained. For the sake of clarity, we have included additional general applicability language in 40 CFR 63.50(d) which embodies these principles.

B. New Schedule for Part 2 Applications

Under our final settlement agreement with the Sierra Club, we proposed to replace the existing schedule for submission of section 112(j) Part 2 applications (also referred to as Part 2 MACT applications or simply Part 2 applications), under which most Part 2 applications would have been due on May 15, 2004, with a new schedule establishing a specific deadline for submission of all Part 2 applications for all affected sources in a given category or subcategory. With respect to those categories or subcategories for which MACT standards are scheduled to be promulgated after this rulemaking is complete, we proposed specific Part 2 application deadlines which are 60 days after each respective scheduled promulgation date. For those categories or subcategories for which MACT standards were scheduled to be promulgated while this rulemaking was pending, we proposed a Part 2 application deadline of May 15, 2003. However, because all of the standards scheduled to be promulgated during this rulemaking process have in fact been promulgated, there is no need to take any further action concerning the proposed Part 2 application deadline for those categories.

We note that commenters were generally supportive of the new approach to scheduling of section 112(j) Part 2 applications which we proposed. We agree with commenters that the proposed schedule will permit us to avoid a wasteful expenditure of public and private resources, so long as there are no further delays in promulgation of the remaining MACT standards. We note also that the prompt and significant consequences if a promulgation deadline is missed will create new incentives for EPA and the other stakeholders to assure that the agreed promulgation deadlines are met.

The Part 2 application deadlines which we proposed for each category or subcategory were based on a separate agreement in principle we had reached with the Sierra Club on a schedule for promulgation of all remaining MACT standards which were included in the original schedule established pursuant to CAA section 112(e)(1) and 112(e)(3). While this rulemaking was pending, this agreed schedule was incorporated in a proposed consent decree and filed in *Sierra Club* v. *Whitman*, 01–1337 (D.D.C.). On March 27, 2003 (68 FR 14976), we published a notice pursuant to CAA section 113(g) affording interested persons 30 days to submit comments concerning the proposed consent decree. We have now reviewed all timely comments received concerning the proposed consent decree and have determined that there is no basis at this time for modification of the schedule incorporated in that decree.

We note that many commenters on this rulemaking opposed the promulgation schedule for particular MACT standards. We received comments arguing that the promulgation schedule should be extended for the MACT standards for Brick and Structural Clay Products, Combustion Turbines, Iron and Steel Foundries, Taconite Iron Ore Processing, Miscellaneous Organic Chemical Manufacturing (MON), and Metal Can Surface Coating. We understand why these comments were submitted on this rulemaking since the notice providing an opportunity to comment on the proposed consent decree had not been published at the time they were submitted. However, we also believe that the most appropriate context for consideration of these comments is the review of the proposed consent decree under CAA section 113(g). Accordingly, we have deemed all comments submitted on this rulemaking concerning the schedule for promulgation of particular MACT standards to also be comments concerning the proposed consent decree in *Sierra Club* v. *Whitman*. Although some commenters complained that they were denied due process or otherwise prejudiced by the failure of EPA to provide a comment opportunity concerning that consent decree, these objections are now moot in view of the fact that their comments have been considered both in this rulemaking and as part of the section 113(g) process.

In general, we believe that it is incumbent on EPA to issue all MACT standards for which the mandatory statutory promulgation date has already passed as rapidly as is practicable. We also believe that EPA is in the best position to evaluate those tasks that remain and the resources that are available to accomplish those tasks and then to establish an appropriate schedule for promulgation of overdue standards. We respectfully disagree with those commenters who argue that EPA will be unable to adhere to the agreed schedule for promulgation of particular standards.

After considering all of the comments, we have decided to adopt the schedule for section 112(j) Part 2 applications with respect to MACT standards that have not yet been promulgated, exactly as it was proposed. We have added appropriate implementing language and related tables to 40 CFR 63.52(e)(1).

Many commenters expressed concern about the possibility of additional delays in the promulgation of MACT standards and requested that EPA provide advance notice if it expects to miss one of the promulgation deadlines in the consent decree. As we stated in the proposal, we recognize that the schedule for submission of section 112(j) Part 2 applications leaves relatively little time for sources to prepare and submit such applications if a particular promulgation deadline is missed. In recognition of the tight time frames, we will try to provide prompt advance notice to affected sources and to permitting authorities if we have reason to believe that an impending promulgation deadline for a particular MACT standard will not be met.

Many commenters also requested that EPA extend the corresponding Part 2 application deadline in the event that the date for promulgation of a MACT standard in the consent decree is itself extended. We note that the dates we are adopting in this rulemaking for submission of Part 2 applications for particular categories and subcategories cannot be made automatically contingent on the content of a consent decree which has not itself been codified. We do not expect to consider any future revisions to the schedule for submission of Part 2 applications unless the schedule set forth in the consent decree is itself modified. If the deadline for promulgation of any MACT standard which appears in the consent decree is extended by the District Court in accordance with the provisions of that decree, we will consider at that time whether any corresponding adjustment

in the schedule for Part 2 applications set forth in this rule is necessary and appropriate. If we conclude that a change in the schedule for Part 2 applications is warranted, we will consider the use of expedited procedures including direct final rulemaking.

C. Requests for Applicability Determination

In the proposed rule, we noted that some additional structural changes in the section 112(j) rule are required to assure that the new schedule for Part 2 applications is as uniform as practicable for the sources in a given category or subcategory. To achieve this uniformity, we proposed certain changes in the procedures for those sources which have previously submitted a request for applicability determination under 40 CFR 63.52(e)(2)(i).

In the section 112(j) rule as amended on April 5, 2002, § 63.52(e)(2)(i) established a process by which major sources could request that the permitting authority determine whether or not specific sources at their facility belong in any category or subcategory requiring a case-by-case determination under section 112(j). All requests for applicability determination were due at the same time as the section 112(j) Part 1 applications (also referred to as Part 1 MACT applications or simply Part 1 applications) on May 15, 2002. Under the old procedures, a negative determination by the permitting authority concerning such a request meant that no further action was required, while a positive determination meant that the applicant was required to submit a Part 2 application within 24 months.

