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National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology Standards; and Manufacture of Amino/Phenolic Resins; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2012–0133; FRL–9916–90–OAR]

RIN 2060–AR49

National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology Standards; and Manufacture of Amino/Phenolic Resins

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Acrylic and Modacrylic Fibers Production, Amino/Phenolic Resins Production and Polycarbonate Production source categories regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, we are taking final action addressing emissions during periods of startup, shutdown and malfunction, and are adding standards for previously unregulated hazardous air pollutant (HAP) emissions sources for certain emission points. These changes include revisions made in response to comments received on the proposed rule. These final amendments also include clarifying provisions pertaining to open-ended valves and lines, adding monitoring requirements for pressure relief devices and adding requirements for electronic reporting of performance test results, as proposed. We estimate that these final amendments will reduce HAP emissions from these three source categories by a combined 137 tons per year.

DATES: This final action is effective on October 8, 2014.

ADDRESSES: The Environmental Protection Agency (EPA) has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2012–0133. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Mr. Nick Parsons, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards (OAQPS), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (734) 214–4479; fax number: (734) 214–4053; and email address: *parsons.nick@epa.gov.* For specific information regarding the risk modeling methodology, contact Mr. Mark Morris, Health and Environmental Impacts Division (C539–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5416; fax number: (919) 541–0840; and email address: *morris.mark@epa.gov.* For information about the applicability of these three NESHAP to a particular entity, contact Ms. Tavara Culpepper, Office of Enforcement and Compliance Assurance (OECA), U.S. Environmental Protection Agency, Washington, DC 20004; telephone number: (202) 564–0902; and email address: *culpepper.tavara@epa.gov.*

SUPPLEMENTARY INFORMATION:

Acronyms and Abbreviations. The following acronyms and abbreviations are used in this document.

AEGL acute exposure guideline levels
AMF Acrylic and Modacrylic Fibers Production
APPU amino/phenolic resin process unit
APR Amino/Phenolic Resins Production
CAA Clean Air Act
CBI Confidential Business Information
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
EJ environmental justice
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
FR **Federal Register**
gal gallon
HAP hazardous air pollutants
HI hazard index
HON National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry
HQ hazard quotient
ICR Information Collection Request
kg kilogram
LDAR leak detection and repair
MACT maximum achievable control technology
Mg megagram
MIR maximum individual risk
MTVP maximum true vapor pressure
NAICS North American Industry Classification System
NEI National Emissions Inventory
NESHAP National Emission Standards for Hazardous Air Pollutants
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OECA Office of Enforcement and Compliance Assurance
OMB Office of Management and Budget
PC Polycarbonate Production
ppm parts per million
PRD pressure relief device
psia pounds per square inch absolute
REL reference exposure level
RFA Regulatory Flexibility Act
RTR residual risk and technology review
SBA Small Business Administration
SSM startup, shutdown and malfunction
TOSHI target organ-specific hazard index
tpy tons per year
TTN Technology Transfer Network
UMRA Unfunded Mandates Reform Act
VCS voluntary consensus standards
VOC volatile organic compounds
WWW World Wide Web

Background Information. On January 9, 2014, the EPA proposed revisions to the Acrylic and Modacrylic Fibers Production, Amino/Phenolic Resins Production and Polycarbonate Production NESHAP based on our RTR. In this action, we are finalizing decisions and revisions for the rules. We summarize some of the comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of the public comments on the proposal not presented in the preamble and the EPA's responses to those comments is available in Docket ID No. EPA–HQ–OAR–2012–0133. A "track changes" version of the regulatory language that incorporates the changes in this action is available in the docket.

Organization of This Document. We provide the following outline to assist in locating information in the preamble.

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I. General Information

A. Does this action apply to me?

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

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

NESHAP and Source Category		NAICS[a] Code
Generic Maximum Achievable Control Technology Standards ..	Acrylic and Modacrylic Fibers Production	325220 (325222)
	Polycarbonate Production	325211 (325211)
Amino/Phenolic Resins Production	.....	325211 (325211)

[a] North American Industry Classification System 2012 (2007 in parenthesis)

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

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

In addition to being available in the docket, an electronic copy of this final action will also be available through the EPA's Technology Transfer Network (TTN) Web site, a forum for information and technology exchange in various areas of air pollution control. Following signature by the EPA Administrator, we will post a copy of the final action at: *http://www.epa.gov/ttn/atw/gmact/gmactpg.html* and *http://www.epa.gov/ttn/atw/amino/aminopg.html.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the final action and key technical documents at these same Web sites.

Additional information is available on the RTR Web site at *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.* This information includes an overview of the RTR program, links to project Web sites for the RTR source categories and detailed emissions and other data we used as inputs to the risk assessments.

C. Judicial Review

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by December 8, 2014. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

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

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

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of HAP from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems or techniques that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials or other modifications; enclose systems or processes to eliminate emissions; collect, capture or treat HAP when released from a process, stack, storage or fugitive emissions point; and/or are design, equipment, work practice or operational standards.

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

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 79 FR 1676 (January 9, 2014).

B. Acrylic and Modacrylic Fibers Production (AMF)

1. What is the AMF source category and how do the MACT standards promulgated on June 29, 1999, regulate its HAP emissions?

The EPA promulgated the AMF MACT standards on June 29, 1999 (64 FR 34854). The standards are codified at 40 CFR part 63, subpart YY. The AMF industry consists of facilities that produce acrylic and modacrylic fibers, which are manufactured fibers in which the fiber-forming substance is a long-chain synthetic polymer containing acrylonitrile units. The source category covered by this NESHAP currently includes one facility. Sources of HAP emissions from the production of AMF include: (1) Storage vessels used to store acrylonitrile monomer and co-monomers; (2) process vents on reactors, vessels and storage vessels used for acrylic polymerization, monomer recovery, fiber spinning and solvent recovery operations; (3) fugitive emissions from AMF spinning lines; (4) wastewater treatment systems; and (5) equipment leaks.

2. What changes did we propose for the AMF source category in our January 9, 2014, proposal?

On January 9, 2014, the EPA published a proposed rule in the **Federal Register** for the AMF MACT standards, 40 CFR part 63, subpart YY, that took into consideration the RTR analyses. In the proposed rule, we proposed:

- Revisions to address certain emission sources not previously regulated under the standards.
- Revisions to the leak detection and repair (LDAR) program requirements.
- Revisions to requirements related to emissions during periods of startup, shutdown and malfunction (SSM).
- Revisions to requirements related to performance test electronic reporting.
- Revisions to the provisions regarding open-ended lines.
- Revisions to the requirements related to pressure relief devices (PRDs) that release HAP emissions to the atmosphere instead of routing them to a control device, process, fuel gas system or drain system.

C. Amino/Phenolic Resins Production (APR)

1. What is the APR source category and how do the MACT standards promulgated on January 20, 2000, regulate its HAP emissions?

The EPA promulgated the APR MACT standards on January 20, 2000 (65 FR 3276). The standards are codified at 40 CFR part 63, subpart OOO. The APR industry consists of facilities that manufacture amino resins or phenolic resins. The source category covered by this NESHAP currently includes 19 facilities. Sources of HAP emissions from the production of APR include: (1) Reactor batch process vents; (2) non-reactor batch process vents; (3) continuous process vents; (4) equipment leaks; (5) wastewater; (6) storage vessels; and (7) heat exchangers.

2. What changes did we propose for the APR source category in our January 9, 2014, proposal?

On January 9, 2014, the EPA published a proposed rule in the **Federal Register** for the APR MACT standards, 40 CFR part 63, subpart OOO, that took into consideration the RTR analyses. In the proposed rule, we proposed:

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

• Revisions to address certain emission sources not previously regulated under the standards.
• Revisions to the storage vessel and continuous process vent standards.
• Revisions to requirements related to emissions during periods of SSM.
• Revisions to requirements related to performance test electronic reporting.
• Revisions to the provisions regarding open-ended lines.
• Revisions to the requirements related to PRDs that release HAP emissions to the atmosphere rather than routing them to a control device, process, fuel gas system or drain system.

D. Polycarbonate Production

1. What is the PC source category and how do the MACT standards promulgated on June 29, 1999, regulate its HAP emissions?

The EPA promulgated the PC MACT standards on June 29, 1999 (64 FR 34854). The standards are codified at 40 CFR part 63, subpart YY. The PC industry consists of facilities that produce polycarbonates, a process that involves a polymerization reaction using either a solution or suspension process in either a batch or continuous mode. All production of polycarbonates in the United States is currently based on the polymerization reaction of bisphenols with phosgene in the presence of catalysts, solvents (mainly methylene chloride) and other additives. The source category covered by this NESHAP currently includes four facilities. Sources of HAP emissions from the production of PC include: (1) Storage vessels used to store methylene chloride and other organic solvents; (2) process vents on polymerization, polymer solution purification and solvent recovery equipment; (3) wastewater treatment systems; and (4) equipment leaks.

2. What changes did we propose for the PC source category in our January 9, 2014, proposal?

On January 9, 2014, the EPA published a proposed rule in the **Federal Register** for the PC MACT standards, 40 CFR part 63, subpart YY, that took into consideration the RTR analyses. In the proposed rule, we proposed:
• Revisions to the LDAR program requirements.
• Revisions to requirements related to emissions during periods of SSM.
• Revisions to requirements related to performance test electronic reporting.
• Revisions to the provisions regarding open-ended lines.
• Revisions to the requirements related to PRDs that release HAP emissions to the atmosphere rather than routing them to a control device, process, fuel gas system or drain system.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the AMF, APR and PC source categories and amends the AMF, APR and PC MACT standards based on those determinations. This action also finalizes other changes to the NESHAP such as setting emission standards to address certain emission sources not previously regulated; eliminating the exemption for periods of SSM, so that the emission standards in each rule apply at all times; requiring electronic reporting of performance test results; clarifying the provisions regarding open-ended lines by adding a definition for what constitutes a "sealed" open-ended line; requiring monitoring of PRDs in organic HAP service that release to the atmosphere rather than routing emissions to a control device, process, fuel gas system or drain system; and providing that releases of HAP emissions to the atmosphere from such PRDs are prohibited.

A. Acrylic and Modacrylic Fibers Production

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

For the AMF source category, we have determined that the current MACT standards reduce risk to an acceptable level, provide an ample margin of safety to protect public health, and prevent adverse environmental effects. Therefore, as we proposed, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).

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

We have determined that there have been developments in practices, processes and control technologies that warrant revisions to the MACT standard for this source category. Therefore, to satisfy the requirements of CAA section 112(d)(6) and as we proposed, we are revising the MACT standards to require facilities to comply with the LDAR requirements of 40 CFR part 63, subpart UU, rather than subpart TT, with the exception of connectors in gas and vapor service and in light liquid service. We are retaining the option for facilities to comply with either subpart TT or subpart UU for these components. For storage vessels, process vents, spinning line fugitive emissions and wastewater, we have determined that, as we proposed, there are no viable developments in HAP emission reduction practices, processes or control technologies to apply, considering the technical feasibility, estimated costs, energy implications, non-air environmental impacts and emission reductions of the options identified.

3. What are the final rule amendments pursuant to sections 112(d)(2) & (3) for the AMF source category?

Pursuant to CAA sections 112(d)(2) and (3) and as we proposed, we are establishing standards for previously unregulated HAP emissions from spinning lines that use a spin dope produced from a solution polymerization process at existing facilities. The standard being finalized is an emission limit of 20 kilograms (kg) of organic HAP per megagram (Mg) (40 pounds (lb) of organic HAP per ton) of acrylic and modacrylic fiber produced, which represents the MACT floor level of control.

B. Amino/Phenolic Resins Production

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

For the APR source category, we have determined that the current MACT standards reduce risk to an acceptable level, provide an ample margin of safety to protect public health and prevent adverse environmental effects. Therefore, as we proposed, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).

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

We have determined that there have been developments in practices, processes and control technologies that warrant revisions to the MACT standard for this source category. Therefore, to satisfy the requirements of CAA section 112(d)(6), we are revising the applicability of the APR new source MACT standards as we proposed to include smaller capacity storage vessels and/or storage vessels containing liquids with lower vapor pressures. Emissions reduction of 95 percent is now required for storage vessels of capacities greater than or equal to 20,000 gallons (gal), but less than 40,000 gal if the maximum true vapor pressure (MTVP) is 1.9 pounds per square inch absolute (psia) or greater, and for storage vessels of capacities greater than or equal to 40,000 gal, but less than 90,000 gal if the MTVP is 0.75 psia or greater. Control is also still required for storage

vessels of 90,000 gal or greater, if the MTVP is 0.15 psia or greater, as was previously required for storage vessels at new sources in the APR source category. For equipment leaks, continuous process vents, batch process vents, wastewater and heat exchange systems, we have determined that, as we proposed, there are no viable developments in HAP emission reduction practices, processes or control technologies to apply to the emission sources in these source categories, considering the technical feasibility, estimated costs, energy implications, non-air environmental impacts and emission reductions of the options identified.

3. What are the final rule amendments pursuant to sections 112(d)(2) & (3) for the APR source category?

Pursuant to CAA sections 112(d)(2) and (3), we are establishing standards for previously unregulated HAP emissions from storage vessels and continuous process vents at existing facilities. For storage vessels, the standard being finalized is the same as what we proposed and requires 95 percent emissions reduction for storage vessels of capacities greater than or equal to 20,000 gal, but less than 40,000 gal if the MTVP is 1.9 psia or greater, for storage vessels of capacities greater than or equal to 40,000 gal, but less than 90,000 gal if the MTVP is 0.75 psia or greater, and for storage vessels of 90,000 gal or greater, if the MTVP is 0.15 psia or greater, which represents a beyond-the-floor level of control. For continuous process vents, the standard being finalized establishes an emission limit of 0.95 kg of organic HAP per Mg (1.9 lb organic HAP per ton) of resin produced, which represents the MACT floor level of control. However, the calculation of the MACT floor has been revised since proposal.

C. Polycarbonate Production

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

For the PC source category, we have determined that the current MACT standards reduce risk to an acceptable level, provide an ample margin of safety to protect public health and prevent adverse environmental effects. Therefore, as we proposed, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).

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

We have determined that there have been developments in practices, processes and control technologies that warrant revisions to the MACT standard for this source category. Therefore, to satisfy the requirements of CAA section 112(d)(6) and as we proposed, we are revising the MACT standards to require facilities to comply with the LDAR requirements of 40 CFR part 63, subpart UU, rather than subpart TT, with the exception of connectors in gas and vapor service and in light liquid service. We are retaining the option for facilities to comply with either subpart TT or subpart UU for these components. For storage vessels, process vents and wastewater treatment systems, we have determined that, as we proposed, there are no viable developments in HAP emission reduction practices, processes or control technologies to apply to the emission sources in these source categories, considering the technical feasibility, estimated costs, energy implications, non-air environmental impacts and emission reductions of the options identified.

D. What are the final rule amendments for all three source categories addressing emissions during periods of startup, shutdown and malfunction?

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), *cert. denied,* 130 S. Ct. 1735 (U.S. 2010), the United States Court of Appeals for the District of Columbia Circuit vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1) holding that under section 302(k) of the CAA, emission standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some section 112 standards apply continuously.

We have eliminated the SSM exemption in these rules. Consistent with *Sierra Club* v. *EPA,* the standards in these rules apply at all times. We are also finalizing several revisions to 40 CFR part 63, subpart YY and Table 1 to subpart OOO (the General Provisions applicability table), as is explained in more detail below. For example, we have eliminated the incorporation of the General Provisions' requirement that sources develop an SSM plan. We have also eliminated and revised certain NESHAP recordkeeping and reporting that is related to the eliminated SSM exemption, as described in detail in the proposed rule and summarized again here.

In establishing the standards in these final rule amendments, the EPA has taken into account startup and shutdown periods and, for the reasons explained below, has not established alternate standards for these periods for the AMF, APR and PC MACT standards. Emission reductions for process vents and transfer operations are typically achieved by routing vapors to a control device such as a thermal oxidizer or carbon adsorber. It is common practice to start a control device prior to startup of the emissions source it is controlling, so the control device would be operating before emissions are routed to it. We expect control devices would be operating during startup and shutdown events in a manner consistent with normal operating periods, and that these control devices will be operated to maintain and meet the monitoring parameter operating limits set during the performance test. We do not expect startup and shutdown events to affect emissions from equipment leaks, wastewater sources (e.g., surface impoundments, oil-water separators, organic-water separators) or storage tanks. Leak detection programs associated with equipment leaks are in place to detect leaks, and, therefore, it is inconsequential whether the process is operating under normal operating conditions or is in startup or shutdown. Wastewater emissions are also not expected to be significantly affected by startup or shutdown events. Working and breathing losses from storage tanks are the same regardless of whether the process is operating under normal operating conditions or is in a startup or shutdown event.

Periods of startup, normal operations and shutdown are all predictable and routine aspects of a source's operations. However, by contrast, malfunctions are a 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. See 40 CFR 63.2. The EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards. Under section 112, emission standards for new sources must be no less stringent than the level ''achieved'' by the best controlled similar source and, for existing sources, generally must be no less stringent than the average emission limitation ''achieved'' by the best performing 12 percent of sources in the category. There is nothing in section

112 that directs the EPA to consider malfunctions in determining the level "achieved" by the best performing sources when setting emission standards. As the United States Court of Appeals for the District of Columbia Circuit has recognized, the phrase "average emissions limitation achieved by the best performing 12 percent of" sources "says nothing about how the performance of the best units is to be calculated." *Nat'l Ass'n of Clean Water Agencies* v. *EPA,* 734 F.3d 1115, 1141 (D.C. Cir. 2013). While the EPA accounts for variability in setting emission standards, nothing in CAA section 112 requires the EPA to consider malfunctions as part of that analysis. A malfunction should not be treated in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of the source to perform in a "normal or usual manner" and no statutory language compels the EPA to consider such events in setting CAA section 112 standards.