We lack precise information concerning how many requests for applicability determination were submitted to permitting authorities on or before May 15, 2002, but we believe that hundreds of such requests are pending. We know that some of these requests reflected genuine uncertainty concerning the scope of the activities or equipment governed by a particular category or subcategory. For some of these requests, the subsequent issuance of a proposed MACT standard or other subsequent events may have resolved such uncertainty. However, we also believe that many of these requests were filed merely because the filing of such a request operated to defer the deadline for submission of a Part 2 application.

To reconcile the processing of pending requests for applicability determination with the new uniform schedule for Part 2 applications, we proposed that each affected source which still wishes to pursue a previously filed request for applicability determination under 40 CFR 63.52(e)(2)(i) be required to resubmit and supplement that request within 60 days after EPA publishes final action in this rulemaking, or within 60 days after EPA publishes a proposed MACT standard for the category or subcategory in question, whichever is later. We proposed to delay the requirement to resubmit and supplement a request for applicability determination until after a proposed MACT standard is available because our experience tells us that most uncertainties regarding applicability can be resolved by examining the specific applicability language in the proposed MACT standard. We also proposed to require that each resubmitted request for an applicability determination be supplemented to specifically discuss the relation between the source(s) in question and the applicability provision in the proposed MACT standard for the category or subcategory in question, and to explain why there may still be uncertainties that require a determination of applicability. Finally, we proposed to require that the permitting authority act upon each resubmitted and supplemented request for applicability determination within an additional 60 days after the applicable deadline for the resubmitted request.

Comment on our proposals concerning processing of requests for applicability determination was more limited than on many other elements of our proposal. Some commenters requested that we provide for extensions of the deadline for action by the permitting authority. We understand that the time frame for action on a resubmitted request for applicability determination by the permitting authority is an expedited one, but we believe that extending this time frame would undermine our efforts to establish a single uniform schedule for Part 2 applications. We are hopeful that sources will act in a responsible manner and will resubmit only those requests for which genuine unresolved applicability issues remain after publication of a proposed MACT standard. This is a reasonable expectation because the procedural incentives for submission of such requests which existed previously will be eliminated. We also think that the availability of a proposed MACT standard, and the mandatory supplementation of the resubmitted request to address the effect of that proposed standard, should assure an adequate record for expedited decisions by the permitting authorities on those requests that are resubmitted.

Some commenters requested that we establish a presumption of negative applicability if the permitting authority does not make a timely decision concerning a resubmitted request. We disagree with this concept because it would establish a substantial new incentive for a source to resubmit a pending request, regardless of whether there are any genuine and significant remaining questions regarding applicability. However, we also believe it would not be appropriate to establish a presumption of positive applicability if the permitting authority does not act in a timely manner on a resubmitted request. This would penalize those sources who sincerely believe that they are not covered by the proposed rule, but are merely seeking confirmation of that conclusion by the permitting authority. We intend the absence of either a negative or a positive presumption to create a strong incentive for a source to work closely with the permitting authority to resolve any genuine applicability issues in a timely manner.

Several commenters requested that EPA make provision for the submission of new requests for applicability determination. We do not believe that the creation of a new adjudicatory process of this type in this rulemaking is either appropriate or practical. However, we encourage those sources that have new questions concerning the applicability of a proposed MACT standard to their operations or equipment to seek guidance from responsible personnel at the permitting authority and the appropriate EPA Regional Office.

One commenter requested that we make it clear that any decision by a permitting authority concerning a request for applicability determination is null and void once a final MACT standard has been promulgated. The commenter noted that a determination of applicability based on the language of the proposed standard may not always correctly anticipate the ultimate applicability of the final promulgated standard. We agree with this comment. Requests for applicability determination submitted under 40 CFR 63.52(e)(2)(i) are intended solely to determine whether a source must submit a section 112(j) application, not to resolve applicability issues which may arise in other contexts. As we discussed in the section concerning general applicability above, no further process to develop an equivalent emission limitation under section 112(j) is necessary or

appropriate once a generally applicable Federal standard has been promulgated.

After reviewing all of the comments, we have decided to adopt amendments to the procedures for requests for applicability determination as we proposed them. We have added new language to 40 CFR 63.52(e)(2)(i) which effectuates this decision.

As we noted in the proposal, those major sources which elect to resubmit requests for applicability determination with respect to sources that may be governed by one of the MACT standards which are scheduled to be promulgated by August 31, 2003, may not be entitled to receive a determination by the permitting authority on the resubmitted request until shortly after the scheduled promulgation date. If such a standard is delayed, and there is no negative determination by the permitting authority on the resubmitted request, the Part 2 application for sources within the category in question will be due on October 30, 2003. This tight time frame underscores the importance of careful coordination between such sources and the permitting authority if it appears that a MACT standard will be delayed. As discussed above, EPA will endeavor to provide timely information to affected sources and permitting authorities if it becomes apparent that the promulgation schedule for any of the remaining MACT standards will not be met.

D. Prior Section 112(g) Determinations

As part of our proposal to establish a single uniform Part 2 application deadline for all sources in a given category or subcategory, we also proposed some changes to the procedures governing CAA section 112(j) applications for those sources which have previously received a case-by-case determination pursuant to CAA section 112(g). To understand the effect of this proposal, it is helpful to review the substantive relationship between these separate statutory requirements.

In general, we anticipate that emission control requirements established as part of a previous case-by-case determination under section 112(g) will subsequently be adopted by the permitting authority to satisfy any applicable 112(j) requirements as well. This is because the determination required for any sources subject to CAA section 112(g) is supposed to be based on new source MACT, and the subsequent application of section 112(j) requirements to those same sources will be based on existing source MACT. Moreover, to assure that inconsequential differences in emission control do not result in unduly burdensome sequential case-by-case determinations, the section 112(j) rule requires the permitting authority to adopt any prior case-by-case determination under section 112(g) as its determination for the same sources under section 112(j) if it "determines that the emission limitations in the prior case-by-case determination are substantially as effective as the emission limitations which the permitting authority would otherwise adopt under section 112(j)." *See* 40 CFR 63.52(a)(3), (b)(2), and (e)(2)(ii).