Further, accounting for malfunctions in setting emission standards would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the source categories amended with this action, and given the difficulties associated with predicting or accounting for the frequency, degree and duration of various malfunctions that might occur. As such, the performance of units that are malfunctioning is not "reasonably" foreseeable. See, e.g., *Sierra Club* v. *EPA,* 167 F.3d 658, 662 (D.C. Cir. 1999) ("The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to 'invest the resources to conduct the perfect study.' "). See also, *Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) ("In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation."). In addition, emissions during a malfunction event can be significantly higher than emissions at any other time of source operation. For example, if an air pollution control device with 99 percent removal goes off-line as a result of a malfunction (as might happen if, for example, the bags in a baghouse catch fire) and the emission unit is a steady state type unit that would take days to shut down, the source would go from 99 percent control to zero control until the control device was repaired. The source's emissions during the malfunction would be 100 times higher than during normal operations. As such, the emissions over a 4-day malfunction period would exceed the annual emissions of the source during normal operations. As this example illustrates, accounting for malfunctions could lead to standards that are not reflective of (and significantly less stringent than) levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret section 112 to avoid such a result. The EPA's approach to malfunctions is consistent with CAA section 112 and is a reasonable interpretation of the statute.

In the event that a source fails to comply with the applicable CAA section 112 standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112 standard was, in fact, "sudden, infrequent, not reasonably preventable" and was not instead "caused in part by poor maintenance or careless operation." 40 CFR 63.2 (definition of malfunction).

If the EPA determines in a particular case that enforcement action against a source for violation of an emission standard is warranted, the source can raise any and all defenses in that enforcement action and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

In summary, the EPA interpretation of the CAA and in particular, section 112 is reasonable and encourages practices that will avoid malfunctions. Administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations.

In several prior CAA section 112 rules and in the proposed rule, the EPA had included an affirmative defense to civil penalties for violations caused by malfunctions in an effort to create a system that incorporates some flexibility, recognizing that there is a tension, inherent in many types of air regulation, to ensure adequate compliance while simultaneously recognizing that despite the most diligent of efforts, emission standards may be violated under circumstances entirely beyond the control of the source. Although the EPA recognized that its case-by-case enforcement discretion provides sufficient flexibility in these circumstances, it included the affirmative defense to provide a more formalized approach and more regulatory clarity. See *Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1057–58 (D.C. Cir. 1978) (holding that an informal case-by-case enforcement discretion approach is adequate); but see *Marathon Oil Co.* v. *EPA,* 564 F.2d 1253, 1272–73 (9th Cir. 1977) (requiring a more formalized approach to consideration of "upsets beyond the control of the permit holder."). Under the EPA's regulatory affirmative defense provisions, if a source could demonstrate in a judicial or administrative proceeding that it had met the requirements of the affirmative defense in the regulation, civil penalties would not be assessed. Recently, the United States Court of Appeals for the District of Columbia Circuit vacated an affirmative defense in one of the EPA's CAA section 112 regulations. *NRDC* v. *EPA,* No. 10–1371 (D.C. Cir. April 18, 2014) 2014 U.S. App. LEXIS 7281 (vacating affirmative defense provisions in CAA section 112 rule establishing emission standards for Portland cement kilns). The court found that the EPA lacked authority to establish an affirmative defense for private civil suits and held that under the CAA, the authority to determine civil penalty amounts in such cases lies exclusively with the courts, not the EPA. Specifically, the Court found: "As the language of the statute makes clear, the courts determine, on a case-by-case basis, whether civil penalties are 'appropriate.' " See *NRDC,* 2014 U.S. App. LEXIS 7281 at *21 ("[U]nder this statute, deciding whether penalties are 'appropriate' in a given private civil suit is a job for the courts, not EPA.").[2] In

[2] The court's reasoning in *NRDC* focuses on civil judicial actions. The court noted that "EPA's ability to determine whether penalties should be assessed for Clean Air Act violations extends only to

Continued

light of *NRDC,* the EPA is not including a regulatory affirmative defense provision in the final rule. As explained above, if a source is unable to comply with emission standards as a result of a malfunction, the EPA may use its case-by-case enforcement discretion to provide flexibility, as appropriate. Further, as the United States Court of Appeals for the District of Columbia Circuit recognized, in an EPA or citizen enforcement action, the court has the discretion to consider any defense raised and determine whether penalties are appropriate. *Cf. NRDC,* 2014 U.S. App. LEXIS 7281 *at *24.* (Arguments that violations were caused by unavoidable technology failure can be made to the courts in future civil cases when the issue arises). The same is true for the presiding officer in EPA administrative enforcement actions.[3]

Refer to the explanations below and section VII of this preamble and the comment summary and response document, available in the docket for this action, for further discussion regarding SSM-related changes made to the AMF, APR and PC MACT standards.

1. General Duty

For the APR MACT standards, we are revising the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.6(e)(1)(i) by changing the explanation in column 3. 40 CFR 63.6(e)(1)(i) describes the general duty to minimize emissions. Some of the language in that section is no longer necessary or appropriate in light of the elimination of the SSM exemption. Similarly, for the AMF and PC source categories, we are also removing this requirement at 40 CFR 63.1108(a)(5). For the AMF, APR and PC MACT standards, we are instead adding general duty regulatory text at 40 CFR 63.1108(a)(4)(ii) and 63.1400(k)(4) that reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM. With the elimination of the SSM exemption, there is no need to differentiate between normal operations, startup and shutdown and malfunction events in describing the general duty. Therefore, the language the EPA is promulgating for 40 CFR 63.1108(a)(4)(ii) and 63.1400(k)(4) does not include that language from 40 CFR 63.6(e)(1).

For the APR MACT standards, we are also revising the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.6(e)(1)(ii) by changing the ''yes'' in the second column to a ''no.'' 40 CFR 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty requirement being added at 40 CFR 63.1400(k)(4).

2. SSM Plan

For the APR MACT standards, we are revising the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.6(e)(3) by changing the ''yes'' in the second column to a ''no.'' Similarly, for the AMF and PC source categories, we are also removing this requirement at 40 CFR 63.1111(a). Generally, these paragraphs require development of an SSM plan and specify SSM recordkeeping and reporting requirements related to the SSM plan. As noted, the EPA is removing the SSM exemptions. Therefore, affected units will be subject to an emission standard during such events. The applicability of a standard during such events will ensure that sources have ample incentive to plan for and achieve compliance and thus the SSM plan requirements are no longer necessary.

3. Compliance With Standards

For the APR MACT standards, we are revising the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.6(f)(1) by changing the ''yes'' in the second column to a ''no.'' The current language of 40 CFR 63.6(f)(1) exempts sources from non-opacity standards during periods of SSM. As discussed above, the court in *Sierra Club* vacated the exemptions contained in this provision and held that the CAA requires that some section 112 standard apply continuously. Consistent with *Sierra Club,* the EPA is revising standards in this rule to apply at all times.

4. Performance Testing

For the APR MACT standards, we are revising the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.7(e)(1) by changing the ''yes'' in the second column to a ''no.'' 40 CFR 63.7(e)(1) describes performance testing requirements. Similarly, for the AMF and PC source categories, we are also revising this requirement at 40 CFR 63.1108(b)(4)(ii). The EPA is instead adding a performance testing requirement at 40 CFR 63.1108(b)(4)(ii) and 63.1413(a)(2). The performance testing requirements we are adding differ from the General Provisions performance testing provisions in several respects. The regulatory text does not include the language in 40 CFR 63.7(e)(1) that restated the SSM exemption and language that precluded startup and shutdown periods from being considered ''representative'' for purposes of performance testing. The revised performance testing provisions do not allow performance testing during periods of startup or shutdown. As in 40 CFR 63.7(e)(1), performance tests conducted under this subpart should not be conducted during malfunctions because conditions during malfunctions are not representative of normal operating conditions. The EPA is adding language that requires the owner or operator to record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. 40 CFR 63.7(e) requires that the owner or operator make available to the Administrator such records ''as may be necessary to determine the condition of the performance test'' available to the Administrator upon request, but does not specifically require the information to be recorded. The regulatory text the EPA is adding to this provision builds on that requirement and makes explicit the requirement to record the information.

5. Monitoring

For the APR MACT standards, we are revising the General Provisions applicability table (Table 1 to Subpart OOO) entries for 40 CFR 63.8(c)(1)(i) and (iii) by changing the ''yes'' in the second column to a ''no.'' The cross-references to the general duty and SSM plan requirements in those subparagraphs are not necessary in light of other requirements of 40 CFR 63.8 that require good air pollution control practices (40 CFR 63.8(c)(1)) and that set out the requirements of a quality control program for monitoring equipment (40 CFR 63.8(d)).

6. Recordkeeping

For the AMF, APR and PC MACT standards, the EPA is adding recordkeeping requirements during a malfunction to 40 CFR 63.1111(c)(1) and

administrative penalties, not to civil penalties imposed by a court.'' *Id.*

[3] Although the *NRDC* case does not address the EPA's authority to establish an affirmative defense to penalties that is available in administrative enforcement actions, the EPA is not including such an affirmative defense in the final rule. As explained above, such an affirmative defense is not necessary. Moreover, assessment of penalties for violations caused by malfunctions in administrative proceedings and judicial proceedings should be consistent. *CF.* CAA section 113(e) (requiring both the Administrator and the court to take specified criteria into account when assessing penalties).

63.1416(b). The EPA is applying the requirement to any failure to meet an applicable standard and is requiring that the source record the date, time, and duration of the failure rather than the ''occurrence.'' The EPA is also adding to 40 CFR 63.1111(c)(1) and 63.1416(b) a requirement that sources keep records that include a list of the affected source or equipment and actions taken to minimize emissions, an estimate of the quantity of each regulated pollutant emitted over the standard for which the source failed to meet the standard and a description of the method used to estimate the emissions. Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available or engineering judgment based on known process parameters. The EPA is requiring that sources keep records of this information to ensure that there is adequate information to allow the EPA to determine the severity of any failure to meet a standard, and to provide data that may document how the source met the general duty to minimize emissions when the source has failed to meet an applicable standard.

7. Reporting

For the APR MACT standards, we are revising the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.10(d)(5) by changing the ''yes'' in the second column to a ''no.'' 40 CFR 63.10(d)(5) describes the reporting requirements for SSM. Similarly, for the AMF and PC source categories, we are also removing this requirement at 40 CFR 63.1111(b). To replace the General Provisions reporting requirement, the EPA is adding reporting requirements to 40 CFR 63.1111(c)(2) and 63.1417(g). The replacement language differs from the General Provisions requirement in that it eliminates periodic SSM reports as a stand-alone report. We are promulgating language that requires sources that fail to meet an applicable standard at any time to report the information concerning such events in the semi-annual periodic report already required under these rules. We are promulgating that the report must contain the number, date, time, duration and cause of such events (including unknown cause, if applicable), a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available or engineering judgment based on known process parameters. The EPA is promulgating this requirement to ensure that there is adequate information to determine compliance, to allow the EPA to determine the severity of the failure to meet an applicable standard, and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

We will no longer require owners or operators to determine whether actions taken to correct a malfunction are consistent with an SSM plan, because plans will no longer be required. The final amendments therefore eliminate the cross reference to 40 CFR 63.10(d)(5)(i) that contains the description of the previously required SSM report format and submittal schedule from this section. These specifications are no longer necessary because the events will be reported in otherwise required reports with similar format and submittal requirements.

For the APR MACT standards, we are revising the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.10(d)(5)(ii) by changing the ''yes'' in the second column to a ''no.'' 40 CFR 63.10(d)(5)(ii) describes an immediate report for startups, shutdown and malfunctions when a source failed to meet an applicable standard but did not follow the SSM plan. We will no longer require owners or operators to report when actions taken during a startup, shutdown or malfunction were not consistent with an SSM plan, because plans will no longer be required.

E. What other changes have been made to all three NESHAP?

1. Pressure Relief Devices

PRDs are designed to remain closed during normal operation and only release as the result of unplanned and/or unpredictable events. A release from a PRD usually occurs during an over pressurization of the system. In some source configurations, emissions from PRDs are captured and routed to a control device, process, fuel gas system or drain system, and, therefore, do not result in a net increase of HAP emissions from the source than would otherwise be the case if the source met all other applicable HAP emission limits. However, emissions vented to the atmosphere by PRDs in organic HAP service contain HAP that are otherwise regulated under the MACT standards that apply to these source categories, and if such releases to the atmosphere occur there will be a net increase in source HAP emissions even if the source otherwise complies with all other applicable HAP limits.

The original MACT standards for these source categories regulated PRDs through equipment leak provisions that applied only after the pressure release occurred. In addition, the rules followed the EPA's former practice of exempting SSM events from otherwise applicable emission standards. Consequently, the original MACT standards did not restrict emissions of organic HAP from PRDs to the atmosphere as a result of malfunction but instead treated them the same as all malfunctions through the SSM exemption provision.

In *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the court determined that the SSM exemption violated the CAA. See section III.D of this preamble for additional discussion. To ensure these NESHAP are consistent with that decision, the final rule revisions remove the malfunction exemptions in each of the MACT standards and provide that emissions of organic HAP may not be discharged to the atmosphere from PRDs in organic HAP service. The prohibition does not apply to PRD releases of HAP that are captured and routed to a control device, process, fuel gas system or drain system.

To ensure compliance with this amendment, we are also requiring that sources subject to these three MACT standards monitor PRDs in organic HAP service that release to the atmosphere by using a device or system that is capable of identifying and recording the time and duration of each pressure release and of notifying operators immediately that a pressure release is occurring. Owners or operators are required to keep records and report any pressure release and the amount of organic HAP released to the atmosphere with the next periodic report. As with the prohibition, this monitoring requirement does not apply to PRDs for which HAP releases are captured and routed to a control device, process, fuel gas system or drain system.

Pressure release events from PRDs in organic HAP service to the atmosphere have the potential to emit large quantities of uncontrolled and unmeasured HAP. Where a pressure release occurs, it is important to identify and mitigate it as quickly as possible. As defined in the MACT standards, PRDs are valves used only to release unplanned, nonroutine discharges. A PRD discharge results from an operator error, a malfunction such as a power failure or equipment failure, or other unexpected cause that requires immediate venting of gas from process equipment in order to avoid safety hazards or equipment damage. Even so,

to the extent that there are atmospheric HAP emissions from PRDs, we are required to follow the *Sierra Club* ruling to address those emissions in these rules, and we can no longer exempt them as permitted, uncontrolled and unmeasured malfunction emissions as we did under the previous MACT standards. This concern is not present in the case of PRDs for which HAP releases are captured and routed to a control device, process, fuel gas system or drain system, since in these situations there is no additional uncontrolled and unmeasured HAP emission occurring beyond that which is already subject to control or monitoring of the process unit. We recognize that HAP releases to the atmosphere from PRDs sometimes occur in order to protect systems from failures that could endanger worker safety and the systems that the PRDs are designed to protect. In the event that a source fails to comply with the applicable CAA section 112 standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112 standard was, in fact, ''sudden, infrequent, not reasonably preventable'' and was not instead ''caused in part by poor maintenance or careless operation.'' 40 CFR 63.1101 and 63.1402 (definition of malfunction).

If the EPA determines in a particular case that enforcement action against a source for violation of an emission standard is warranted, the source can raise any and all defenses in that enforcement action and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

In summary, the EPA interpretation of the CAA and in particular, section 112 is reasonable and encourages practices that will avoid malfunctions. Administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations.

Some sources are configured such that PRDs can be effectively used to address safety issues without consequently adding HAP emissions to the atmosphere beyond those that are otherwise allowed under applicable limits. We also recognize, however, that it is not always technically possible to route emissions from all PRDs to a control device, process, fuel gas system or drain system. With respect to these PRDs that vent to the atmosphere, instead, we have provided a balanced approach designed to minimize emissions while recognizing that these events may be unavoidable even in a well-designed and maintained (if, albeit, uncontrolled with respect to PRDs) system.

For purposes of estimating the costs of the new requirement to monitor HAP releases to the atmosphere from PRDs, we assumed that operators would install electronic indicators on each PRD in organic HAP service that vents to the atmosphere (rather than to a control device, process, fuel gas system or drain system) to identify and record the time and duration of each pressure release. However, we are allowing owners or operators to use a range of methods to satisfy these requirements, including the use of a parameter monitoring system (that may already be in place) on the process system or piping that is sufficient to notify operators immediately that a release is occurring, as well as recording the time and duration of the pressure release. Based on our cost assumptions that the most expensive approach would be used, the nationwide capital cost of installing these monitors is $37,000, $400,000 and $51,000 for the AMF, APR and PC source categories, respectively. The total annualized cost of installing and operating these monitors is $5,300, $60,000 and $7,200 per year for the AMF, APR and PC source categories, respectively.

2. Open-Ended Valves and Lines

The AMF MACT standards at 40 CFR 63.1103(b)(3) and the PC MACT standards at 40 CFR 63.1103(d)(3) require an owner or operator to control emissions from equipment leaks according to the requirements of 40 CFR part 63, subpart UU. The APR MACT standards at 40 CFR 63.1410 also require that equipment leaks be controlled according to subpart UU. For open-ended valves and lines, subpart UU requires that the open end be equipped with a cap, blind flange, plug or second valve that ''shall seal the open end at all times.'' However, neither subpart UU, nor the AMF, APR or PC MACT standards, define ''seal'' or explain in practical and enforceable terms what constitutes a sealed open-ended valve or line. This has led to uncertainty on the part of the owner or operator as to whether compliance is being achieved. Inspections under the EPA's Air Toxics LDAR initiative have provided evidence that while certain open-ended lines may be equipped with a cap, blind flange, plug or second valve, they are not operating in a ''sealed'' manner as the EPA interprets that term.

In response to this uncertainty, we are amending 40 CFR 63.1103(b)(2) (for the AMF MACT standards), 40 CFR 63.1402(b) (for the APR MACT standards) and 40 CFR 63.1103(d)(2) (for the PC MACT standards) to clarify what is meant by ''seal.'' This amendment clarifies that, for the purpose of complying with the requirements of 40 CFR 63.1033(b) of subpart UU, open-ended valves and lines are ''sealed'' by the cap, blind flange, plug or second valve when there are no detectable emissions from the open-ended valve or line at or above an instrument reading of 500 ppm.

3. Submission of Performance Test Data to the EPA

As stated in the preamble to the proposed rule, the EPA is taking a step to increase the ease and efficiency of data submittal and data accessibility. Specifically, the EPA is requiring owners and operators of AMF, APR and PC facilities to submit electronic copies of certain required performance test reports.

Data will be collected by direct computer-to-computer electronic transfer using EPA-provided software. This EPA-provided software is an electronic performance test report tool called the Electronic Reporting Tool (ERT). The ERT will generate an electronic report package which will be submitted to the Compliance and Emissions Data Reporting Interface (CEDRI) and then archived to the EPA's Central Data Exchange (CDX). A description and instructions for use of the ERT can be found at: *http://www.epa.gov/ttn/chief/ert/index.html* and CEDRI can be accessed through the CDX Web site: (*http://www.epa.gov/cdx*).

The requirement to submit performance test data electronically to the EPA does not create any additional performance testing and will apply only to those performance tests conducted using test methods that are supported by the ERT. A listing of the pollutants and test methods supported by the ERT is available at the ERT Web site. The EPA believes, through this approach, industry will save time in the performance test submittal process.

Additionally, this rulemaking benefits industry by reducing recordkeeping costs as the performance test reports that are submitted to the EPA using CEDRI are no longer required to be kept in hard copy.

State, local and tribal agencies may benefit from more streamlined and accurate review of performance test data that will become available to the public through WebFIRE. Additionally, performance test data will become available to the public through WebFIRE. Having such data publicly available enhances transparency and accountability. For a more thorough discussion of electronic reporting of performance tests using direct computer-to-computer electronic transfer and using EPA-provided software, see the discussion in the preamble of the proposal.

In summary, in addition to supporting regulation development, control strategy development and other air pollution control activities, having an electronic database populated with performance test data will save industry, state, local, tribal agencies and the EPA significant time, money and effort while improving the quality of emission inventories and, air quality regulations.

F. What are the effective and compliance dates of the standards for all three source categories?

The revisions to the MACT standards being promulgated in this action are effective on October 8, 2014.

The compliance date for existing AMF, APR and PC sources to comply with the revised SSM requirements (other than PRD monitoring) is the effective date of the standard, October 8, 2014. We are finalizing these compliance dates because these requirements should be immediately implementable by the facilities upon the next occurrence of a malfunction or a performance test that is required to be submitted to the ERT. Available information suggests that the facilities should already be able to comply with the existing standards during periods of startup and shutdown.

The compliance date for AMF, APR and PC sources that commenced construction or reconstruction on or before January 9, 2014, to comply with the PRD monitoring requirements is 3 years from the effective date of the promulgated standards, October 9, 2017. This time is needed regardless of whether an owner or operator of a facility chooses to comply with the PRD monitoring provisions by installing PRD release indicator systems and alarms, employing parameter monitoring or by routing releases to a control device, process, fuel gas system or drain system. This time period will allow facilities to research equipment and vendors, purchase, install, test and properly operate any necessary equipment by the compliance date.

The compliance date for existing AMF, APR and PC sources to comply with the operating and pressure release management requirements for PRDs, along with the other SSM-related revisions, is the effective date of the promulgated standards, October 8, 2014. We are finalizing these compliance dates because these requirements are the same as those contained in 40 CFR part 63, subpart UU, with which facilities are already complying as part of the existing MACT standards.

The compliance date for the one existing AMF source to comply with the new solution polymerization spinning line requirements is the effective date of the promulgated standards, October 8, 2014. This facility is already complying with these requirements and no additional time to come into compliance is warranted.

The compliance date for existing APR sources to comply with the new MACT standards applicable to continuous process vents and storage vessels is 3 years from the effective date of the promulgated standards, October 9, 2017. This time period will allow facilities to purchase, install and test any necessary equipment.

The compliance date for existing AMF and PC sources to comply with the revised equipment leak standards is 1 year from the effective date of the promulgated standards, October 8, 2015. Our data indicate that the one AMF facility and some of the PC facilities are currently complying with 40 CFR part 63, subpart TT requirements and will need time to purchase, install and test any necessary equipment and modify their existing LDAR programs.

New sources that commenced or commence construction or reconstruction after January 9, 2014, must comply with the all of the revised standards immediately upon the effective date of the standard, October 8, 2014, or upon startup, whichever is later.

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

For each issue, this section provides a description of what we proposed and finalized for the issue, the EPA's rationale for the final decisions and amendments and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket.

A. Residual Risk Review for the AMF Source Category

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

For the AMF source category, the results of the inhalation risk assessment indicated the maximum lifetime individual cancer risk could be up to 20-in-1 million, the estimated maximum chronic non-cancer target organ-specific hazard index (TOSHI) value was 0.1 and the estimated maximum off-facility site acute HQ value was 0.08, based on the actual emissions level and the AEGL–1 value for acrylonitrile. The total estimated national cancer incidence from the one AMF facility based on actual emission levels was 0.006 excess cancer cases per year or one case in every 170 years. The EPA proposed that no amendments were needed for this source category based on the risk review under CAA section 112(f). See 79 FR 1697–1700 (January 9, 2014).

2. How did the risk review change for the AMF source category?

For the AMF source category, the risk review has not changed since proposal.

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

For the AMF source category, the comments received on the proposed risk review were generally supportive. A summary of these comments and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

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

The results of the risk assessment for the AMF source category did not change from proposal and, therefore, they did not affect our determinations regarding risk acceptability and ample margin of safety. The full results of the risk assessment for the AMF source category can be found in the risk assessment documentation available in the docket for this action (EPA–HQ–OAR–2012–0133).

Uncertainty and the potential for bias are inherent in all risk assessments, including those performed for the source categories addressed in this final rule. Although uncertainty exists, we believe that our approach, which used conservative tools and assumptions, ensures that our decisions are health-protective. A discussion of the

uncertainties in the emissions datasets, dispersion modeling, inhalation exposure estimates and dose-response relationships is provided in the preamble to the proposed rule. See 79 FR 1684 (January 9, 2014).

In accordance with the approach established in the Benzene NESHAP, the EPA weighed all health risk measures and information considered in the risk acceptability determination, along with additional factors relating to the appropriate level of control, including the costs and economic impacts of emissions controls, technological feasibility, uncertainties and other relevant factors in making our risk acceptability and ample margin of safety determination. Considering all of these factors, the EPA has determined that the risks from the AMF source category are acceptable and that the current MACT standards in 40 CFR part 63, subpart YY for the AMF source category provide an ample margin of safety to protect public health.

B. Technology Review for the AMF Source Category

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

For the AMF source category, the EPA proposed to eliminate the less stringent of two currently available options for complying with LDAR program requirements, while retaining the more stringent compliance requirement. The AMF MACT standards previously required compliance with either subpart TT or subpart UU of 40 CFR part 63 to control emissions from equipment leaks. As part of the technology review for the AMF source category, we proposed to require facilities to comply with subpart UU rather than subpart TT, with the exception of connectors in gas and vapor service and in light liquid service. We proposed to retain the option to comply with either subpart TT or subpart UU for those components. See 79 FR 1700–1701.

2. How did the technology review change for the AMF source category?

For the AMF source category, the technology review has not changed since proposal.

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

For the AMF source category, the comments received on the proposed technology review were generally supportive. A summary of these comments and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

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

The results of the technology review for the AMF source category did not change from proposal. Therefore the EPA is requiring AMF facilities to comply with 40 CFR part 63, subpart UU rather than 40 CFR part 63, subpart TT, with the exception of connectors in gas and vapor service and in light liquid service. Facilities continue to have the option to comply with either subpart TT or subpart UU for those components.

C. Sections 112(d)(2) & (3) Amendments for the AMF Source Category

1. What did we propose pursuant to sections 112(d)(2) & (3) for the AMF source category?

For the AMF source category, the EPA identified the absence of an emissions limit for spinning lines that use a spin dope produced from a solution polymerization process at existing AMF facilities. Pursuant to CAA sections 112(d)(2) and (3), we proposed to establish an emissions limit of 20 kg organic HAP-Mg (40 lb organic HAP-ton) of acrylic and modacrylic fiber produced for this emission point, which represented the MACT floor emissions limit. See 79 FR 1697.

2. How do the final amendments pursuant to sections 112(d)(2) & (3) differ from the proposal for the AMF source category?

For the AMF source category, the emissions limit for spinning lines that use a spin dope produced from a solution polymerization process at existing AMF facilities has not changed since proposal.

3. What key comments did we receive on the amendments proposed pursuant to sections 112(d)(2) & (3) for the AMF source category, and what are our responses?

For the AMF source category, the comments received on the proposed emissions limit for spinning lines that use a spin dope produced from a solution polymerization process at existing AMF facilities were generally supportive. A summary of these comments and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

4. What is the rationale for our final approach for the final amendments pursuant to sections 112(d)(2) & (3) for the AMF source category?

The analysis of the emissions limit for spinning lines that use a spin dope produced from a solution polymerization process at existing AMF facilities did not change from proposal. Therefore, the EPA is establishing an emissions limit at the MACT floor for this emission point: 20 kg organic HAP-Mg (40 lb organic HAP-ton) of acrylic and modacrylic fiber produced.

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

For each issue, this section provides a description of what we proposed and finalized for the issue, the EPA's rationale for the final decisions and amendments and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket.

A. Residual Risk Review for the APR Source Category

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

For the APR source category, the results of the inhalation risk assessment indicated the maximum lifetime individual cancer risk could be up to 9-in-1 million, the estimated maximum chronic non-cancer TOSHI value was 0.2 and the estimated maximum off-facility site acute hazard quotient (HQ) value was 10, based on the actual emissions level and the reference exposure level (REL) value for formaldehyde. The total estimated national cancer incidence from APR facilities based on actual emission levels was 0.001 excess cancer cases per year or one case in every 1,000 years. The EPA proposed that no amendments were needed for this source category based on the risk review under CAA section 112(f). See 79 FR 1703–1706.

2. How did the risk review change for the APR source category?

For the APR source category, we received information indicating that an additional facility should have been included in the risk assessment for this source category. Using information submitted by this facility, we revised the risk assessment for this source category. The MIR increased from 9- to 20-in-1 million, the annual cancer incidence increased from 0.001 to 0.002

cases per year, the maximum chronic non-cancer TOSHI value increased from 0.2 to 0.4, and the maximum off-site acute HQ value stayed the same at 10, based on the REL value for formaldehyde. Table 2 provides an overall summary of the revised inhalation risk assessment results for the APR source category.

TABLE 2—APR INHALATION RISK ASSESSMENT RESULTS

Number of facilities [1]	Maximum individual cancer risk (in 1 million) [2]		Population at risk ≥1-in-1 million	Annual cancer incidence (cases per year)	Maximum chronic non-cancer TOSHI [3]		Maximum off-site acute non-cancer HQ [4]
	Actual emissions level	Allowable emissions level			Actual emissions level	Allowable emissions level	
19	20	20	15,000	0.002	0.4	0.4	HQ_{REL} = 10 formaldehyde. HQ_{AEGL-1} = 0.6 formaldehyde.

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk.
[3] Maximum TOSHI. The target organ with the highest TOSHI for the APR source category is the respiratory system.
[4] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of HQ values. HQ values shown use the lowest available acute threshold value, which in most cases is the REL. When HQ values exceed 1, we also show HQ values using the next lowest available acute dose-response value.

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

For the APR source category, the comments received on the proposed risk review were generally supportive. A summary of these comments and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

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

The results of the revised risk assessment did not significantly change the maximum risk levels to the most exposed individual for this source category and did not affect our determinations regarding risk acceptability and ample margin of safety. The full results of the revised risk assessment for this source category can be found in the risk assessment documentation available in the docket for this action (EPA–HQ–OAR–2012–0133).

Uncertainty and the potential for bias are inherent in all risk assessments, including those performed for the source categories addressed in this final rule. Although uncertainty exists, we believe that our approach, which used conservative tools and assumptions, ensures that our decisions are health-protective. A discussion of the uncertainties in the emissions datasets, dispersion modeling, inhalation exposure estimates and dose-response relationships is provided in the preamble to the proposed rule. See 79 FR 1684.

In accordance with the approach established in the Benzene NESHAP, the EPA weighed all health risk measures and information considered in the risk acceptability determination, along with additional factors relating to the appropriate level of control, including the costs and economic impacts of emissions controls, technological feasibility, uncertainties and other relevant factors in making our risk acceptability and ample margin of safety determination. Considering all of these factors, the EPA has determined that the risks from the APR source category are acceptable and that the current MACT standards in 40 CFR part 63, subpart OOO for the APR source category provide an ample margin of safety to protect public health.

B. Technology Review for the APR Source Category

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

For the APR source category, the EPA proposed to change the thresholds at which emission controls are required for storage vessels at new sources to be consistent with other storage vessel standards already required for the chemical industry regulated by the Hazardous Organic NESHAP for Synthetic Organic Chemical Manufacturing Industry (HON). We proposed to revise the applicability of the APR new source MACT standards to include smaller capacity storage vessels and/or storage vessels containing liquids with lower vapor pressures. An emissions reduction of 95 percent was proposed for storage vessels of capacities greater than or equal to 20,000 gal, but less than 40,000 gal if the MTVP is 1.9 psia or greater, and for storage vessels of capacities greater than or equal to 40,000 gal, but less than 90,000 gal if the MTVP is 0.75 psia or greater. Control was proposed to still be required for storage vessels of 90,000 gal or greater, if the MTVP is 0.15 psia or greater, as was previously required for storage vessels at new sources in the APR source category. See 79 FR 1706–1707.

2. How did the technology review change for the APR source category?

For the APR source category, the technology review has not changed since proposal.

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

For the APR source category, the comments received on the proposed technology review were generally supportive. A summary of these comments and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

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

The results of the technology review for the APR source category did not change from proposal. Therefore the EPA is changing the thresholds at which emission controls are required for storage vessels at new sources to be consistent with other storage vessel standards already required for the chemical industry regulated by the HON. An emissions reduction of 95 percent is now required for storage vessels of capacities greater than or equal to 20,000 gal, but less than 40,000 gal if the MTVP is 1.9 psia or greater, and for storage vessels of capacities greater than or equal to 40,000 gal, but less than 90,000 gal if the MTVP is 0.75 psia or greater. Control is still required for storage vessels of 90,000 gal or greater, if the MTVP is 0.15 psia or greater, as was previously required for

storage vessels at new sources in the APR source category.

C. Sections 112(d)(2) & (3) Amendments for the APR Source Category

1. What did we propose pursuant to sections 112(d)(2) & (3) for the APR source category?

For the APR source category, the EPA identified the absence of an emissions limit for storage vessels and continuous process vents at existing APR facilities. Pursuant to CAA sections 112(d)(2) and (3), for storage vessels, we proposed thresholds at which emission controls are required consistent with other storage vessel standards already required for the chemical industry regulated by the HON. An emissions reduction of 95 percent was proposed for storage vessels of capacities greater than or equal to 20,000 gal, but less than 40,000 gal if the MTVP is 1.9 psia or greater, for storage vessels of capacities greater than or equal to 40,000 gal, but less than 90,000 gal if the MTVP is 0.75 psia or greater, and for storage vessels of 90,000 gal or greater if the MTVP is 0.15 psia or greater. This represented a beyond-the-floor level of control for storage vessels at existing facilities.

Pursuant to CAA sections 112(d)(2) and (3), for continuous process vents, we proposed that existing facilities reduce organic HAP emissions either by 85 percent or to a concentration of 20 parts per million by volume (ppmv), when using a combustion control device, or to a concentration of 50 ppmv when using a non-combustion control device. This represented the MACT floor level of control for continuous process vents at existing facilities. See 79 FR 1701–1703.

2. How did the final amendments pursuant to sections 112(d)(2) & (3) differ from the proposal for the APR source category?

For the APR source category, the emissions limit for storage vessels at existing APR facilities has not changed since proposal. However, the emissions limit for continuous process vents at existing APR facilities has been revised to establish an emission limit of 0.95 kg organic HAP/Mg (1.9 lb organic HAP/ton) of resin produced for continuous process vents.

3. What key comments did we receive on the amendments proposed pursuant to sections 112(d)(2) & (3) for the APR source category, and what are our responses?

The following is a summary of the significant comments received on the proposed APR emissions limits and our responses to these comments. The complete list of the comments received and our responses to those comments can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

Comment: One commenter states that when the EPA developed subpart OOO, the EPA declined to require controls for spray dryer continuous process vents for existing sources based on only one of three facilities with these process vents having emissions controls. The commenter notes the EPA concluded the MACT floor and existing source standard was no control, and control was only required for continuous process vents at new sources. The commenter notes that the EPA is now proposing standards for existing continuous process vents and states that the RTR process does not allow for the EPA to reconsider aspects of previously issued MACT standards unrelated to ''development in practices, processes and control technologies.'' The commenter states that the EPA can't merely change its mind about what standards are required to comply with CAA section 112(d)(2) and (3), nor is it obligated to recalculate a MACT floor based on subsequent performance.