Under the rule as it was amended on April 5, 2002, sources which had previously obtained a case-by-case determination under CAA section 112(g) were generally required to submit a request for an "equivalency determination" to decide if the applicable section 112(g) requirements are "substantially as effective" as the requirements which would otherwise apply under section 112(j). As explained above, we believe that this determination will generally be positive. However, the rule as amended on April 5, 2002 provided that, if such a determination were negative, the source would then be required to submit a Part 2 application within 24 months. As in the case of requests for applicability determination, changes to the old language are required to place all sources in a given category or subcategory on the same schedule for submission of Part 2 applications.

Thus, we proposed to adopt the Part 2 application deadline for a given category or subcategory as the final deadline for submission of a request for an "equivalency determination" by any affected source that previously obtained a case-by-case determination under CAA section 112(g). Those sources who submitted such requests earlier under the provisions of the existing rule need not resubmit them. However, we also proposed to construe all requests for an equivalency determination, regardless of when they were submitted, as a section 112(j) Part 2 application as well.

Under the amendments we proposed, the permitting authority must first make an equivalency determination. In the event of a negative determination, the permitting authority will then proceed to adopt a separate set of case-by-case requirements pursuant to section 112(j). This process will be completed in the same 18-month period that applies to the processing of all other Part 2 applications.

In the proposal, we explained that this revised process would not impose any new burden on sources or permitting authorities, because the permitting authority should already have all of the information required for a Part 2 application in any instance where it is already administering section 112(g) requirements applicable to the same source.

As in the case of requests for applicability determination, relatively few comments were received concerning this element of our proposal. Commenters generally accepted our view that a source which has already received a case-by-case determination under section 112(g) should not need to submit additional information in a section 112(j) application. A couple of commenters requested that the deadline for submission of a request for an equivalency determination be delayed if the promulgation of a MACT standard is delayed. Since we are proposing that the deadline for submission of requests for an equivalency determination be the same as the deadline for Part 2 applications, our discussion above of the effect of potential delays applies equally to this issue.

After reviewing all of the comments, we have decided to adopt amendments to the procedures for requests for equivalency determination exactly as we proposed them. We have added new language to 40 CFR 63.52(e)(2)(ii) which effectuates this decision.

E. Later Part 1 Applications

In drafting new language to effectuate our amendments to the section 112(j) rule, we identified one additional conforming change in the prior rule language which is necessary. There are a few instances where a source may be required to submit a Part 1 application meeting the requirements of 40 CFR 63.53(a) for the first time on a date which is after the otherwise uniform date for submission of Part 2 applications which we are establishing. This may occur under 40 CFR 63.52(b) when new emission units are installed at a major source, when there is an increase in the potential to emit that causes an area source to become a major source, or when EPA establishes a lesser quantity emission rate that causes an area source to become a major source. This may also occur under 40 CFR 63.52(c) if a source that has previously obtained a section 112(j) determination changes the equipment or activities which were previously covered by that determination.

We consider it relatively unlikely that any of these provisions will be triggered, even if there is a delay in the promulgation of one or more MACT standards which results in submission of some Part 2 applications. However, in the event that any Part 1 applications must be submitted for the first time after

the deadline for submission of Part 2 applications, we think it is appropriate to provide an additional 60 days for submission of a Part 2 application after the applicable deadline for the Part 1 application. We have added another sentence to 40 CFR 63.52(e)(1) which addresses this matter.

F. Content of Part 2 Applications

We intend to meet the obligations we will be assuming under the consent decree in *Sierra Club* v. *Whitman* to promulgate the remaining MACT standards in a timely manner. If we succeed in promulgating all remaining MACT standards by the applicable deadlines, there will be no need for submission of any Part 2 applications. However, we also made it clear in the proposed rule that we want to minimize any unnecessary burdens associated with the submission of Part 2 applications if such applications do become necessary. We do not want to require the submission of any information which is not truly necessary to prepare for potential issuance of case-by-case MACT determinations. To that end, our proposal included some general guidance concerning the relationship between Part 2 applications and an applicable proposed MACT standard, and we also asked some additional questions intended to assist us in further limiting any unnecessary burden associated with Part 2 applications.

In our proposal, we stated that we think it is reasonable for an affected source submitting a Part 2 application to rely directly on the content of the applicable proposed MACT standard in identifying affected emission points. We also stated that applicants could reasonably limit the information they submit concerning HAP emissions to those specific HAP or groups of HAP which would be subject to actual control in the applicable proposed MACT standard. Commenters were generally supportive of these principles. Rather than merely providing guidance, we have decided to revise the language of 40 CFR 63.53(b) to expressly incorporate these principles.

Many commenters argued that the burden of compiling a Part 2 application could be diminished by permitting cross-referencing of various other documents. We agree generally with this concept, although we think that the specific information which is being cross-referenced needs to be clearly identified and the information being cross-referenced should also be information that is readily available to the permitting authority. Rather than attempting to specify those particular documents that may be appropriately cross-referenced, we have decided to adopt language setting forth general principles regarding the cross-referencing of other documents in Part 2 applications. These general principles are included in a new paragraph codified as 40 CFR 63.53(b)(1).

We have concluded that an applicant should be permitted to cross-reference specific information in any prior submission to the permitting authority, so long as the applicant does not presume favorable action on any prior application or request which is still pending. Further, we have concluded that an applicant should be permitted to cross-reference any part of a standard proposed by EPA pursuant to CAA section 112(d) or 112(h) for a category or subcategory which includes sources to which the Part 2 application applies. We also want to assure applicants that they can cross-reference a proposed standard as part of their Part 2 application without necessarily supporting the proposal itself. Thus, an applicant who cross-references a proposed standard is free to argue that another approach (other than the approach proposed by EPA) should be used in making the case-by-case MACT determination.

We received numerous comments in response to our question asking whether the applicant needs to provide "estimated total uncontrolled and controlled emission rates" for HAP, and in response to our question asking whether new emission testing should be required if an applicant lacks sufficient information to make meaningful estimates. Many commenters argued that estimated emission rates are not necessary, and that no new emission testing should be required. Commenters also argued that such information can be requested by the permitting authority in those instances where it may be needed.

In evaluating these comments, we have considered whether estimates of controlled and uncontrolled emission rates are consistently needed to process a Part 2 application. In some instances, such emission data may be necessary to identify those emission points which would be subject to control under a proposed MACT standard, but we believe that the provision requiring the applicant to otherwise identify such emission points is sufficient in those instances where this is true. Such emission information may also be necessary in some cases to develop permit terms which apply the general requirements of a particular MACT standard or determination to the particular characteristics of an affected source. However, we believe that it is sufficient to assure that the permitting authority can request that an applicant provide specific emission information it needs for this purpose. We note that if such information is not provided in the Part 2 application, the permitting authority will still be able to obtain it in the context of the permitting process which follows. Based on this analysis, we have decided to delete the provision requiring estimates of total uncontrolled and controlled HAP emission rates in Part 2 applications, and to add a provision requiring the applicant to submit any additional emission data or other information specifically requested by the permitting authority.

Commenters generally argued that the applicant should not be required to submit "information relevant to establishing the MACT floor." We agree with this conclusion. We do not think applicants should be required to submit such information, but we do think they should be free to do so if they wish to propose an alternative to the floor determination set forth in the proposed MACT standard. Accordingly, we have deleted this information as a mandatory requirement, but have retained the provision permitting the applicant to suggest an alternative set of emission limitations or work practice provisions on a discretionary basis.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether a regulatory action is "significant" and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that these final amendments are not a "significant regulatory action" under the terms of Executive Order 12866 and are, therefore, not subject to OMB review.

B. Paperwork Reduction Act

As required by the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, the OMB must approve any reporting and recordkeeping requirements that qualify as an information collection request (ICR) under the PRA.

Approval of an ICR is not required for the General Provisions amendments because, for sources affected by CAA section 112 only, the General Provisions do not require any activities until source category-specific standards have been promulgated or until title V permit programs become effective. The actual recordkeeping and reporting burden that would be imposed by the General Provisions for each source category covered by 40 CFR part 63 will be estimated when standards applicable to such category are promulgated.

Approval of an ICR is not required for the section 112(j) rule amendments, either. The EPA fully expects to promulgate all remaining MACT standards before the Part 2 permit applications are due, thus eliminating the burden associated with preparing the application and developing case-by-case MACT determinations for individual sources.

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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act (RFA)

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with these final amendments. The EPA has also determined that these amendments will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impact of today's rule amendments on small entities, small entities are defined as: (1) A small business whose parent company has fewer than 1,000 employees; (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.

After considering the economic impacts of today's final amendments on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities.

A regulatory flexibility analysis is not necessary for the General Provisions amendments because it is unknown at this time which requirements from the General Provisions will be applicable to any particular source category, whether such category includes small businesses, and how significant the impacts of those requirements would be on small businesses. Impacts on small entities associated with the General Provisions will be assessed when specific emission standards affecting those sources are developed. "Small entities" will be defined in the context of the applicability of those standards.

Similarly, no analysis has been prepared for the amendments to the section 112(j) rule. The rule provides general guidance and procedures concerning the implementation of an underlying statutory requirement, but it does not by itself impose any regulatory requirements or prescribe the specific content of any case-by-case determination which might be made under section 112(j). Although the final amendments will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of the rule amendments on small entities. We do not require the Part 2 permit applications until 60 days after the scheduled MACT standard promulgation date. We fully anticipate that all MACT standards will be promulgated before any Part 2 applications are due, thus eliminating the burden of submitting a Part 2 application.

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 aggregate, or by 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 objective 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 the 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.

The 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 1 year. The EPA has determined that this action is not a "significant" regulatory action within the meaning of Executive Order 12866, and it does not impose any additional Federal mandate on State, local and tribal governments or the private sector within the meaning of the UMRA. Thus, today's final rule amendments are not subject to the requirements of sections 202, 203, and 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires the 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 and 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. Nevertheless, in the spirit of Executive Order 13132 and consistent with EPA policy to promote communications between EPA, State and local governments, EPA specifically solicited comment on the rule amendments from State and local officials.

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." "Policies that have tribal implications" are defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, 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."

These final rule amendments do not have tribal implications. They will not have substantial direct effects on tribal governments, or 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. There are currently no tribal governments that have approved title V permit programs to which sources would submit permit applications on May 15, 2002. Accordingly, Executive Order 13175 does not apply to this action.

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 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 reasonable alternatives considered by the Agency.

The 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. The final amendments to the General Provisions are not subject to Executive Order 13045 because the provisions provide general technology performance and compliance guidelines for section 112(d) standards, which are not based on health or safety risks. Likewise, the final amendments to the section 112(j) rule are not subject to Executive Order 13045 because they establish the process for developing case-by-case MACT, and thus are based on technology performance and not on safety or health risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, Or Use

These final amendments are not subject to Executive Order 13211 (66 FR 26355, May 22, 2001), because they are not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, (Pub. L. No. 104–113) (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards in their regulatory and procurement 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, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs the EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

The final amendments to the General Provisions do not include any technical standards; they consist primarily of revisions to the generally applicable procedural and administrative requirements that the General Provisions overlay on NESHAP. The final amendments to the section 112(j) rule, which establishes requirements and procedures for owners or operators of major sources of HAP and permitting authorities to follow if the EPA misses the deadline for promulgation of section 112(d) standards, clarify and amend current procedural and administrative provisions to establish equivalent emissions limitations by permit. Therefore, section 112(j) is also not a vehicle for the application of voluntary consensus standards.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the 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 United States. Therefore, we will submit a report containing the 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 rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. These final amendments are not a "major rule" as defined by 5 U.S.C. 804(2), and therefore will be effective May 30, 2003.

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: May 8, 2003.

Christine Todd Whitman,

Administrator.

■ For the reasons cited 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 63.2 is amended by revising the first sentence in the definition of *Malfunction* to read as follows:

§ 63.2 Definitions.

* * * * *

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded. * * *

* * * * *

■ 3. Section 63.6 is amended by:
■ a. Revising paragraph (e)(1)(i);
■ b. Revising the first sentence in paragraph (e)(3)(i) introductory text;
■ c. Revising paragraph (e)(3)(i)(A);
■ d. Revising paragraph (e)(3)(iv);
■ e. Adding five sentences to the end of paragraph (e)(3)(v);
■ f. Revising paragraph (e)(3)(vi);
■ g. Revising the introductory text to paragraph (e)(3)(vii) and revising paragraph (e)(3)(vii)(B); and
■ h. Revising the last sentence in paragraph (e)(3)(viii).
■ The revisions and addition read as follows:

§ 63.6 Compliance with standards and maintenance requirements.