Response: The EPA disagrees that we lack the authority to revise improperly set MACT floors. In *Medical Waste Institute* v. *EPA,* 645 F. 3d 420, 425–27 (D.C. Cir. 2011), the United States Court of Appeals for the District of Columbia Circuit Court held that the EPA may permissibly amend improper MACT determinations, including amendments to improperly promulgated floor determinations, using its authority under section 112(d)(2) and (3). The ''no control'' floor for HAP emitted from continuous process vents at existing APR sources is not proper. *National Lime,* 233 F. 3d at 633–34; see also *Medical Waste Institute,* 645 F. 3d at 426 (resetting MACT floor, based on post-compliance data, permissible when the originally-established floor was improperly established, and permissibility of the EPA's action does not turn on whether the prior standard was remanded or vacated). Similarly, the United States Court of Appeals for the District of Columbia Circuit Court's December 9, 2011, decision in *Portland Cement Ass'n* v. *EPA* (D.C. Cir. No. 10–1358) confirms that the EPA is not constrained by CAA section 112(d)(6), and it may reassess its standards more often, including revising existing floors if need be. A full discussion of our consideration of this issue and basis for determining that the MACT floor was improperly set is contained the preamble to the proposed rule at 79 FR 1703 (January 9, 2014).

Comment: One commenter states that based on its knowledge of the industry, Georgia Pacific and Tembec are the only companies that currently manufacture APR and operate APR spray dryer continuous process vents, but it appears that the original MACT floor determination and the proposed provisions did not include two other Georgia Pacific facilities with continuous process vents. The commenter believes the EPA should revise its MACT floor analyses to include these facilities. The commenter further requests that if the EPA regulates emissions from spray dryer continuous process vents, that it establish an uncontrolled production-based emission limit. The commenter also requests that in establishing this limit, the EPA allow the calculation of uncontrolled production-based emissions rates that are based on the last 5 years of production, which would account for variability in the drying of multiple resin types.

Response: The EPA has reviewed the new data submitted by the commenter and used these data to determine the revised MACT floor for continuous process vents at existing sources. In reviewing the data, the EPA determined that a production-based emission limit of 0.95 kg organic HAP/Mg (1.9 lb organic HAP/ton) of resin produced was appropriate, as discussed in section IV.C.4.b of this preamble. In setting this limit, the EPA used emissions data from the previous 5 years submitted by all four affected facilities, which incorporates sufficient variability in the drying of multiple resin types. For further details on how the MACT floor was recalculated, see the technical memorandum titled, *MACT Floor and Beyond-the-Floor for Existing Unregulated Emission Sources in the Amino and Phenolic Resins Production Source Category,* available in the docket for this action.

4. What is the rationale for our final approach for the final amendments pursuant to sections 112(d)(2) & (3) for the APR source category?

a. Storage Vessels

The analysis of the emissions limit for storage vessels at existing APR facilities has not changed since proposal. Therefore, the EPA is establishing an emissions limit for storage vessels consistent with other storage vessel standards already required for the chemical industry regulated by the HON. An emissions reduction of 95 percent is required for storage vessels of

capacities greater than or equal to 20,000 gal, but less than 40,000 gal if the MTVP is 1.9 psia or greater, for storage vessels of capacities greater than or equal to 40,000 gal, but less than 90,000 gal if the MTVP is 0.75 psia or greater, and for storage vessels of 90,000 gal or greater if the MTVP is 0.15 psia or greater.

b. Continuous Process Vents

The analysis of the emissions limit for continuous process vents at existing APR facilities has been revised to reflect new data submitted by industry during the comment period. As part of their comments, Georgia Pacific identified two additional facilities as having continuous process vents, bringing the total to four facilities in the APR source category that have continuous process vents (Tembec in Toledo, OH, and Georgia Pacific facilities in Crossett, AR, Taylorsville, MS, and Conway, NC). All but one of the continuous process vents at these facilities come from dryers on the amino/phenolic resin process unit (APPU). Based on historical emissions and production information submitted by these facilities, we have determined that the MACT floor for continuous process vents is an emission limit of 0.95 kg organic HAP/Mg (1.9 lb organic HAP/ton) of resin produced. For further details on how the MACT floor was calculated for continuous process vents, see the technical memorandum titled, *MACT Floor and Beyond-the-Floor for Existing Unregulated Emission Sources in the Amino and Phenolic Resins Production Source Category,* available in the docket for this action.

As part of our beyond-the-floor analysis, we considered control options more stringent than the MACT floor and identified one such option. For the beyond-the-floor option, we evaluated the impact of requiring a 98-percent emissions reduction, assuming that a regenerative thermal oxidizer would be used to achieve this increased level of control.

Table 3 presents the impacts for the MACT floor and the beyond-the-floor option considered. As seen in Table 3, the MACT floor level of control is expected to reduce HAP emissions by approximately 135 tpy and have a cost effectiveness of $6,400/ton of HAP removed. For the beyond-the-floor option, we estimated the capital costs to be approximately $9 million, and the total annualized costs are estimated to be approximately $3 million. The estimated HAP emissions reduction is approximately 181 tpy, and the incremental cost effectiveness between the MACT floor and the beyond-the-floor option is approximately $74,000/ton.

For further details on the assumptions and methodologies used in this analysis, see the technical memorandum titled, *National Impacts Associated with the Final NESHAP for Existing Amino and Phenolic Resins Continuous Process Vents,* available in the docket for this action.

While, as discussed in section V.A above, the continuous process vent control options are not needed to support the EPA's finding under CAA section 112(f) that the APR MACT standards already protect public health with an ample margin of safety, and while we do not factor quantified risk reductions into CAA section 112(d)(2) beyond-the-floor analyses, for informational purposes we note that the beyond-the-floor option for continuous process vents would not reduce the MIR or the maximum chronic non-cancer TOSHI for the source category because neither the MIR nor the non-cancer TOSHI is caused by emissions from continuous process vents.

TABLE 3—NATIONWIDE EMISSIONS REDUCTION AND COST IMPACTS OF CONTROL OPTIONS FOR CONTINUOUS PROCESS VENTS AT EXISTING APR FACILITIES

Regulatory options	HAP emissions reduction (tpy)	Capital cost (million $)	Annual cost ($/yr)	Cost effectiveness ($/ton HAP removed)	Incremental cost effectiveness ($/ton HAP removed)
Baseline (MACT floor)	135	3.6 million	860,000	6,400	
Beyond-the-floor	181	8.8 million	3.1 million	17,000	74,000

Based on this analysis, we do not believe the costs of the beyond-the-floor option are reasonable, given the level of HAP emissions reduction that would be achieved with this control option. Therefore, we are revising the APR MACT standards to require the MACT floor level of control for continuous process vents at existing APR sources.

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

For each issue, this section provides a description of what we proposed and finalized for the issue, the EPA's rationale for the final decisions and amendments and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket.

A. Residual Risk Review for the PC Source Category

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

For the PC source category, the results of the inhalation risk assessment indicated the maximum lifetime individual cancer risk could be up to 0.3-in-1 million, the estimated maximum chronic non-cancer TOSHI value was 0.04 and the estimated maximum off-facility site acute HQ value was 2, based on the actual emissions level and the REL value for triethylamine. The total estimated national cancer incidence from PC facilities based on actual emission levels is 0.00008 excess cancer cases per year or one case in every 13,000 years. The EPA proposed that no amendments were needed for this source category based on the risk review under CAA section 112(f). See 79 FR 1707–1709.

2. How did the risk review change for the PC source category?

For the PC source category, the risk review has not changed since proposal.

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

For the PC source category, the comments received on the proposed risk review were generally supportive. A summary of these comments and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

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

The results of the risk assessment for the PC source category did not change

from proposal and therefore they did not affect our determinations regarding risk acceptability and ample margin of safety. The full results of the risk assessment for the PC source category can be found in the risk assessment documentation available in the docket for this action (EPA–HQ–OAR–2012–0133).

Uncertainty and the potential for bias are inherent in all risk assessments, including those performed for the source categories addressed in this final rule. Although uncertainty exists, we believe that our approach, which used conservative tools and assumptions, ensures that our decisions are health-protective. A discussion of the uncertainties in the emissions datasets, dispersion modeling, inhalation exposure estimates and dose-response relationships is provided in the preamble to the proposed rule. See 79 FR 1684.

In accordance with the approach established in the Benzene NESHAP, the EPA weighed all health risk measures and information considered in the risk acceptability determination, along with additional factors relating to the appropriate level of control, including the costs and economic impacts of emissions controls, technological feasibility, uncertainties and other relevant factors in making our risk acceptability and ample margin of safety determination. Considering all of these factors, the EPA has determined that the risks from the PC source category are acceptable and that the current MACT standards in 40 CFR part 63, subpart YY for the PC source category provide an ample margin of safety to protect public health.

B. Technology Review for the PC Source Category

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

For the PC source category, the EPA proposed to eliminate the less stringent of two currently available options for complying with LDAR program requirements—while retaining the more stringent compliance requirement. The PC MACT standards previously required compliance with either subpart TT or subpart UU of 40 CFR part 63 to control emissions from equipment leaks. As part of the technology review for the PC source category, we proposed to require facilities to comply with subpart UU rather than subpart TT, with the exception of connectors in gas and vapor service and in light liquid service. We proposed to retain the option to comply with either subpart TT or subpart UU for those components. See 79 FR 1709–1710.

2. How did the technology review change for the PC source category?

For the PC source category, the technology review has not changed since proposal.

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

For the PC source category, the comments received on the proposed technology review were generally supportive. A summary of these comments and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

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

The results of the technology review for the PC source category did not change from proposal. Therefore the EPA is requiring PC facilities to comply with 40 CFR part 63, subpart UU rather than 40 CFR part 63, subpart TT, with the exception of connectors in gas and vapor service and in light liquid service. Facilities continue to have the option to comply with either subpart TT or subpart UU for those components.

VII. What is the rationale for our final decisions and amendments that apply to all three source categories?

For each issue, this section provides a description of what we proposed and finalized for the issue, the EPA's rationale for the final decisions and amendments and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket.

A. Startup, Shutdown and Malfunction

1. What did we propose for SSM?

We proposed to eliminate the SSM exemption from all three source categories and that the existing or revised standards would apply at all times. We took into account startup and shutdown periods and did not propose alternate standards for those periods because facilities in these source categories did not indicate that they would be unable to comply with the standards during these times and our assessment of the control technology used confirms that the standards can be met during periods of startup and shutdown. We also proposed to add provisions for an affirmative defense to civil penalties for violations of emission standards in these rules that are caused by malfunctions. See 79 FR 1710–1713.

2. How did the SSM provisions change?

For the SSM provisions, we are still removing the SSM exemption and requiring that the existing standards apply at all times. In addition, we have added language to the AMF and PC MACT standards to clarify that excused excursions are not allowed. However, we are not finalizing the proposed affirmative defense provisions.

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

The following is a summary of the significant comments received on the proposed SSM provisions and our responses to these comments. The complete list of the comments received and our responses to those comments can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

Comment: Several commenters state that the proposal to eliminate the SSM provisions in the proposed subparts is not based on an accurate reading of the decision of the DC Circuit in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008). The commenters state that the EPA's proposal for the standards to apply at all times is not consistent with *Sierra Club* v. *EPA,* as the court did not hold that the EPA is prohibited from setting separate standards for periods of SSM that are different than the emission limits during normal operations but held that the standards for those periods must be developed according to the section 112(d) MACT process and must be proven to be achievable under section 112(d). The commenters add that there is ample precedent for the EPA applying a different standard during SSM events, and such a standard could include a design, equipment, work practice, or operational standard under section 112(h).

One of the commenters notes that the definitions of ''emission limitation'' and ''emission standard'' have included provisions to limit ''quantity, rate, or concentration of emissions of air pollutants on a continuous basis'' since 1977, and since that time the EPA has not required sources to meet NSPS emission limits under CAA section 111 established for normal operations during SSM events. The commenter adds that Congress enacted the ''continuous basis'' language in section 302(k) knowing the EPA's emission standards under section 111 exempted SSM periods, and there is nothing in the

legislative history of the 1977 or 1990 amendments to the CAA that suggests Congress intended to overturn that practice. The commenter noted that case law has affirmed the appropriateness of including special SSM provisions in standards issued under section 111.

Response: The EPA does not claim that the *Sierra Club* case or the CAA constrains its authority to prescribe different standards for periods of startup or shutdown or for periods of malfunction. However, as explained in the preamble to the proposed and final rules, the EPA has determined that CAA section 112 does not require that emissions that occur during periods of malfunction be factored into development of section 112 standards. The EPA's rationale for this view is explained in detail in the preamble as well.

At proposal, we explained that the DC Court had recently vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 63.6(h)(1) that are part of the CAA section 112 General Provisions. *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008) cert. denied, 130 S. Ct 1735 (2010). We further explained that, when incorporated into section 112(d) regulations for specific source categories, these two provisions exempt sources from the requirement to comply with otherwise applicable MACT standards during periods of SSM. We also explained that because these source categories rely on the General Provisions for SSM provisions, we were proposing to set standards that apply at all times, including during malfunctions. The EPA does not claim that the *Sierra Club* case constrains its authority to prescribe unique standards for SSM periods. Rather, the EPA's view is that this decision calls into question the legality of source category-specific SSM exemptions in rules promulgated pursuant to section 112.

Further, in *Medical Waste Institute* v. *EPA,* 645 F. 3d 420, 425–27 (D.C. Cir. 2011), the DC Circuit Court held that the EPA may permissibly amend improper MACT determinations, including amendments to improperly promulgated floor determinations, using its authority under section 112(d)(2) and (3). The absence of standards for HAP emitted during SSM is not proper. *National Lime,* 233 F. 3d at 633–34; see also *Medical Waste Institute,* 645 F. 3d at 426 (resetting MACT floor, based on post-compliance data, permissible when the originally-established floor was improperly established, and permissibility of the EPA's action does not turn on whether the prior standard was remanded or vacated). Similarly, the DC Circuit Court's December 9, 2011, decision in *Portland Cement Ass'n* v. *EPA* (D.C. Cir. No. 10–1358) confirms that the EPA is not constrained by CAA section 112(d)(6), and it may reassess its standards more often, including revising existing floors if need be. The commenters are, thus, incorrect that CAA section 112(d)(6) provides the exclusive authority to address standards that apply during SSM events. Here, the EPA adopted no MACT standard at all for HAP emitted during SSM, an approach soundly rejected by the DC Circuit Court in *National Lime,* 233 F. 3d at 633–34. Consequently, we have revised the standards so the emission limits of the rule apply at all times, including during periods of SSM. We believe this approach reasonably accommodates the requirements of the CAA and the Court's reasoning in *Sierra Club.*

The EPA disagrees with commenters' suggestion that the existence of an SSM exemption in rules implementing CAA section 111 in 1977 when Congress enacted the "continuous basis" language in the definition of "emission standard" is evidence that Congress approved of that regulatory SSM exemption. Commenters fail to cite legislative history or any other evidence supporting that Congress was aware or approved of that exemption and the *Sierra Club* decision makes clear that such exemptions are inconsistent with the Clean Air Act.

Comment: One commenter states that the EPA has not justified adding new "general duty" language to the standards and should delete the new provisions. The commenter also states that the EPA lacks the authority to replace the previous reference to the General Provisions with somewhat different language in the individual subparts because these changes are not being proposed under 112(d)(6) or 112(f).

Response: The EPA disagrees that it lacks the authority to make the changes proposed. We have eliminated the SSM exemptions in these three NESHAP, consistent with *Sierra Club* v. *EPA.* As noted previously, the EPA relies on the CAA and *Sierra Club* for the elimination of the SSM exemption. The EPA is not limited to adopting such changes by CAA sections 112(d)(6) or (f)(2), but retains ongoing authority to revise its prior adopted section 112(d)(2) and (3)-based standards whenever the agency identifies a flaw in such standards that renders them insufficient to meet the requirements of section 112(d)(2). See *Medical Waste Institute* v. *EPA.* The EPA explained in the proposal that we were adding language to this regulation to replace General Provision requirements that reference vacated SSM provisions (77 FR 1288, 1299, 1302). The General Provisions "general duty" language that was previously referenced by these NESHAP includes language that is no longer necessary or appropriate in light of the elimination of the SSM exemption, so the EPA has modified the general duty requirements that were contained in 40 CFR 63.6(e) and placed them, modified, in 40 CFR 63.1108(a)(4)(ii) and 63.1400(k)(4). The revised general duty requirement language reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM. With the elimination of the SSM exemption, there is no need to differentiate between normal operations, startup and shutdown, and malfunction events in describing the general duty. Therefore the language the EPA is promulgating does not include that language from 40 CFR 63.6(e)(1).

Comment: One commenter states that the past history of the SSM exemption and compliance problems for these source categories demonstrates a need for strong and more frequent monitoring, testing, and reporting requirements and enforcement provisions. The commenter declares that the EPA must implement enforcement provisions that prevent and remedy emission spikes, malfunctions, and other violations in a way that will be enforceable by citizens in the Title V permits for these source categories. The commenter further states that the EPA should review the proposed monitoring requirements and ensure they are stringent enough to enable easy assessment of whether a facility is in full compliance with the standards within a short period of time of any violation.

Response: We believe that the removal of the SSM exemption will reduce compliance problems that may have been associated with the exemption and excess emission spikes, as facilities have an incentive to avoid the related violations and penalties, without the need to institute more frequent monitoring, testing, and reporting requirements. We further believe that the monitoring requirements included in these rules are sufficient to ensure compliance with the standards regardless of whether or when a violation occurs. Under the provisions of 40 CFR 63.15, the public can request access to reports submitted to the regulatory agency whenever they choose, with the exception of information protected through 40 CFR

part 2 (e.g., confidential business information). In addition, as discussed in section 4 below, we are promulgating requirements for electronic reporting of emissions test data that will improve public access to emissions information.

Comment: One commenter states that additional requirements are needed for times of malfunctions, including requirements for automatic shut-off of malfunctioning equipment, requirements to assign responsibility to the plant manager or high-up staff member which allows only that person to restart the equipment, and requirements that corrective actions be taken immediately. The commenter also states that for a facility that has had one or more malfunction, exceedance, or other violation in the prior month, the facility must obtain written authorization from the EPA to restart the equipment, and the EPA should only authorize the restart after making a public determination that the facility has instituted the corrective measures the EPA requires. The commenter further asserts that for a facility with 4 or more exceedances or malfunctions in the same quarter, the EPA must require automatic shutdown of the operation for a period of time to conduct and publish a full investigation and ensure correction of the problem(s).

Response: We disagree with the commenter that the suggested additional requirements regarding malfunctions are necessary. The EPA believes that the monitoring requirements of the final rule are sufficient to ensure compliance with the emission standards, and that it is not necessary to prescribe when or who may restart equipment that has malfunctioned. With respect to the commenter's suggested reporting requirements, the reporting requirements in the final rules already require malfunction reporting. Any such reports submitted to the EPA are publicly available subject to the requirements of CAA section 114(c).

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

The EPA has determined not to finalize the proposed regulatory affirmative defense provisions due to a recent ruling by the United States Court of Appeals for the District of Columbia Circuit, which vacated an affirmative defense in one of the EPA's Section 112(d) regulations. *NRDC* v. *EPA,* No. 10–1371 (D.C. Cir. April 18, 2014) 2014 U.S. App. LEXIS 7281 (vacating affirmative defense provisions in Section 112(d) rule establishing emission standards for Portland cement kilns). For further discussion of the EPA's decision to not include the affirmative defense provisions in the final rule, see section III.D of this preamble.

The EPA has also clarified in the AMF and PC MACT standards that the excused excursion provisions referenced in 40 CFR part 63, subpart SS do not apply. An excursion occurs when the value for a monitored parameter falls outside the established range for that parameter. The provisions of subpart SS allow for each control device or recovery device to have one excursion for each semiannual period excused. The excused excursions were originally put in place to account for unanticipated operating parameter fluctuations. In keeping with the *Sierra Club* decision that emission standards or limitations must be continuous in nature, we have removed the provisions that would allow for one violation of the operating conditions for each control or recovery device to be excused each reporting period.

B. Pressure Relief Devices

1. What did we propose for PRDs?

For all three source categories, we proposed that a pressure release of HAP emissions from a PRD in organic HAP service, unless routed to a control device or process, would be a violation. We also proposed to require that sources monitor PRDs in organic HAP service using a device or system that is capable of identifying and recording the time and duration of each pressure release and of notifying operators that a release has occurred, unless routed to a control device, process, fuel gas system or drain system. See 79 FR 1713–1714.

2. How did the PRD requirements change?

We have clarified that a pressure release of HAP emissions to the atmosphere from a PRD in organic HAP service is prohibited, unless the PRD is designed and operated to route all pressure releases to a control device, process, fuel gas system or drain system. We also made other minor technical corrections, such as clarifying that the delay of repair provisions for PRDs after pressure releases still apply, and exempting PRDs that route to a fuel gas system or drain system from the PRD monitoring requirements and pressure release prohibition, similar to the provisions previously contained in subpart UU.

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

The following is a summary of the significant comments received on the proposed PRD requirements and our responses to these comments. The complete list of the comments received and our responses to those comments can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

Comment: Several commenters urge the EPA to withdraw the proposed amendment that states PRD releases are violations of the standards. At a minimum, one commenter states that the word "prohibited" should be used rather than "violation." Another commenter suggests this be rephrased to "potential malfunction" rather than "violation." Several commenters state that at most, considering *Sierra Club* v. *EPA,* the EPA should establish work practices or emissions limits for PRDs. Several other commenters state that emissions from PRD release events should not be viewed differently than normal process emissions and that PRD releases should only be prohibited if they result in emissions that exceed the relevant standards in the rule. Another commenter adds that the provisions that claim releases are violations are inconsistent with CAA section 112(r)(7), which allows for the promulgation of release prevention, detection and correction requirements and with Occupational Safety and Health Administration (OSHA) requirements for PRDs in its Process Safety Management regulations.

Response: The EPA partially agrees with the commenter and has revised the final PRD provisions to state that emissions of organic HAP from PRDs to the atmosphere are "prohibited," rather than being a "violation." We disagree, however, with the commenters that the PRD provisions should be withdrawn or weakened in some way. While several commenters have suggested replacing the PRD release prohibition with a work practice standard, it is the EPA's position that separate standards for periods of malfunction are not appropriate in light of the 2008 *Sierra Club* ruling. In order for our treatment of malfunction-caused emission releases to the atmosphere from PRDs to conform with the reasoning of the court's ruling, the final rule states that HAP emission releases to the atmosphere from PRDs in organic HAP service are prohibited. In any case, no commenters have provided emissions performance information regarding organic HAP releases to the atmosphere from PRDs that would enable us to conduct MACT floor and beyond-floor determinations, even if we believed it was appropriate to do so and set new standards for these devices, whether numeric or work-practice.

Similarly, no commenters have provided us with information regarding the costs of requiring the use of control devices or other means of emissions limitation for these devices, in lieu of a prohibition of their releasing HAP to the atmosphere.

Comment: Several commenters state that there is no applicable emission limit for PRD releases that would make a pressure release a violation. One commenter states that PRD releases are specifically excluded from the process vent definition in the GMACT, and the equipment leak LDAR limit of 500 ppm that applies when a pressure release is not occurring. Similarly, another commenter states that the EPA implies that process vent standards apply to PRDs but does not provide an explanation or justification for this implication. The commenter states that the EPA has not demonstrated that emissions from PRDs were characterized or considered when the process vent standards for the subject rules were adopted. Another commenter states that since there is no applicable emission limit for PRD pressure releases, the CAA does not authorize the proposed PRD monitoring requirements. The commenter states that the CAA only allows for monitoring to demonstrate compliance with an emission limit and does not authorize monitoring for malfunctions. For PRDs in liquid service, the commenter states that there is an emission limit for PRDs during normal operation in 40 CFR 63.1029 of subpart UU, and the excess emission criterion in the malfunction definition could be met if the work practice requirements of that section were not met. The commenter states that a rulemaking is required to replace the work practice with a prohibition or emission limit, and the EPA would need to show the proper CAA authority and the required analyses for the change.

Response: The final rule language no longer states that a pressure release from a PRD is a violation, but rather that such organic HAP releases to the atmosphere are prohibited. The amendments being finalized for PRD releases do not impose new emission standards for which a MACT analysis is required by the CAA. Instead, they prohibit releases to the atmosphere from PRDs in organic HAP service that are no longer appropriate following the 2008 *Sierra Club* v. *EPA* ruling, and impose additional monitoring requirements to address potential releases. The prohibition and monitoring requirements do not apply to PRD release emissions that are captured and routed to a control device, process, fuel gas system or drain system, since such emissions are not released to the atmosphere. As stated in the preamble to the proposed rule, pressure releases from PRDs in organic HAP service occur as a result of malfunctions, and so with the removal of the SSM exemption, these releases to the atmosphere may no longer be permitted.

The commenters are correct in that there already exists an equipment leak standard for PRDs after a pressure release event, but there previously existed no provision that prevented a facility from a having such a pressure release to the atmosphere, nor was there a provision in place addressing these malfunction-related periods other than immediately after a pressure release event. The commenter is correct that there was previously no applicable emission limit in place for malfunction-caused emissions to the atmosphere from PRDs. As stated above, however, this does not allow the EPA to permit such malfunction emissions to remain unaddressed by the final rules. We also disagree with the commenter that the EPA is not authorized to monitor for emissions caused by such malfunctions, as there is nothing in the CAA that prohibits the agency from doing so. The EPA's authority under CAA section 114(a)(1) to require monitoring of emissions is not limited to the purpose of determining whether such emissions meet numeric emissions limits or work-practice standards.

Comment: Several commenters state that the EPA added the PRD requirements without regard to the CAA section 112 MACT development process and without providing the legal justification, adequate record basis or technical justification. One commenter added that they did not believe that the EPA has a legal obligation nor the discretion to promulgate the proposed PRD provisions because the PRD monitoring and reporting requirements were not derived from the technology reviews, in response to any residual risks detected, or the United States Court of Appeals for the District of Columbia Circuit's invalidation of the SSM provisions in the 40 CFR part 63 General Provisions. The commenters suggest that these revisions should be evaluated as part of the technology review, and the EPA should analyze the technical feasibility, potential emissions reductions and cost effectiveness of the revisions. Two commenters argue that the EPA provided no data to support the claim that a large number of releases occur and may emit large quantities of HAP, or to support the contention that releases are not being identified. Another commenter states that its PRD management system indicates releases from ruptured disks are not frequent and occur for a short period of time, and that the EPA's concern about venting to the atmosphere is unwarranted. Another commenter states that the EPA fails to provide any factual data to back up its assertion that HAP releases to the atmosphere from PRDs in these MACT source categories pose a significant potential environmental harm. The commenter notes that the EPA concluded there is no residual environmental risk from these MACT categories, and that PRDs play an important role in the safety and health of facility employees and surrounding communities.

Response: Under CAA section 112(d)(2), the EPA must promulgate technology-based standards that reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts), and such standards must contain compliance assurance provisions to make sure that they are practicably enforceable. Nothing in the CAA or its legislative history suggests that the EPA is prohibited from reviewing and revising MACT standards and their compliance assurance provisions, except as part of the CAA section 112(d)(6) or CAA section 112(f) reviews or an action taken in response to a ruling by a court. The amendments being finalized for PRD releases do not impose new emission standards for which a MACT analysis is required by the CAA. Instead, they prohibit previously allowed malfunction-related releases to the atmosphere from PRDs in organic HAP service that are no longer appropriate following the 2008 *Sierra Club* v. *EPA* ruling, and impose additional monitoring requirements to address potential releases.

As noted in a report prepared by the South Coast Air Quality Management District (SCAQMD), releases from PRDs occur randomly and the emissions can only be approximated. Based on their analysis of refinery PRD reports of PRD releases from nine facilities in their district, there were eight PRD releases from 2003 to 2006 that were estimated to release greater than 2,000 lbs of emissions to the atmosphere, and eight PRD releases from 2003 to 2006 that were estimated to release between 500 and 2,000 lbs of emissions to the atmosphere.[4] The SCAQMD analysis

[4] See "Final Staff Report for Proposed Amended Rule 1173—Control of Volatile Organic Compound Leaks and Releases from Components at Petroleum Facilities and Chemical Plants." Planning, Rule

Continued

focuses on volatile organic compound (VOC) emissions (which would also include organic HAP emissions). Additionally, the Texas Commission on Environmental Quality Emission Event Reporting Database is populated with Emission Event Reports from both the refinery and chemical sectors where the reason for the report was due to a PRD release.[5] These final amendments simply prohibit HAP emissions to the atmosphere and require that these devices now be monitored to indicate when these releases occur and be reported, so that HAP emissions that may potentially occur from releases can be mitigated as soon as possible. Additionally, the final rule requirement to report PRD releases to the atmosphere ensures that these releases will be reported nationally and not just in some states.

An agency generally remains free to revise previously promulgated rules to correct newly identified problems, even in the absence of a remand from a court. *United Gas Improvement Co.* v. *Callery Props, Inc.,* 382 U.S. 223, 229 (1966). In light of, and consistent with, the 2008 *Sierra Club* v. *EPA* ruling, the EPA is eliminating the SSM exemption in the AMF, APR and PC MACT standards and requiring that the standards in these rules apply at all times, including during periods of SSM. In addition, in order for our treatment of malfunction-caused emission releases to the atmosphere from PRDs to conform with the reasoning of the Court's ruling, the final rule states that HAP emission releases to the atmosphere from PRDs in organic HAP service are prohibited. To prohibit these malfunction-caused releases, it is not necessary for us to set an emission standard that is based on a MACT floor or beyond-the-floor analysis; indeed, the EPA has consistently explained that we are not required to take malfunctions into account in setting standards or to devise standards that apply specifically to malfunction-caused emissions, such as PRD releases that cause HAP emissions only during malfunctions.

The final rule includes detection and pressure release management requirements that can be used by facilities to mitigate emissions during pressure release events from PRDs while allowing owners or operators flexibility based on their current equipment and operations. The final rule requires that sources monitor PRDs that release to the atmosphere using a system that is capable of identifying and recording the time and duration of each pressure release and of immediately notifying operators that a release is occurring.

4. What is the rationale for our final approach for the PRD requirements?

In the proposal, we proposed to eliminate the SSM exemption from the standards. As part of removing this exemption, we stated that under the proposed revised rule releases to the atmosphere from PRDs would constitute violations of the revised rule. However, although we proposed revised regulatory text to add PRD monitoring requirements and eliminate the SSM exemptions from the rules, we omitted a proposed regulatory provision that would have given effect to the proposed intended prohibition of such PRD releases to the atmosphere. In order to give effect to the proposed prohibition, which we are finalizing in this action, we are adding express regulatory language in the final rule revisions that clarifies our intent that pressure releases from PRDs in organic HAP service to the atmosphere are prohibited. This is a necessary additional revision to give full effect to our elimination of the general exemption for malfunctions, in light of the Court's reasoning in *Sierra Club,* and is similar to revisions that we have made in other rules in which the SSM exemption has been eliminated (see, e.g., NESHAP for Polyvinyl Chloride and Copolymers Production (77 FR 22848, April 17, 2012); and NESHAP: Group IV Polymers and Resins, Pesticide Active Ingredient Production, and Polyether Polyols Production (79 FR 17340, March 27, 2014)). This prohibition does not, however, apply to PRD releases of HAP that are captured and routed to a control device, process, fuel gas system or drain system, since in these situations there is no additional uncontrolled and unmeasured HAP emission occurring beyond that which is already subject to control or monitoring of the process unit. For additional discussion on our rationale for this approach, see section III.E.1 of this preamble.

C. Open-Ended Valves and Lines

1. What did we propose for open-ended valves and lines?

For all three source categories, we proposed to add a definition of "seal," which clarified that, for the purpose of complying with the requirements of 40 CFR 63.1033(b) of subpart UU, open-ended valves and lines are "sealed" by the cap, blind flange, plug or second valve when there are no detectable emissions from the open-ended valve or line at or above an instrument reading of 500 ppm. See 79 FR 1715.

2. How did the definition of "seal" change?

For the definition of "seal", we have added provisions that clarify that the revised definition does not take effect until the effective date of the final rule.

3. What key comments did we receive on the definition of "seal", and what are our responses?

The following is a summary of the significant comments received on the proposed definition of "seal" and our responses to these comments. The complete list of the comments received and our responses to those comments can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

Comment: Several commenters believe the EPA must show that imposing a new emissions limits for open-ended lines is justified according to the criteria of CAA section 112(d)(6), including the technical feasibility, potential emission reductions and cost effectiveness. One commenter adds that the proposed open-ended lines change fails to satisfy the obligation under CAA section 307(d)(3) to present a summary of the legal basis, factual data and analysis methods on which the proposal is based. Similarly, two other commenters state that the EPA failed to provide new data or rationale showing that the definition of "seal" is needed for compliance assurance or to relieve regulatory uncertainty, relying only on enforcement inspections referenced in the 2007 40 CFR part 60, subpart VV rulemaking in which monitoring open-ended lines was determined not to be the best demonstrated technology. Another commenter states that such a change must be supported by a CAA authorization and a record that complies with the CAA, Administrative Procedures Act (APA), Paperwork Reduction Act (PRA) and Regulatory Flexibility Act (RFA) requirements.

In contrast, another commenter states that the EPA's proposed definition for a "seal" is actually a new loophole that would exempt leaks from open-ended valves or lines below 500 ppm from the standards. The commenter contends this definition is another type of exemption similar to the SSM exemption the United States Court of Appeals for the District of Columbia Circuit found unlawful, and the EPA should not finalize the definition as proposed.

Response: The EPA disagrees with the commenters that we are imposing a new emissions limit for open-ended lines. As

Development and Area Sources, South Coast Air Quality Management District. May 15, 2007.

[5] See *http://www11.tceq.texas.gov/oce/eer/index.cfm.*

stated in the preamble for the proposed rule, the definition of ''seal'' was intended to clarify an existing requirement that open-ended lines be sealed with no detectable emissions (500 ppm above background). This is consistent with how OECA has interpreted the term ''seal'' during their inspections and is not, as asserted by the commenters, a new requirement. By creating a formal definition for ''seal,'' the EPA is removing any ambiguity regarding what constitutes a ''sealed'' open-ended line.

The EPA also disagrees with the commenter that adding a definition of ''seal'' creates a new loophole for open-ended lines. As discussed in the preamble to the proposed rule and elsewhere in this preamble, this revision clarifies an existing requirement that open-ended lines be sealed with no detectable emissions, which is defined to be 500 ppm.

Comment: One commenter states that by claiming that the new definition of ''seal'' is only a clarification of the current requirements, this would make the interpretation applicable retroactively. The commenter claims this would affect not only the industries addressed in the current rulemaking, but all industries subject to subpart UU and any similar open-ended lines equipment leak requirements, including 40 CFR part 60, subparts VV, VVa, GGG, GGGa, and 40 CFR part 63, subparts H and TT. This commenter and another commenter state that such a change must be made in the individual equipment leak rules and only apply prospectively.