* * * * *

(e) * * *

(1)(i) At all times, including periods of startup, shutdown, and malfunction, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. During a period of startup, shutdown, or malfunction, this general duty to minimize emissions requires that the owner or operator reduce emissions from the affected source to the greatest extent which is consistent with safety and good air pollution control practices. The general duty to minimize emissions during a period of startup, shutdown, or malfunction does not require the owner or operator to achieve emission levels that would be required by the applicable standard at other times if this is not consistent with safety and good air pollution control practices, nor does it require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures (including the startup, shutdown, and malfunction plan required in paragraph (e)(3) of this section), review of operation and maintenance records, and inspection of the source.

* * * * *

(3) *Startup, shutdown, and malfunction plan.* (i) The owner or operator of an affected source must develop and implement a written startup, shutdown, and malfunction plan that describes, in detail, procedures for operating and maintaining the source during periods of startup, shutdown, and malfunction, and a program of corrective action for malfunctioning process and air pollution control and monitoring equipment used to comply with the relevant standard. * * *

(A) Ensure that, at all times, the owner or operator operates and maintains each affected source, including associated air pollution control and monitoring equipment, in a manner which satisfies the general duty to minimize emissions established by paragraph (e)(1)(i) of this section;

* * * * *

(iv) If an action taken by the owner or operator during a startup, shutdown, or malfunction (including an action taken to correct a malfunction) is not consistent with the procedures specified in the affected source's startup, shutdown, and malfunction plan, and the source exceeds any applicable emission limitation in the relevant emission standard, then the owner or operator must record the actions taken for that event and must report such actions within 2 working days after commencing actions inconsistent with the plan, followed by a letter within 7 working days after the end of the event, in accordance with § 63.10(d)(5) (unless the owner or operator makes alternative reporting arrangements, in advance, with the Administrator).

(v) * * * The Administrator may at any time request in writing that the owner or operator submit a copy of any startup, shutdown, and malfunction plan (or a portion thereof) which is maintained at the affected source or in the possession of the owner or operator. Upon receipt of such a request, the owner or operator must promptly submit a copy of the requested plan (or a portion thereof) to the Administrator. The Administrator must request that the owner or operator submit a particular startup, shutdown, or malfunction plan (or a portion thereof) whenever a member of the public submits a specific and reasonable request to examine or to receive a copy of that plan or portion of a plan. The owner or operator may elect to submit the required copy of any startup, shutdown, and malfunction plan to the Administrator in an electronic format. If the owner or operator claims that any portion of such a startup, shutdown, and malfunction plan is confidential business information entitled to protection from disclosure under section 114(c) of the Act or 40 CFR 2.301, the material which is claimed as confidential must be clearly designated in the submission.

(vi) To satisfy the requirements of this section to develop a startup, shutdown, and malfunction plan, the owner or operator may use the affected source's standard operating procedures (SOP) manual, or an Occupational Safety and Health Administration (OSHA) or other plan, provided the alternative plans meet all the requirements of this section and are made available for inspection or submitted when requested by the Administrator.

(vii) Based on the results of a determination made under paragraph (e)(1)(i) of this section, the Administrator may require that an owner or operator of an affected source make changes to the startup, shutdown, and malfunction plan for that source. The Administrator must require appropriate revisions to a startup, shutdown, and malfunction plan, if the Administrator finds that the plan:

* * * * *

(B) Fails to provide for the operation of the source (including associated air pollution control and monitoring equipment) during a startup, shutdown, or malfunction event in a manner consistent with the general duty to minimize emissions established by paragraph (e)(1)(i) of this section;

* * * * *

(viii) * * * In the event that the owner or operator makes any revision to the startup, shutdown, and malfunction plan which alters the scope of the activities at the source which are deemed to be a startup, shutdown, or malfunction, or otherwise modifies the applicability of any emission limit, work practice requirement, or other requirement in a standard established

under this part, the revised plan shall not take effect until after the owner or operator has provided a written notice describing the revision to the permitting authority.

* * * * *

■ 4. Section 63.9 is amended by revising the first sentence in paragraph (h)(2)(ii) and adding a sentence to the end of paragraph (h)(2)(ii) to read as follows:

§ 63.9 Notification requirements.

* * * * *

(h) * * *

(2) * * *

(ii) The notification must be sent before the close of business on the 60th day following the completion of the relevant compliance demonstration activity specified in the relevant standard (unless a different reporting period is specified in the standard, in which case the letter must be sent before the close of business on the day the report of the relevant testing or monitoring results is required to be delivered or postmarked). * * * Notifications may be combined as long as the due date requirement for each notification is met.

* * * * *

■ 5. Section 63.10 is amended by revising paragraphs (d)(5)(i) and (ii) to read as follows:

§ 63.10 Recordkeeping and reporting requirements.

* * * * *

(d) * * *

(5)(i) *Periodic startup, shutdown, and malfunction reports.* If actions taken by an owner or operator during a startup, shutdown, or malfunction of an affected source (including actions taken to correct a malfunction) are consistent with the procedures specified in the source's startup, shutdown, and malfunction plan (see § 63.6(e)(3)), the owner or operator shall state such information in a startup, shutdown, and malfunction report. Such a report shall identify any instance where any action taken by an owner or operator during a startup, shutdown, or malfunction (including actions taken to correct a malfunction) is not consistent with the affected source's startup, shutdown, and malfunction plan, but the source does not exceed any applicable emission limitation in the relevant emission standard. Such a report shall also include the number, duration, and a brief description for each type of malfunction which occurred during the reporting period and which caused or may have caused any applicable emission limitation to be exceeded. Reports shall only be required if a startup, shutdown, or malfunction occurred during the reporting period. The startup, shutdown, and malfunction report shall consist of a letter, containing the name, title, and signature of the owner or operator or other responsible official who is certifying its accuracy, that shall be submitted to the Administrator semiannually (or on a more frequent basis if specified otherwise in a relevant standard or as established otherwise by the permitting authority in the source's title V permit). The startup, shutdown, and malfunction report shall be delivered or postmarked by the 30th day following the end of each calendar half (or other calendar reporting period, as appropriate). If the owner or operator is required to submit excess emissions and continuous monitoring system performance (or other periodic) reports under this part, the startup, shutdown, and malfunction reports required under this paragraph may be submitted simultaneously with the excess emissions and continuous monitoring system performance (or other) reports. If startup, shutdown, and malfunction reports are submitted with excess emissions and continuous monitoring system performance (or other periodic) reports, and the owner or operator receives approval to reduce the frequency of reporting for the latter under paragraph (e) of this section, the frequency of reporting for the startup, shutdown, and malfunction reports also may be reduced if the Administrator does not object to the intended change. The procedures to implement the allowance in the preceding sentence shall be the same as the procedures specified in paragraph (e)(3) of this section.

(ii) *Immediate startup, shutdown, and malfunction reports.* Notwithstanding the allowance to reduce the frequency of reporting for periodic startup, shutdown, and malfunction reports under paragraph (d)(5)(i) of this section, any time an action taken by an owner or operator during a startup, shutdown, or malfunction (including actions taken to correct a malfunction) is not consistent with the procedures specified in the affected source's startup, shutdown, and malfunction plan, and the source exceeds any applicable emission limitation in the relevant emission standard, the owner or operator shall report the actions taken for that event within 2 working days after commencing actions inconsistent with the plan followed by a letter within 7 working days after the end of the event. The immediate report required under this paragraph (d)(5)(ii) shall consist of a telephone call (or facsimile (FAX) transmission) to the Administrator within 2 working days after commencing actions inconsistent with the plan, and it shall be followed by a letter, delivered or postmarked within 7 working days after the end of the event, that contains the name, title, and signature of the owner or operator or other responsible official who is certifying its accuracy, explaining the circumstances of the event, the reasons for not following the startup, shutdown, and malfunction plan, and describing all excess emissions and/or parameter monitoring exceedances which are believed to have occurred. Notwithstanding the requirements of the previous sentence, after the effective date of an approved permit program in the State in which an affected source is located, the owner or operator may make alternative reporting arrangements, in advance, with the permitting authority in that State. Procedures governing the arrangement of alternative reporting requirements under this paragraph (d)(5)(ii) are specified in § 63.9(i).

* * * * *

■ 6. Section 63.13 is amended by revising the address for EPA Region IV in paragraph (a) to read as follows:

§ 63.13 Addresses of State air pollution control agencies and EPA Regional Offices.

(a) * * *

EPA Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee). Director, Air, Pesticides and Toxics Management Division, Atlanta Federal Center, 61 Forsyth Street, Atlanta, GA 30303–3104.

* * * * *

Subpart B—[Amended]

■ 7. Section 63.50 is amended by adding paragraph (c) and paragraph (d) to read as follows:

§ 63.50 Applicability.

* * * * *

(c) The procedures in §§ 63.50 through 63.56 apply for each affected source only after the section 112(j) deadline for the source category or subcategory in question has passed, and only until such time as a generally applicable Federal standard governing that source has been promulgated under section 112(d) or 112(h) of the Act. Once a generally applicable Federal standard governing that source has been promulgated, the owner or operator of the affected source and the permitting authority are not required to take any further actions to develop an equivalent

emission limitation under section 112(j) of the Act.

(d) Any final equivalent emission limitation for an affected source which is issued by the permitting authority pursuant to §§ 63.50 through 63.56 prior to promulgation of a generally applicable Federal standard governing that source under section 112(d) or 112(h) of the Act shall be deemed an applicable Federal requirement adopted pursuant to section 112(j) of the Act. Each such equivalent emission limitation shall take effect upon issuance of the permit containing that limitation under section 112(j)(5) of the Act, and shall remain applicable to the source until such time as it may be revised or supplanted pursuant to the procedures established by §§ 63.50 through 63.56. Such a final equivalent emission limitation, and all associated requirements adopted pursuant to § 63.52(f)(2), are directly enforceable under Federal law regardless of whether or not any permit in which they may be contained remains in effect.

■ 8. Section 63.52 is amended by revising paragraphs (e)(1) and (e)(2)(i) through (ii) to read as follows:

§ 63.52 Approval process for new and existing affected sources.

* * * * *

(e) *Permit application review.*

(1) Each owner or operator who is required to submit to the permitting authority a Part 1 MACT application which meets the requirements of § 63.53(a) for one or more sources in a category or subcategory subject to section 112(j) must also submit to the permitting authority a timely Part 2 MACT application for the same sources which meets the requirements of § 63.53(b). Each owner or operator shall submit the Part 2 MACT application for the sources in a particular category or subcategory no later than the applicable date specified in Table 1 to this subpart. The submission date specified in Table 1 to this subpart for Miscellaneous Organic Chemical Manufacturing shall apply to sources in each of the source categories listed in Table 2 to this subpart. When the owner or operator is required by §§ 63.50 through 63.56 to submit an application meeting the requirements of § 63.53(a) by a date which is after the date for a Part 2 MACT application for sources in the category or subcategory in question established by Table 1 to this subpart, the owner or operator shall submit a Part 2 MACT application meeting the requirements of § 63.53(b) within 60 additional days after the applicable deadline for submission of the Part 1 MACT application. Part 2 MACT applications must be reviewed by the permitting authority according to procedures established in § 63.55. The resulting MACT determination must be incorporated into the source's title V permit according to procedures established under title V, and any other regulations approved under title V in the jurisdiction in which the affected source is located.

(2) Notwithstanding paragraph (e)(1) of this section, the owner or operator may request either an applicability determination or an equivalency determination by the permitting authority as provided in paragraphs (e)(2)(i) and (ii) of this section.

(i) Each owner or operator who submitted a request for an applicability determination pursuant to paragraph (d)(1) of this section on or before May 15, 2002, which remains pending before the permitting authority on May 30, 2003, and who still wishes to obtain such a determination, must resubmit that request by July 29, 2003, or by the date which is 60 days after the Administrator publishes in the **Federal Register** a proposed standard under section 112(d) or 112(h) of the Act for the category or subcategory in question, whichever is later. Each request for an applicability determination which is resubmitted under this paragraph (e)(2)(i) must be supplemented to discuss the relation between the source(s) in question and the applicability provision in the proposed standard for the category or subcategory in question, and to explain why there may still be uncertainties that require a determination of applicability. The permitting authority must take action upon each properly resubmitted and supplemented request for an applicability determination within an additional 60 days after the applicable deadline for the resubmitted request. If the applicability determination is positive, the owner or operator must submit a Part 2 MACT application meeting the requirements of § 63.53(b) by the date specified for the category or subcategory in question in Table 1 to this subpart. If the applicability determination is negative, then no further action by the owner or operator is necessary.