Response: The EPA disagrees that the definition of ''seal'' proposed in the AMF, APR and PC MACT standards would affect all industries subject to subpart UU and other similar equipment leak requirements. The proposed definition of ''seal'' was clear that it only applied to facilities subject to the AMF, APR and PC MACT standards who are complying with the LDAR provisions of subpart UU. It is incorrect to assert that this would imply that any other rules referencing subpart UU (or similar LDAR provisions) would also be affected by this clarification. However, to address concerns from the commenters on retroactive compliance, we have added in the final rules that the clarification of the definition of ''seal'' does not apply until the effective date of the final rules, and therefore will not apply retroactively.

4. What is the rationale for our final approach for the definition of ''seal''?

In the proposal, we proposed a definition of ''seal'' that clarified what constituted a sealed open-ended line. However, we did not include an effective date for this revised definition. In order to address concerns about potential retroactive compliance issues, we have added language to the final definition that clarifies that the definition of ''seal'' does not take effect until the effective date of the final rule.

VIII. Summary of Cost, Environmental and Economic Impacts

A. What are the affected sources?

We anticipate that each facility in these three source categories will be affected by these final amendments. We estimate there is one existing facility subject to the AMF MACT standards, 19 existing facilities subject to the APR MACT standards and four existing facilities subject to the PC MACT standards. We do not know of any new facilities that are expected to be constructed in the foreseeable future in any of these source categories. Therefore, our impact analysis is focused on the existing sources affected by the revised MACT standards for these three source categories.

B. What are the air quality impacts?

1. AMF Source Category

For equipment leaks, we are eliminating the option of complying with 40 CFR part 63, subpart TT and requiring facilities to comply with only 40 CFR part 63, subpart UU, except for connectors in gas and vapor service and in light liquid service. We are retaining the option to comply with subpart TT or subpart UU for these components. We estimate the HAP emission reductions for the one facility in the AMF source category to be 0.2 tpy.

We are finalizing an emission rate for spinning lines that use spin dope produced from a solution polymerization process equal to the MACT floor for this facility, which will not result in any quantifiable emission reductions.

For the revisions to the MACT standards regarding SSM, including monitoring of PRDs in organic HAP service, we expect that these changes will result in fewer emissions during these periods or less frequent periods of startup, shutdown or malfunction, but these possible emission reductions are difficult to quantify and are not included in our assessment of air quality impacts.

Therefore, the total HAP emission reductions for the final standards for the AMF source category are 0.2 tpy.

2. APR Source Category

Four facilities in the APR source category have uncontrolled continuous process vents. We are finalizing standards that establish an emission limit of 0.95 kg organic HAP/Mg (1.9 lb organic HAP/ton) of resin produced, which represents the MACT floor level of control. The estimated HAP emission reductions for these four facilities are 135 tpy.

We are establishing emission standards for storage vessels at existing facilities. However, our data indicate that all storage vessels subject to the final standards are already in compliance, and no quantifiable emission reductions are expected.

For the revisions to the MACT standards regarding SSM, including monitoring of PRDs in organic HAP service, we expect that these changes will result in fewer emissions during these periods or less frequent periods of startup, shutdown or malfunction, but these possible emission reductions are difficult to quantify and are not included in our assessment of air quality impacts.

Therefore, the total HAP emission reductions for the final standards for the APR source category are 135 tpy.

3. PC Source Category

For equipment leaks, we are eliminating the option of complying with 40 CFR part 63, subpart TT and requiring facilities to comply with only 40 CFR part 63, subpart UU, except for connectors in gas and vapor service and in light liquid service. We are retaining the option to comply with subpart TT or subpart UU for these components. We estimate the HAP emission reductions for the four facilities in the PC source category to be 2.1 tpy.

For the revisions to the MACT standards regarding SSM, including installation and operation of monitors on PRDs, we expect that these changes will result in fewer emissions during these periods or less frequent periods of startup, shutdown or malfunction, but these possible emission reductions are difficult to quantify and are not included in our assessment of air quality impacts.

Therefore, the total HAP emission reductions for the final standards for the PC source category are 2.1 tpy.

C. What are the cost impacts?

Though the cost savings cannot be monetized, consistent with Executive Order 13563, ''Improving Regulation and Regulatory Review,'' issued on January 18, 2011, the electronic reporting requirements being finalized

in this action for performance test reports are expected to reduce the burden for the AMF, APR and PC facilities in the future by cutting back on the recordkeeping costs and the costs that would be associated with fewer or less-substantial data collection requests (due to performance test information being readily available on the EPA's WebFIRE database). Although the use of electric reporting may reduce the recordkeeping and reporting burden for facilities in the future, facilities will still incur annualized costs, on net, due to these final amendments.

1. AMF Source Category

For equipment leaks, we are eliminating the option of complying with 40 CFR part 63, subpart TT and requiring facilities to comply with only 40 CFR part 63, subpart UU, except for connectors in gas and vapor service and in light liquid service. We are retaining the option to comply with subpart TT or subpart UU for these components. We estimate the capital costs for the one facility in the AMF source category to be $1,400 and the annualized costs to be $220.

We are finalizing an emission rate for spinning lines that use spin dope produced from a solution polymerization process equal to the MACT floor for this facility. Thus, we do not expect any quantifiable capital or annual costs for the final standard.

For the requirement to install and operate monitors on PRDs, we estimate the capital costs to be $37,000 and the annualized costs to be $5,300.

Therefore, the total capital costs for the AMF source category are approximately $38,000, and the total annualized costs are approximately $6,000.

2. APR Source Category

Four facilities in the APR source category have uncontrolled continuous process vents. We are finalizing standards that establish an emission limit of 0.95 kg organic HAP/Mg (1.9 lb organic HAP/ton) of resin produced for continuous process vents. The estimated capital costs for these four facilities are $3.6 million and the annualized costs are $860,000.

We are establishing emission standards for storage vessels at existing facilities. However, our data indicate that all storage vessels subject to the final standards are already in compliance, and no capital or annual costs are expected.

For the requirement to install and operate monitors on PRDs, we estimate the capital costs to be $400,000 and the annualized costs to be $60,000.

Therefore, the total capital costs for the APR source category are approximately $4.0 million, and the total annualized costs are approximately $920,000.

3. PC Source Category

For equipment leaks, we are eliminating the option of complying with 40 CFR part 63, subpart TT and requiring facilities to comply with only 40 CFR part 63, subpart UU, except for connectors in gas and vapor service and in light liquid service. We are retaining the option to comply with subpart TT or subpart UU for these components. We estimated the capital costs to be $16,000 and the annualized costs to be $2,200.

For the requirement to install and operate monitors on PRDs, we estimate the capital costs to be $51,000 and the annualized costs to be $7,200.

Therefore, the total capital costs for the PC source category are approximately $67,000, and the total annualized costs are approximately $9,400.

D. What are the economic impacts?

We estimate that there will be no more than a 0.5 percent price change and a similar reduction in output associated with the final amendments. This is based on the costs of the rules and responsiveness of producers and consumers based on supply and demand elasticities for the industries affected by this final rule. The impacts to affected firms will be low because the annual compliance costs are quite small when compared to the annual revenues for the affected parent firms (much less than 1 percent for each). The impacts to affected consumers should also be quite small. Thus, there will not be any significant impacts on affected firms and their consumers as a result of this final rule.

E. What are the benefits?

Because this rulemaking is not likely to have an annual effect on the economy of $100 million or more, we have not conducted a regulatory impact analysis or a benefits analysis. However, the estimated reductions in HAP emissions that will be achieved by this final rule will provide benefits to public health. The final standards will result in significant reductions in the actual and allowable emissions of HAP and will reduce the actual and potential cancer risks and non-cancer health effects due to emissions of HAP from these source categories. Regarding SSM and PRDs, these changes will result in fewer emissions during SSM periods and PRD releases or less frequent SSM periods or PRD releases. However, the emission reductions, while tangible, are difficult to quantify and are not included in our assessment of health benefits. We have not quantified the monetary benefits associated with these reductions.

F. What demographic groups might benefit from this regulation?

1. AMF Source Category

To examine the potential for any environmental justice (EJ) issues that might be associated with the AMF source category, we performed a demographic analysis of the population close to the one AMF facility. In this analysis, we evaluated the distribution of HAP-related cancer and non-cancer risks from the AMF source category across different social, demographic and economic groups within the populations living near facilities identified as having the highest risks. The results of the risk assessment for the AMF source category have not changed since proposal, and we did not conduct a new demographics analysis. Therefore the results of our original demographics analysis have not changed since proposal. The full results of the demographic analysis are summarized in the preamble to the proposed rule (79 FR 1699), and the methodology and the results of the demographic analyses are included in a technical report, *Analysis of Socio-Economic Factors for Populations Living Near Acrylic and Modacrylic Fiber Facilities,* available in the docket for this action.

2. APR Source Category

To gain a better understanding of the source categories and near-source populations, prior to proposal, the EPA conducted a proximity analysis of the facilities in the APR source category to identify any overrepresentation of minority, low income or indigenous populations. As part of the risk modeling effort conducted after proposal to include the additional APR facility, to examine the potential for any EJ issues that might be associated with the APR source category, we performed a demographic analysis of the population close to the 19 APR facilities. In this analysis, we evaluated the distribution of HAP-related cancer and non-cancer risks from the APR source category across different social, demographic and economic groups within the populations living near facilities identified as having the highest risks. The methodology and the results of the demographic analyses are included in a technical report, *Analysis of Socio-Economic Factors for Populations Living Near Polymers and Resins III Facilities,* available in the

docket for this action. The results of the demographic analysis are summarized in Table 4 below. These results, for various demographic groups, are based on the estimated risks from actual emissions levels for the population living within 50 km of the facilities.

TABLE 4—APR DEMOGRAPHIC RISK ANALYSIS RESULTS

	Nationwide	Population with cancer risk at or above 1-in-1 million	Population with chronic hazard index above 1
Total Population	312,861,256	14,857	0
Race by Percent			
White	72%	23%	0%
All Other Races	28%	77%	0%
Race by Percent			
White	72%	23%	0%
African American	13%	71%	0%
Native American	1.1%	1.7%	0%
Other and Multiracial	14%	4%	0%
Ethnicity by Percent			
Hispanic	17%	3%	0%
Non-Hispanic	83%	97%	0%
Income by Percent			
Below Poverty Level	14%	27%	0%
Above Poverty Level	86%	73%	0%
Education by Percent			
Over 25 and without High School Diploma	15%	21%	0%
Over 25 and with a High School Diploma	85%	79%	0%

The results of the APR source category demographic analysis indicate that emissions from the APR source category expose approximately 15,000 people to a cancer risk at or above 1-in-1 million and zero people to a chronic non-cancer TOSHI greater than 1. The specific demographic results indicate that the percentage of the population potentially impacted by APR emissions is significantly greater than its corresponding national percentage for the minority population (77 percent for the source category compared to 28 percent nationwide) and for the African American population (71 percent for the source category compared to 13 percent nationwide). Furthermore, the population below the poverty level that is potentially impacted by APR emissions is twice its corresponding national percentage (27 percent for the source category compared to 14 percent nationwide). Other demographic groups with source category percentages greater than the corresponding national percentage include the population over 25 without a high school diploma (21 percent compared to 15 percent), the Native American population (1.7 percent compared to 1.1 percent), and the population younger than 18 years old (27 percent compared to 24 percent). All other demographic categories potentially impacted by APR emissions are less than or equal to the corresponding national percentage. However, as noted previously, risks from this source category were found to be acceptable for all populations. Additionally, the final changes to the APR MACT standards increase the level of environmental protection for all affected populations by reducing emissions from continuous process vents, reducing emissions during periods of SSM and having less frequent releases of organic HAP to the atmosphere from PRDs.

3. PC Source Category

To determine whether or not to conduct a demographics analysis, we look at a combination of factors including the MIR, non-cancer TOSHI, population around the facilities in the source category, and other relevant factors. For the PC source category, our analyses showed that actual emissions from the PC source category result in no individuals being exposed to cancer risk greater than 1-in-1 million or a noncancer TOSHI greater than 1. Therefore, we did not conduct an assessment of risks to individual demographic groups for this rulemaking. However, we did conduct a proximity analysis, which identifies any overrepresentation of minority, low income or indigenous populations near facilities in the source category. The results of the risk assessment for the PC source category have not changed since proposal and we did not conduct a new proximity analysis. The results of this analysis are presented in the section of this preamble entitled ''Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.''

IX. Statutory and Executive Order Reviews

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

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735,

October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

The information collection requirements in the final rule have been submitted for approval to OMB under the PRA, 44 U.S.C. 3501, *et seq.* The information collection requirements are not enforceable until OMB approves them. The information requirements in this rulemaking are based on the notification, recordkeeping and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to agency policies set forth in 40 CFR part 2, subpart B.

The OMB previously approved the information collection requirements contained in the existing regulations being amended with this final rule (i.e., 40 CFR part 63, subparts YY and OOO) under the provisions of the PRA, 44 U.S.C. 3501, *et seq.* The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. Burden is defined at 5 CFR 1320.3(b).

1. Acrylic and Modacrylic Fibers Production

The information collection request (ICR) document prepared by the EPA for the amendments to the AMF MACT standards we are promulgating today has been assigned EPA ICR number 1871.08. Burden changes associated with these final amendments result from new recordkeeping and reporting requirements associated with requirements for spinning lines that use spin dope produced from a solution polymerization process and the PRD monitoring requirements for all facilities subject to the AMF MACT standards.

We estimate one regulated facility is currently subject to the AMF requirements in 40 CFR part 63, subpart YY. The annual monitoring, reporting and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the standards) for these amendments to subpart YY is estimated to be 82 labor hours at a cost of $4,500 per year. There is no estimated change in annual burden to the federal government for these amendments.

2. Amino/Phenolic Resins Production

The ICR document prepared by the EPA for the amendments to the APR MACT standards we are promulgating today has been assigned EPA ICR number 1869.09. Burden changes associated with these final amendments result from new recordkeeping and reporting requirements associated with the PRD monitoring requirements for all facilities subject to the APR MACT standards. In addition, we estimate that 3 regulated facilities will be subject to recordkeeping, reporting and monitoring requirements associated with the new requirements that apply to continuous process vents at existing APR facilities.

We estimate 19 regulated facilities are currently subject to 40 CFR part 63, subpart OOO. The annual monitoring, reporting and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the standards) for these amendments to subpart OOO is estimated to be 1,243 labor hours at a cost of $69,500 per year. There is no estimated change in annual burden to the federal government for these amendments.

3. Polycarbonate Production

The ICR document prepared by the EPA for the amendments to the PC MACT standards we are promulgating today has been assigned EPA ICR number 1871.08. Burden changes associated with these final amendments result from new recordkeeping and reporting requirements associated with the PRD monitoring requirements for all facilities subject to the MACT standards.

We estimate four regulated facilities are currently subject to the PC requirements in 40 CFR part 63, subpart YY. The annual monitoring, reporting and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the standards) for these amendments to subpart YY is estimated to be 216 labor hours at a cost of $12,000 per year. There is no estimated change in annual burden to the federal government for these amendments.

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

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the RFA 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 final rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field. According to the SBA small business standards definitions, for the APR source category, which has the NAICS code of 325211 (i.e., Plastics Material and Resin Manufacturing), the SBA small business size standard is 750 employees. For the PC source category, which has the NAICS code of 325211 (i.e., Plastics Material and Resin Manufacturing), the SBA small business size standard is 750 employees. For the AMF source category, which has the NAICS code of 325222 (i.e., Noncellulosic Organic Fiber Manufacturing), the SBA small business size standard is 1,000 employees.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. There are no affected small businesses in the APR, AMF and PC source categories. All of the companies affected by this rule are generally large integrated corporations that are not considered to be small entities per the definitions provided in this section.

Although this final rule will not have a significant economic impact on a substantial number of small entities, the EPA nonetheless has tried to reduce the impact of this rule on small entities that could potentially be impacted by this rule in the future. The final requirements for PRD monitoring provide facilities with greater flexibility based on their current equipment and operations.

D. Unfunded Mandates Reform Act

This 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 one year. The total annualized cost of this rule is estimated to be no more than $1,050,000 in any one year. Thus, this rule is not subject to the requirements of sections 202 or 205 of the Unfunded Mandates Reform Act (UMRA).

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. The rule contains no requirements that apply to such governments nor does it impose obligations upon them.

E. Executive Order 13132: Federalism

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. None of the affected facilities are owned or operated by state governments, and the requirements discussed in this document will not supersede state regulations that are more stringent. Thus, Executive Order 13132 does not apply to this action.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It will not have substantial direct effect on tribal governments, on the relationship between the federal government and Indian tribes or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action. Although Executive Order 13175 does not apply to this action, the EPA solicited comments on this action from tribal officials, but received none.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action increases the level of environmental protection for all affected populations and would not cause increases in emissions or emissions-related health risks. The EPA's risk assessments (included in the docket for this final rule) demonstrate that the existing regulations are associated with an acceptable level of risk and provide an ample margin of safety to protect public health and prevent adverse environmental effects.

H. Executive Order 13211: Actions Concerning Regulations 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 of 1995 (NTTAA), Public Law 104–113, 12(d) (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. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by VCS bodies. NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable VCS.

This action does not involve new technical standards. Therefore, the EPA did not consider the use of any VCS.

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

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

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority, low income or indigenous populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority, low income or indigenous populations. The EPA has determined that the current health risks posed by emissions from these source categories are acceptable and provide an ample margin of safety to protect public health and prevent adverse environmental effects.

To gain a better understanding of the source categories and near source populations, the EPA conducted a proximity analysis of the facilities in the AMF, APR and PC source categories to identify any overrepresentation of minority, low income or indigenous populations. This analysis only gives some indication of the prevalence of sub-populations that may be exposed to air pollution from the sources; it does not identify the demographic characteristics of the most highly affected individuals or communities, nor does it quantify the level of risk faced by those individuals or communities. The complete proximity analysis results and the details concerning their development are presented in the memorandum titled, *Environmental Justice Review: Amino/Phenolic Resins, Acrylic and Modacrylic Fibers Production, and Polycarbonate Production,* available in the docket for this action. For the AMF and APR source categories, we also performed demographic analyses of the populations close to AMF and APR facilities. In these analyses, we evaluated the distribution of HAP-related cancer and non-cancer risks from the AMF and APR source categories across different social, demographic and economic groups within the populations living near facilities identified as having the highest risks. The complete demographic analyses results and the details concerning their development are presented in the technical reports titled, *Analysis of Socio-Economic Factors for Populations Living Near Acrylic and Modacrylic Fiber Facilities* and *Analysis of Socio-Economic Factors for Populations Living Near Polymers and Resins III Facilities,* available in the docket for this action.

K. Congressional Review Act

The Congressional Review Act, 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 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 final rule will be effective on October 8, 2014.

List of Subjects in 40 CFR Part 63

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

Dated: September 16, 2014.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency (EPA) is amending Title 40, chapter I, of the Code of Federal Regulations (CFR) as follows:

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

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

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

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

■ 2. Section 63.1100 is amended by revising the last sentence of paragraph (d) introductory text to read as follows:

§ 63.1100 Applicability.

* * * * *

(d) * * * Paragraphs (d)(3), (4), and (5) of this section discuss compliance for those process units operated as flexible operation units.

* * * * *

■ 3. Section 63.1101 is amended by adding in alphabetical order the terms "Pressure release" and "Pressure relief device or valve" to read as follows:

§ 63.1101 Definitions.

* * * * *

Pressure release means the emission of materials resulting from the system pressure being greater than the set pressure of the pressure relief device. This release can be one release or a series of releases over a short time period.

Pressure relief device or valve means a safety device used to prevent operating pressures from exceeding the maximum allowable working pressure of the process equipment. A common pressure relief device is a spring-loaded pressure relief valve. Devices that are actuated either by a pressure of less than or equal to 2.5 pounds per square inch gauge or by a vacuum are not pressure relief devices.

* * * * *

■ 4. Section 63.1102 is amended by revising the first sentence of paragraph (a) introductory text and adding paragraph (b) to read as follows:

§ 63.1102 Compliance schedule.

(a) * * * 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 paragraphs (a)(1) or (2) of this section, as appropriate, except as provided in paragraph (b) of this section. * * *

* * * * *

(b) All acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources that commenced construction or reconstruction on or before January 9, 2014, shall be in compliance with the pressure relief device monitoring requirements of § 63.1107(e)(3) upon initial startup or October 9, 2017, whichever is later, and the equipment leaks requirements of 40 CFR part 63, subpart UU upon initial startup or October 8, 2015, whichever is later. New acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources that commence construction or reconstruction after January 9, 2014, shall be in compliance with the pressure relief device monitoring requirements of § 63.1107(e)(3) upon initial startup or by October 8, 2014, whichever is later.

* * * * *

■ 5. Section 63.1103 is amended by:

■ a. Revising paragraph (b)(1)(ii);

■ b. In paragraph (b)(2), adding in alphabetical order the terms "In organic hazardous air pollutant or in organic HAP service" and "Seal";

■ c. In paragraph (b)(3)(i), in Table 2, revising entries 1, 2, 3, 4, 5, 6, and 7 and adding entry 11;

■ d. Revising the second sentence of paragraph (b)(3)(ii);

■ e. In paragraph (b)(3)(ii), revising Table 3;

■ f. Revising paragraph (b)(5);

■ g. Revising paragraph (d)(1)(ii);

■ h. In paragraph (d)(2), adding in alphabetical order the terms "In organic hazardous air pollutant or in organic HAP service" and "Seal"; and

■ i. In paragraph (d)(3), in Table 5, revising entries 4, 5, 6, 7, 8, and 9, and adding entries 10 and 11, and in Table 6, revising entries 4 and 5 and adding entries 6 and 7.

The revisions and additions read as follows:

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

* * * * *

(b) * * *

(1) * * *

(ii) *Compliance schedule.* The compliance schedule, for affected sources as defined in paragraph (b)(1)(i) of this section, is specified in § 63.1102.

(2) *Definitions.*

* * * * *

In organic hazardous air pollutant or in organic HAP service means, for acrylic and modacrylic fiber production affected sources, that a piece of equipment either contains or contracts a fluid (liquid or gas) that is at least 10 percent by weight of total organic HAP as determined according to the provisions of § 63.180(d). The provisions of § 63.180(d) also specify how to determine that a piece of equipment is not in organic HAP service.

* * * * *

Seal means, for acrylic and modacrylic fiber production affected sources complying with the requirements of § 63.1033(b) or § 63.167(a) on or after October 8, 2014, that instrument monitoring of the open-ended valve or line conducted according to the method specified in § 63.1023(b) and, as applicable, § 63.1023(c), or § 63.180(b) and, as applicable, § 63.180(c), indicates no readings of 500 parts per million or greater.

* * * * *

(3) * * *

(i) * * *

TABLE 2 TO § 63.1103(b)(3)(i)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACRYLIC AND MODACRYLIC FIBER PRODUCTION EXISTING OR NEW AFFECTED SOURCE AND AM COMPLYING WITH PARAGRAPH (b)(3)(i) OF THIS SECTION?

If you own or operate . . .	And if . . .	Then you must . . .
1. A storage vessel	The stored material contains organic HAP.	a. Reduce emissions of organic HAP by 98 weight-percent by venting emissions through a closed vent system to any combination of control device meeting the requirements of subpart SS of this part, as specified in § 63.982(a)(1) (storage vessel requirements), or 95 weight-percent or greater by venting through a closed vent system to a recovery device meeting the requirements of subpart SS, § 63.993 (recovery device requirements); or b. Comply with the requirements of subpart WW of this part.
2. A process vent from continuous unit operations (halogenated).	The vent steam has a mass emission rate of halogen atoms contained in organic compounds ≥0.45 kilograms per hour,[a] and an organic HAP concentration ≥50 parts per million by volume[b] and an average flow rate ≥0.005 cubic meters per minute.	a. Reduce emissions of organic HAP or TOC as specified for non-halogenated process vents from continuous unit operations (other than by using a flare) by venting emissions through a closed vent system to a halogen reduction device meeting the requirements of subpart SS of this part, § 63.994 (halogen reduction devices requirements) that reduces hydrogen halides and halogens by 99 weight-percent or to less than 0.45 kilograms per year, 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 of this part, § 63.994 (halogen reduction devices requirements) and then complying with the requirements specified for process vents from continuous unit operations (non-halogenated).
3. A process vent from continuous unit operations (nonhalogenated).	The vent steam has a mass emission rate of halogen atoms contained in organic compounds <0.45 kilograms per hour,[a] and an organic HAP concentration ≥50 parts per million by volume[b] and an average flow rate ≥0.005 cubic meters per minute.	a. Reduce emissions of organic HAP by using a flare meeting the requirements of subpart SS of this part, § 63.987 (flare requirements); or b. Reduce emissions of organic HAP by 98 weight-percent, or reduce 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 of this part, as specified in § 63.982(a)(2) (process vent requirements).
4. A fiber spinning line that is a new or reconstructed source.	The lines use a spin dope produced from either a suspension polymerization process or solution polymerization process.	a. Reduce organic HAP emissions by 85 weight-percent or more. (For example, you may enclose the spinning and washing areas of the spinning line (as specified in paragraph (b)(4) of this section) and vent through a closed vent system and use any combination of control devices meeting the requirements of subpart SS of this part, as specified in § 63.982(a).); or b. Reduce organic HAP emissions from the spinning line to less than or equal to 0.25 kilograms of organic HAP per megagram (0.5 pounds of organic HAP per ton) of acrylic and modacrylic fiber produced; or c. Reduce the organic HAP concentration of the spin dope to less than 100 ppmw.
5. A fiber spinning line that is an existing source.	The spinning line uses a spin dope produced from a solution polymerization process.	Reduce organic HAP emissions from the spinning line to less than or equal to 20 kilograms of organic HAP per megagram (40 pounds of organic HAP per ton) of acrylic and modacrylic fiber produced.
6. A fiber spinning line that is an existing source.	The spinning line uses a spin dope produced from a suspension polymerization process.	a. Reduce the organic HAP concentration of the spin dope to less than 100 ppmw;[b] or b. Reduce organic HAP emissions from the spinning line to less than or equal to 0.25 kilograms of organic HAP per megagram of acrylic and modacrylic fiber produced.
7. Equipment as defined under § 63.1101 (with the differences for pressure relief devices described in item 11 below).	It contains or contacts ≥10 weight-percent organic HAP,[c] and operates ≥300 hours per year.	a. Comply with either § 63.1008 or § 63.1027 for connectors in gas and vapor service and in light liquid service, and comply with the requirements of subpart UU of this part, except § 63.1030, for all other applicable equipment; or b. Comply with the requirements in subpart H of this part, except § 63.165, as provided by the regulatory overlap provisions in § 63.1100(g)(4)(ii).
* *	* *	* * *
11. Pressure relief devices	The pressure relief device is in organic HAP service.	Comply with § 63.1107(e).

* * * * *

(ii) * * * The owner or operator must determine the facility organic HAP emission rate using the procedures specified in paragraph (b)(5) of this section. * * *

TABLE 3 TO § 63.1103(b)(3)(ii)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACRYLIC AND MODACRYLIC FIBER PRODUCTION EXISTING OR NEW AFFECTED SOURCE AND AM COMPLYING WITH PARAGRAPH (b)(3)(ii) OF THIS SECTION?

If you own or operate . . .	Then you must control total organic HAP emissions from the affected source by . . .
1. An acrylic and modacrylic fibers production affected source and your facility is an existing source.	Meeting all of following requirements: a. Reduce total organic HAP emissions from all affected storage vessels, process vents, wastewater streams associated with the acrylic and modacrylic fibers production process unit as defined in paragraph (b)(2) of this section, and fiber spinning lines operated in your acrylic and modacrylic fibers production facility to less than or equal to 0.5 kilograms (kg) of organic HAP per megagram (Mg) of fiber produced. b. Determine the facility organic HAP emission rate in accordance with the requirements specified in paragraph (b)(5) of this section.
2. An acrylic and modacrylic fibers production affected source and your facility is a new source.	Meeting all of following requirements: a. Reduce total organic HAP emissions from all affected storage vessels, process vents, wastewater streams associated with the acrylic and modacrylic fibers production process unit as defined in paragraph (b)(2) of this section, and fiber spinning lines operated in your acrylic and modacrylic fibers production facility to less than or equal to 0.25 kilograms (kg) of organic HAP per megagram (Mg) of fiber produced. b. Determine the facility organic HAP emission rate in accordance with the requirements specified in paragraph (b)(5) of this section.
3. Equipment as defined under § 63.1101 and it contains or contacts > 10 weight-percent organic HAP,[a] and operates > 300 hours per year (with the differences for pressure relief devices described in item 4 below).	a. Comply with either § 63.1008 or § 63.1027 for connectors in gas and vapor service and in light liquid service, and comply with subpart UU of this part, except § 63.1030, for all other applicable equipment; or b. Comply with the requirements in subpart H of this part, except § 63.165, as provided by the regulatory overlap provisions in § 63.1100(g)(4)(ii).
4. A pressure relief device in organic HAP service.	Complying with § 63.1107(e).

* * * * *

(5) *Facility organic HAP emission rate determination.* For an owner or operator electing to comply with paragraph (b)(3)(ii) of this section, the facility organic HAP emission rate must be determined using the requirements specified in paragraphs (b)(5)(i) through (iii) of this section.

(i) The owner or operator must prepare an initial determination of the facility organic HAP emission rate.

(ii) Whenever changes to the acrylic or modacrylic fiber production operations at the facility could potentially cause the facility organic HAP emission rate to exceed the applicable limit of kilogram of organic HAP per Megagram of fiber produced, the owner or operator must prepare a new determination of the facility organic HAP emission rate.

(iii) For each determination, the owner or operator must prepare and maintain at the facility site sufficient process data, emissions data, and any other documentation necessary to support the facility organic HAP emission rate calculation.

* * * * *

(d) * * *

(1) * * *

(ii) *Compliance schedule.* The compliance schedule, for affected sources as defined in paragraph (d)(1)(i) of this section, is specified in § 63.1102.

(2) *Definitions.*

In organic hazardous air pollutant or in organic HAP service means, for polycarbonate production affected sources, that a piece of equipment either contains or contracts a fluid (liquid or gas) that is at least 5 percent by weight of total organic HAP as determined according to the provisions of § 63.180(d). The provisions of § 63.180(d) also specify how to determine that a piece of equipment is not in organic HAP service.

* * * * *

Seal means, for polycarbonate production affected sources complying with the requirements of § 63.1033(b) or § 63.167(a) or after October 8, 2014, that instrument monitoring of the open-ended valve or line conducted according to the method specified in § 63.1023(b) and, as applicable, § 63.1023(c), or § 63.180(b) and, as applicable, § 63.180(c), indicates no readings of 500 parts per million or greater.

(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 . . .
* *	* *	* *
4. A process vent from continuous unit operations or a combined vent stream[a] (halogenated).	The vent stream has a TRE[b c] ≤ 2.7.	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 of this part, as specified in § 63.982(c)(2) and (e); and then vent emissions from those control device(s) through a closed vent system to a halogen reduction device meeting the requirements of subpart SS, § 63.994, that reduces hydrogen halides and halogens by 99 weight-percent or to less than 0.45 kilograms per hour,[d] whichever is less stringent; or

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

If you own or operate . . .	And if . . .	Then you must . . .
		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 of this part, § 63.994; and then vent emissions from those control device(s) through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(c)(2) and (e), that reduces 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; or c. Achieve and maintain a TRE index value greater than 2.7.
5. A process vent from continuous unit operations or a combined vent stream [a] (nonhalogenated).	The vent stream has a TRE [b c] ≤2.7.	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 of this part, as specified in § 63.982(a)(2) (process vent requirements); or b. Achieve and maintain a TRE index value greater than 2.7.
6. A process vent from continuous unit operations or a combined vent stream [a].	2.7 < TRE [b c] ≤4.0	Monitor and keep records of equipment operating parameters specified to be monitored under subpart SS of this part, §§ 63.982(e) and 63.993(c) (absorbers, condensers, carbon adsorbers and other recovery devices used as final recovery devices).
7. Equipment as defined under § 63.1101 (with the differences for pressure relief devices described in item 11 below).	The equipment contains or contacts ≥5 weight-percent total organic HAP,[e] and operates ≥300 hours per year.	a. Comply with either § 63.1008 or § 63.1027 for connectors in gas and vapor service and in light liquid service, and comply with the requirements of subpart UU of this part, except § 63.1030, for all other applicable equipment; or b. Comply with the requirements in subpart H of this part, except § 63.165, as provided by the regulatory overlap provisions in § 63.1100(g)(4)(ii).
8. A polycarbonate production process unit that generates process wastewater.	The process wastewater stream is a Group 1 or a Group 2 wastewater stream.	Comply with the requirements of § 63.1106(a).
9. A polycarbonate production process unit that generates maintenance wastewater.	The maintenance wastewater contains organic HAP.	Comply with the requirements of § 63.1106(b).
10. An item of equipment listed in § 63.1106(c)(1).	The item of equipment meets the criteria specified in § 63.1106(c)(1) through (3) and either (c)(4)(i) or (ii).	Comply with the requirements in Table 35 of subpart G of this part.
11. Pressure relief devices	The pressure relief device is in organic HAP service.	Comply with § 63.1107(e).

* * * * *

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] (halogenated).	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 of this part, as specified in § 63.982(c)(2) and (e); and then vent emissions from those control device(s) through a closed vent system to a halogen reduction device meeting the requirements of subpart SS, § 63.994, that reduces hydrogen halides and halogens by 99 weight-percent or to less than 0.45 kilograms per hour,[d] whichever is less stringent; or

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

If you own or operate . . .	And if . . .	Then you must . . .
		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 of this part, § 63.994; and then vent emissions from those control device(s) through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(c)(2) and (e), that reduces 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; or c. Achieve and maintain a TRE index value greater than 9.6.
5. A process vent from continuous unit operations or a combined vent stream [a] (nonhalogenated).	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 of this part, as specified in § 63.982(a)(2) (process vent requirements); or b. Achieve and maintain a TRE index value greater than 9.6.
6. Equipment as defined under § 63.1101 (with the differences for pressure relief devices described in item 6 below).	The equipment contains or contacts ≥5 weight-percent total organic HAP [e], and operates ≥300 hours per year.	a. Comply with either § 63.1008 or § 63.1027 for connectors in gas and vapor service and in light liquid service, and comply with the requirements of subpart UU of this part, except § 63.1030, for all other applicable equipment; or b. Comply with the requirements in subpart H of this part, except § 63.165, as provided by the regulatory overlap provisions in § 63.1100(g)(4)(ii).
7. Pressure relief devices	The pressure relief device is in organic HAP service.	Comply with § 63.1107(e).