(ii) As specified in paragraphs (a) and (b) of this section, an owner or operator who has submitted an application meeting the requirements of § 63.53(a) may request a determination by the permitting authority of whether emission limitations adopted pursuant to a prior case-by-case MACT determination under section 112(g) that apply to one or more sources at a major source in a relevant category or subcategory are substantially as effective as the emission limitations which the permitting authority would otherwise adopt pursuant to section 112(j) for the source in question. Such a request must be submitted by the date for the category or subcategory in question specified in Table 1 to this subpart. Any owner or operator who previously submitted such a request under a prior version of this paragraph (e)(2)(ii) need not resubmit the request. Each request for an equivalency determination under this paragraph (e)(2)(ii), regardless of when it was submitted, will be construed in the alternative as a complete application for an equivalent emission limitation under section 112(j). The process for determination by the permitting authority of whether the emission limitations in the prior case-by-case MACT determination are substantially as effective as the emission limitations which the permitting authority would otherwise adopt under section 112(j) must include the opportunity for full public, EPA, and affected State review prior to a final determination. If the permitting authority determines that the emission limitations in the prior case-by-case MACT determination are substantially as effective as the emission limitations which the permitting authority would otherwise adopt under section 112(j), then the permitting authority must adopt the existing emission limitations in the permit as the emission limitations to effectuate section 112(j) for the source in question. If more than 3 years remain on the current title V permit, the owner or operator must submit an application for a title V permit revision to make any conforming changes in the permit required to adopt the existing emission limitations as the section 112(j) MACT emission limitations. If less than 3 years remain on the current title V permit, any required conforming changes must be made when the permit is renewed. If the permitting authority determines that the emission limitations in the prior case-by-case MACT determination under section 112(g) are not substantially as effective as the emission limitations which the permitting authority would otherwise adopt for the source in question under section 112(j), the permitting authority must make a new MACT determination and adopt a title V permit incorporating an appropriate equivalent emission limitation under section 112(j). Such a determination constitutes final action for purposes of judicial review under 40 CFR 70.4(b)(3)(x) and corresponding State title V program provisions.

* * * * *

■ 9. Section 63.53 is amended by:
■ a. Redesignating paragraphs (b)(1) and (2) as paragraphs (b)(2) and (3);
■ b. Adding a new paragraph (b)(1); and
■ c. Revising newly designated paragraph (b)(2).
■ The addition and revision read as follows:

§ 63.53 Application content for case-by-case MACT determinations.

* * * * *

(b) * * *

(1) In compiling a Part 2 MACT application, the owner or operator may cross-reference specific information in any prior submission by the owner or operator to the permitting authority, but in cross-referencing such information the owner or operator may not presume favorable action on any prior application or request which is still pending. In compiling a Part 2 MACT application, the owner or operator may also cross-reference any part of a standard proposed by the Administrator pursuant to section 112(d) or 112(h) of the Act for any category or subcategory which includes sources to which the Part 2 application applies.

(2) The Part 2 application for a MACT determination must contain the information in paragraphs (b)(2)(i) through (b)(2)(v) of this section.

(i) For a new affected source, the anticipated date of startup of operation.

(ii) Each emission point or group of emission points at the affected source which is part of a category or subcategory for which a Part 2 MACT application is required, and each of the hazardous air pollutants emitted at those emission points. When the Administrator has proposed a standard pursuant to section 112(d) or 112(h) of the Act for a category or subcategory, such information may be limited to those emission points and hazardous air pollutants which would be subject to control under the proposed standard.

(iii) Any existing Federal, State, or local limitations or requirements governing emissions of hazardous air pollutants from those emission points which are part of a category or subcategory for which a Part 2 application is required.

(iv) For each identified emission point or group of affected emission points, an identification of control technology in place.

(v) Any additional emission data or other information specifically requested by the permitting authority.

* * * * *

■ 10. Subpart B is amended by adding Tables 1 and 2 to the end of the subpart to read as follows:

Tables to Subpart B of Part 63

TABLE 1 TO SUBPART B OF PART 63.—SECTION 112(j) PART 2 APPLICATION DUE DATES

Due date	MACT standard
10/30/03	Combustion Turbines.
	Lime Manufacturing.
	Site Remediation.
	Iron and Steel Foundries.
	Taconite Iron Ore Processing.
	Miscellaneous Organic Chemical Manufacturing (MON).[1]
	Organic Liquids Distribution.
	Primary Magnesium Refining.
	Metal Can (Surface Coating).
	Plastic Parts and Products (Surface Coating).
	Chlorine Production.
	Miscellaneous Metal Parts and Products (Surface Coating) (and Asphalt/Coal Tar Application—Metal Pipes).[2]
4/28/04	Industrial Boilers, Institutional/Commercial Boilers and Process Heaters.[3]
	Plywood and Composite Wood Products.
	Reciprocating Internal Combustion Engines.[4]
	Auto and Light-Duty Truck (Surface Coating).
8/13/05	Industrial Boilers, Institutional/Commercial Boilers, and Process Heaters.[5]
	Hydrochloric Acid Production.[6]

[1] Covers 23 source categories, see Table 2 to this subpart.

[2] Two source categories.

[3] Includes all sources in the three categories, Industrial Boilers, Institutional/Commercial Boilers, and Process Heaters that burn no hazardous waste.

[4] Includes engines greater than 500 brake horsepower.

[5] Includes all sources in the three categories, Industrial Boilers, Institutional/Commercial Boilers, and Process Heaters that burn hazardous waste.

[6] Includes furnaces that produce acid from hazardous waste at sources in the category Hydrochloric Acid Production.

TABLE 2 TO SUBPART B OF PART 63.—MON SOURCE CATEGORIES

Manufacture of Paints, Coatings, and Adhesives.
Alkyd Resins Production.
Maleic Anhydride Copolymers Production.
Polyester Resins Production.
Polymerized Vinylidene Chloride Production.
Polymethyl Methacrylate Resins Production.
Polyvinyl Acetate Emulsions Production.
Polyvinyl Alcohol Production.
Polyvinyl Butyral Production.
Ammonium Sulfate Production-Caprolactam By-Product Plants.
Quaternary Ammonium Compounds Production.
Benzyltrimethylammonium Chloride Production.
Carbonyl Sulfide Production.
Chelating Agents Production.
Chlorinated Paraffins Production.
Ethylidene Norbornene Production.
Explosives Production.
Hydrazine Production.
OBPA/1,3-Diisocyanate Production.
Photographic Chemicals Production.
Phthalate Plasticizers Production.
Rubber Chemicals Manufacturing.
Symmetrical Tetrachloropyridine Production.

[FR Doc. 03–13178 Filed 5–29–03; 8:45 am]
BILLING CODE 6560–50–P

ORIGINAL

BEFORE THE WEST VIRGINIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION
DIVISION OF AIR QUALITY

In the matter of:

PUBLIC HEARING ON PROPOSED REVISIONS TO LEGISLATIVE RULE

45 CSR 34 "EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES PUSUANT TO 40 CFR PART 63"

Transcript of proceedings had at a public hearing in the above-styled matter taken by Missy L. Young, Certified Court Reporter and Commissioner in and for the State of West Virginia, at the West Virginia Division of Environmental Protection, Office of Air Quality, Conference Room, 7012 MacCorkle Avenue, S.E., Charleston, West Virginia, commencing at 6:02 p.m., on the 15th day of July, 2003, pursuant to notice.

MISSY L. YOUNG, C.C.R.
POST OFFICE BOX 13221
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(304) 984-2300

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P R O C E E D I N G S

MS. CHANDLER: The purpose of this hearing is to accept comments on proposed revisions to rule 45CSR34 - Emissions Standards for Hazardous Air Pollutants for Source Categories Pursuant to 40 CFR Part 63. This rule establishes and adopts national emissions standards for hazardous air pollutants (NESHAP) and other regulatory requirements promulgated by the U.S. Environmental Protection Agency pursuant to section 112 of the federal Clean Air Act, as amended.

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 hazard air pollutants (HAP) in or pursuant to section 112(b) of the Clean Air Act.

The rule adopts by reference the NESHAP standards of 40 CFR Parts 63 and 65 (Consolidated Federal Air Rule) to the extent referenced in 40 CFR Part 63, promulgated as of June 1, 2003.

The rule also adopts associated reference methods, performance specifications and other tests methods which are appended to these standards and contained in 40 CFR Parts 63 and 65. Any person who constructs, reconstructs, modifies or operates any source

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subject to the provisions of 40 CFR Part 63 must comply with the applicable NESHAPs and this rule.

45CSR34, in conjunction with 45CSR15, establishes general provisions for emissions standards for hazardous air pollutants (NESHAP) and other regulatory requirements promulgated by the U.S. Environmental Protection Agency pursuant to section 112 of the federal Clean Air Act, as amended. 45CSR34 incorporates hazardous air pollutant standards codified by U.S. Environmental Protection Agency under 40 CFR Part 63 whereas 45CSR15, incorporates hazardous air pollutant standards promulgated by USEPA under 40 CFR Part 61.

This revised rule incorporates by reference the following new or revised NESHAP standards promulgated as of June 1, 2003: National Emission Standard for Hazardous Air Pollutants for Pesticide Active Ingredient Production, Generic Maximum Achievable Control Technology Standards, Surface Coating of Metal Coil, Cellulose Products Manufacturing, Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants, Primary Copper Smelting, Secondary Aluminum Production, Portland Cement Manufacturing Industry, Rubber Tire Manufacturing.

Polyvinyl Chloride and Copolymers

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Production, Surface Coating of Large Appliances, Friction Materials Manufacturing Facilities, Publically Owned Treatment Works, Paper and Other Web Coating, Hazardous Waste Combustors, Municipal Solid Waste Landfills, Chemical Recovery Combustion Sources at Kraft, Soda Sulfite, and Stand-alone Semichemical Pulp Mills, Rubber Tire Manufacturing, Surface Coating of Metal Coil, Coke Ovens, Pushing, Quenching and Battery Stacks, Flexible Polyurethane Foam Fabrication Operations, Refractory Products Manufacturing, Hydrochloric Acid Production, Reinforced Plastic Composites Production, Asphalt Processing and Asphalt Roofing Manufacturing, Brick and Structural Clay Products Manufacturing, Clay Ceramics Manufacturing, Integrated Iron and Steel Manufacturing, Semiconductor Manufacturing, Surface Coating of Metal Furniture, Engine Test Cells/Stands, Surface Coating of Wood Building Products and Printing, Coating, Dyeing of Fabrics and Other Textiles, and General Provisions and Requirements for Control Technology Determinations for Major Sources in Accordance With Sections 112(g) and 112(j).

Upon authorization and promulgation of revisions to the 45CSR34, the Division of Air Quality will provide the U.S. Environmental Protection Agency the

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updated final rules as part of West Virginia's program delegation of the NSPS and NESHAP standards, which became effective on January 8, 2002.

The floor is now open for public comment on 45CSR34. There being nothing further, this public hearing for the proposed 45CSR34 is concluded.

(WHEREUPON, the public hearing was concluded.)

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BEFORE THE WEST VIRGINIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION
DIVISION OF AIR QUALITY

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

I, the undersigned, Missy L. Young, a Certified Court Reporter and Commissioner within and for the State of West Virginia, duly commissioned and qualified, do hereby certify that the foregoing is, to the best of my skill and ability, a true and accurate transcript of all the proceedings had in the aforementioned matter.

Given under my hand and official seal this 24th day of July, 2003.

Missy L. Young, C.C.R.
Certified Court Reporter
Commissioner for the State of West Virginia

My commission expires April 15, 2008.

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45CSR34

EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES PURSUANT TO 40 CFR PART 63

RESPONSE TO COMMENTS

On June 13, 2003, the Division of Air Quality (DAQ) commenced the public comment period and subsequently held a public hearing on July 15, 2003 to accept oral comments on the proposed rule, 45CSR34. Written comments were also accepted through 6:00 PM on Monday, July 15, 2003. No person verbally commented at the public hearing concerning proposed rule 45CSR34. No commenter submitted substantive written comments regarding proposed rule 45CSR34. Therefore, no response is required by the Division.