* * * * *

■ 6. Section 63.1104 is amended by revising paragraph (c) to read as follows:

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

* * * * *

(c) *Applicability assessment requirement.* The TOC or organic HAP concentrations, process vent volumetric flow rates, process vent heating values, process vent TOC or organic HAP emission rates, halogenated process vent determinations, process vent TRE index values, and engineering assessments for process vent control applicability assessment requirements are to be determined during maximum representative operating conditions for the process, except as provided in paragraph (d) of this section, or unless the Administrator specifies or approves alternate operating conditions. For acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources, operations during periods of malfunction shall not constitute representative conditions for the purpose of an applicability test. For all other affected sources, operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions for the purpose of an applicability test.

* * * * *

■ 7. Section 63.1106 is amended by revising paragraphs (a)(11) and (12), the first sentence of (a)(13) introductory text, and (c)(6) to read as follows:

§ 63.1106 Wastewater provisions.

* * * * *

(a) * * *

(11) Where § 63.152(b) and/or the Notification of Compliance Status is referred to in §§ 63.132 through 63.148, the Notification of Compliance Status requirements contained in § 63.1110(a)(4) shall apply, for purposes of this subpart.

(12) Where § 63.152(c) and/or the Periodic Report requirements are referred to §§ 63.132 through 63.148, the Periodic Report requirements contained in § 63.1110(a)(5) shall apply, for purposes of this subpart.

(13) When Method 18 of Appendix A to part 60 of this chapter is specified in § 63.139(c)(1)(ii), § 63.145(d)(4), or § 63.145(i)(2), either Method 18 or Method 25A may be used. * * *

* * * * *

(c) * * *

(6) When Table 35 of subpart G of this part refers to 40 CFR 63.119(e)(1) or (e)(2) in the requirements for tanks, the owner or operator shall reduce emissions of total organic HAP by 95 weight-percent by venting emissions through a closed vent system to any combination of control devices meeting the requirements in § 63.982(a)(1), for the purposes of this subpart.

* * * * *

■ 8. Section 63.1107 is amended by revising the section heading and adding paragraphs (e), (f), and (g) to read as follows:

§ 63.1107 Equipment leaks.

* * * * *

(e) *Requirements for pressure relief devices.* For acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources, except as specified in paragraph (e)(4) of this section, the owner or operator must comply with the requirements specified in paragraphs (e)(1) and (2) of this section for pressure relief devices in organic HAP gas or vapor service. Except as specified in paragraph (e)(4) of this section, the owner or operator of an acrylic and modacrylic fiber production affected source or polycarbonate production affected source must also comply with the requirements specified in paragraph (e)(3) of this section for all pressure relief devices in organic HAP service.

(1) *Operating requirements.* Except during a pressure release event, operate each pressure relief device in organic HAP gas or vapor service with an instrument reading of less than 500 ppm above background as described in Method 21 of 40 CFR part 60, Appendix A.

(2) *Pressure release requirements.* For pressure relief devices in organic HAP gas or vapor service, the owner or operator must comply with either paragraph (e)(2)(i) or (ii) of this section following a pressure release, as applicable.

(i) If the pressure relief device does not consist of or include a rupture disk, conduct instrument monitoring, as described in Method 21 of 40 CFR part 60, Appendix A, no later than 5 calendar days after the pressure relief device returns to organic HAP service following a pressure release to verify that the pressure relief device is operating with an instrument reading of less than 500 ppm above background, except as provided in § 63.171 or § 63.1024(d), as applicable.

(ii) If the pressure relief device consists of or includes a rupture disk, install a replacement disk as soon as practicable after a pressure release, but no later than 5 calendar days after the pressure release, except as provided in § 63.171 or § 63.1024(d), as applicable.

(3) *Pressure release management.* Except as specified in paragraph (e)(4) of this section, emissions of organic HAP to the atmosphere from pressure relief devices in organic HAP service are prohibited, and the owner or operator must comply with the requirements specified in paragraphs (e)(3)(i) and (ii) of this section for all pressure relief devices in organic HAP service.

(i) The owner or operator must equip each pressure relief device in organic HAP service with a device(s) or parameter monitoring system that is capable of:

(A) Identifying the pressure release;

(B) Recording the time and duration of each pressure release; and

(C) Notifying operators immediately that a pressure release is occurring. The device or monitoring system may be either specific to the pressure relief device itself or may be associated with the process system or piping, sufficient to indicate a pressure release to the atmosphere. Examples of these types of devices and systems include, but are not limited to, a rupture disk indicator, magnetic sensor, motion detector on the pressure relief valve stem, flow monitor, or pressure monitor.

(ii) If any pressure relief device in organic HAP service releases to atmosphere as a result of a pressure release event, the owner or operator must calculate the quantity of organic HAP released during each pressure release event and report this quantity as required in paragraph (g) of this section. Calculations may be based on data from the pressure relief device monitoring alone or in combination with process parameter monitoring data and process knowledge.

(4) *Pressure relief devices routed to a control device, process, fuel gas system, or drain system.* If a pressure relief device in organic HAP service is designed and operated to route all HAP emissions from pressure releases through a closed vent system to a control device or to a process, fuel gas system, or drain system, the owner or operator is not required to comply with paragraphs (e)(1), (2), or (3) (if applicable) of this section for that pressure relief device. The fuel gas system or closed vent system and control device (if applicable) must meet the requirements of § 63.172 or § 63.1034, as applicable (except that the term "pressure relief devices" shall apply instead of the term "equipment leaks" in § 63.1034). The drain system (if applicable) must meet the requirements of § 63.136.

(f) *Recordkeeping requirements.* For acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources, for pressure relief devices in organic HAP service, keep records of the information specified in paragraphs (f)(1) through (5) of this section, as applicable.

(1) A list of identification numbers for pressure relief devices that vent to a fuel gas system, process, drain system, or closed-vent system and control device, under the provisions in paragraph (e)(4) of this section.

(2) A list of identification numbers for pressure relief devices subject to the provisions in paragraph (e)(1) of this section.

(3) A list of identification numbers for pressure relief devices equipped with rupture disks, under the provisions in paragraph (e)(2)(ii) of this section.

(4) The dates and results of the monitoring following a pressure release for each pressure relief device subject to the provisions in paragraphs (e)(1) and (2) of this section. The results shall include:

(i) The background level measured during each compliance test.

(ii) The maximum instrument reading measured at each piece of equipment during each compliance test.

(5) For pressure relief devices in organic HAP service subject to paragraph (e)(3) of this section, keep records of each pressure release to the atmosphere, including the following information:

(i) The source, nature, and cause of the pressure release.

(ii) The date, time, and duration of the pressure release.

(iii) An estimate of the quantity of total HAP emitted during the pressure release and the calculations used for determining this quantity.

(iv) The actions taken to prevent this pressure release.

(v) The measures adopted to prevent future such pressure releases.

(g) *Periodic reports.* For owners or operators of an acrylic and modacrylic fiber production affected source or polycarbonate production affected source subject to paragraph (e) of this section, Periodic Reports must include the information specified in paragraphs (g)(1) through (3) of this section for pressure relief devices in organic HAP service.

(1) For pressure relief devices in organic HAP service subject to paragraph (e) of this section, report confirmation that all monitoring to show compliance was conducted within the reporting period.

(2) For pressure relief devices in organic HAP gas or vapor service subject to paragraph (e)(2) of this section, report any instrument reading of 500 ppm above background or greater, more than 5 days after the relief device returns to organic HAP gas or vapor service after a pressure release.

(3) For pressure relief devices in organic HAP service subject to paragraph (e)(3) of this section, report each pressure release to the atmosphere, including the following information:

(i) The source, nature, and cause of the pressure release.

(ii) The date, time, and duration of the pressure release.

(iii) An estimate of the quantity of total HAP emitted during the pressure release and the method used for determining this quantity.

(iv) The actions taken to prevent this pressure release.

(v) The measures adopted to prevent future such pressure releases.

■ 9. Section 63.1108 is amended by:

■ a. Adding paragraph (a) introductory text;

■ b. Adding paragraph (a)(4);

■ c. Revising the first sentence of paragraph (a)(5); and

■ d. Revising paragraphs (b)(1), the first sentence of (b)(2) introductory text, and (b)(4)(ii).

The revisions and additions read as follows:

§ 63.1108 Compliance with standards and operation and maintenance requirements.

(a) *Requirements.* The requirements of paragraphs (a)(1), (2), and (5) of this section apply to all affected sources except acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources. The requirements of paragraph (a)(4) of this section apply only to

acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources. The requirements of paragraphs (a)(3), (6), and (7) of this section apply to all affected sources.

* * * * *

(4)(i) For acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources, the emission limitations and established parameter ranges of this part shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies. Equipment leak requirements shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) in which the lines are drained and depressurized resulting in cessation of the emissions to which the equipment leak requirements apply.

(ii) *General duty.* At all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator, which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(5) During startups, shutdowns, and malfunctions when the emission standards of this subpart and the subparts referenced by this subpart do not apply pursuant to paragraphs (a)(1) through (3) of this section, the owner or operator shall implement, to the extent reasonably available, measures to prevent or minimize excess emissions.

* * *

* * * * *

(b) * * *

(1) *Parameter monitoring: compliance with operating conditions.* Compliance with the required operating conditions for the monitored control devices or recovery devices may be determined by, but is not limited to, the parameter monitoring data for emission points that are required to perform continuous monitoring. For each excursion, except as provided for in paragraphs (b)(1)(i) and (ii) of this section, the owner or operator shall be deemed to have failed to have applied the control in a manner that achieves the required operating conditions.

(i) An excursion that meets the requirements of paragraph (b)(2) of this section is not a violation.

(ii) Excused excursions are not allowed for acrylic and modacrylic fiber production affected sources or polycarbonate production affected sources. For all other affected sources, an excused excursion, as described in § 63.998(b)(6)(ii), is not a violation.

(2) *Parameter monitoring: Excursions.* An excursion is not a violation in cases where continuous monitoring is required and the excursion does not count toward the number of excused excursions (as described in § 63.998(b)(6)(ii)), if the conditions of paragraphs (b)(2)(i) or (ii) of this section are met, except that the conditions of paragraph (b)(2)(i) of this section do not apply for acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources. * * *

* * * * *

(4) * * *

(ii) *Performance test.* (A) The Administrator may determine compliance with emission limitations of this subpart based on, but not limited to, the results of performance tests conducted according to the procedures specified in § 63.997, unless otherwise specified in this subpart or a subpart referenced by this subpart.

(B) For acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources, performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown unless specified by the Administrator or an applicable subpart. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

■ 10. Section 63.1110 is amended by:

■ a. Adding a sentence to the end of paragraph (a) introductory text;

■ b. Revising paragraph (a)(7);

■ c. Adding paragraph (a)(9);

■ d. Adding a sentence to the end of paragraph (d)(1) introductory text; and

■ e. Adding paragraph (d)(1)(iii).

The revisions and additions read as follows:

§ 63.1110 Reporting requirements.

(a) * * * Each owner or operator of an acrylic and modacrylic fiber production affected source or polycarbonate production affected source subject to this subpart shall also submit the reports listed in paragraph (a)(9) of this section in addition to the reports listed in paragraphs (a)(1) through (8) of this section, as applicable.

* * * * *

(7) Startup, Shutdown, and Malfunction Reports described in § 63.1111 (except for acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources).

* * * * *

(9) *Electronic reporting.* Within 60 days after the date of completing each performance test (as defined in § 63.2), the owner or operator must submit the results of the performance tests, including any associated fuel analyses, required by this subpart according to the methods specified in paragraphs (a)(9)(i) or (ii) of this section.

(i) For data collected using test methods supported by the EPA-provided software, the owner or operator shall submit the results of the performance test to the EPA by direct computer-to-computer electronic transfer via EPA-provided software, unless otherwise approved by the Administrator. Owners or operators, who claim that some of the information being submitted for performance tests is confidential business information (CBI), must submit a complete file using EPA-provided software that includes information claimed to be CBI on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: WebFIRE Administrator, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA by direct computer-to-computer electronic transfer via EPA-provided software.

(ii) For any performance test conducted using test methods that are not compatible with the EPA-provided

software, the owner or operator shall submit the results of the performance test to the Administrator at the appropriate address listed in § 60.4.

* * * * *

(d) * * *

(1) * * * For pressure relief devices subject to the requirements of § 63.1107(e)(3), the owner or operator of an acrylic and modacrylic fiber production affected source or polycarbonate production affected source shall also submit the information listed in paragraph (d)(1)(iii) of this section in a supplement to the Notification of Compliance Status within 150 days after the first applicable compliance date for pressure relief device monitoring.

* * * * *

(iii) For pressure relief devices in organic HAP service, a description of the device or monitoring system to be implemented, including the pressure relief devices and process parameters to be monitored (if applicable), and a description of the alarms or other methods by which operators will be notified of a pressure release.

* * * * *

■ 11. Section 63.1111 is amended by:
■ a. Adding paragraphs (a) introductory text and (b) introductory text;
■ b. Removing paragraph (b)(3); and
■ c. Adding paragraph (c).

The revisions and additions read as follows:

§ 63.1111 Startup, shutdown, and malfunction.

(a) *Startup, shutdown, and malfunction plan.* The requirements of this paragraph (a) apply to all affected sources except for acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources.

* * * * *

(b) *Startup, shutdown, and malfunction reporting requirements.* The requirements of this paragraph (b) apply to all affected sources except for acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources.

* * * * *

(c) *Malfunction recordkeeping and reporting.* The requirements of this paragraph (c) apply only to acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources.

(1) *Records of malfunctions.* The owner or operator shall keep the records specified in paragraphs (c)(1)(i) through (iii) of this section.

(i) In the event that an affected unit fails to meet an applicable standard, record the number of failures. For each failure record the date, time, and duration of each failure.

(ii) For each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(iii) Record actions taken to minimize emissions in accordance with § 63.1108(a)(4)(ii), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(2) *Reports of malfunctions.* If a source fails to meet an applicable standard, report such events in the Periodic Report. Report the number of failures to meet an applicable standard. For each instance, report the date, time and duration of each failure. For each failure the report must include a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

Subpart OOO—National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins

■ 12. Section 63.1400 is amended by revising paragraph (k) to read as follows:

§ 63.1400 Applicability and designation of affected sources.

* * * * *

(k) *Applicability of this subpart.* (1) The emission limitations set forth in this subpart and the emission limitations referred to in this subpart shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies.

(2) The emission limitations set forth in 40 CFR part 63, subpart UU, as referred to in § 63.1410, shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) in which the lines are drained and depressurized resulting in cessation of the emissions to which § 63.1410 applies.

(3) The owner or operator shall not shut down items of equipment that are required or utilized for compliance with this subpart during times when emissions are being routed to such items of equipment if the shutdown would contravene requirements of this subpart applicable to such items of equipment.

(4) *General duty.* At all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator, which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

■ 13. Section 63.1401 is amended by revising paragraphs (a) and (b) to read as follows:

§ 63.1401 Compliance schedule.

(a) New affected sources that commence construction or reconstruction after December 14, 1998, shall be in compliance with this subpart (except § 63.1411(c)) upon initial start-up or January 20, 2000, whichever is later. New affected sources that commenced construction or reconstruction after December 14, 1998, but on or before January 9, 2014, shall be in compliance with the pressure relief device monitoring requirements of § 63.1411(c) by October 9, 2017. New affected sources that commence construction or reconstruction after January 9, 2014, shall be in compliance with the pressure relief device monitoring requirements of § 63.1411(c) upon initial startup or by October 8, 2014.

(b) Existing affected sources shall be in compliance with this subpart (except §§ 63.1404, 63.1405, and 63.1411(c)) no later than 3 years after January 20, 2000. Existing affected sources shall be in compliance with the storage vessel requirements of § 63.1404, the continuous process vent requirements of § 63.1405, and the pressure relief device monitoring requirements of § 63.1411(c) by October 9, 2017.

* * * * *

■ 14. Section 63.1402 is amended by:
■ a. In paragraph (a):
■ i. Adding in alphabetical order the term "Pressure relief device or valve (§ 63.161)";
■ ii. Removing the term "Start-up, shutdown, and malfunction plan (§ 63.101)"; and
■ iii. Revising the term "Inorganic hazardous air pollutant service

(§ 63.161)'' to read ''In organic hazardous air pollutant service (§ 63.161)''; and

■ b. In paragraph (b):

■ i. Adding in alphabetical order the terms ''Pressure release'' and ''Seal''; and

■ ii. Revising the term ''Amino/phenolic. Resin process unit (APPU)'' to read ''Amino/phenolic resin process unit (APPU)''.

The revisions and additions read as follows:

§ 63.1402 Definitions.

* * * * *

(b) * * *

* * * * *

Pressure release means the emission of materials resulting from the system pressure being greater than the set pressure of the pressure relief device. This release can be one release or a series of releases over a short time period.

* * * * *

Seal means, for the purpose of complying with the requirements of § 63.1033(b), that instrument monitoring of the open-ended valve or line conducted according to the method specified in § 63.1023(b) and, as applicable, § 63.1023(c), indicates no readings of 500 parts per million or greater.

* * * * *

■ 15. Section 63.1404 is amended by revising the first sentence of paragraph (a) introductory text to read as follows:

§ 63.1404 Storage vessel provisions.

(a) *Emission standards.* For each storage vessel located at a new or existing affected source that has a capacity of greater than or equal to 20,000 gallons, but less than 40,000 gallons, and vapor pressure of 1.9 pounds per square inch absolute (psia) or greater; has a capacity of greater than or equal to 40,000 gallons, but less than 90,000 gallons, and vapor pressure of 0.75 psia or greater; or has a capacity of 90,000 gallons or greater and vapor pressure of 0.15 psia or greater, the owner or operator shall comply with either paragraph (a)(1) or (2) of this section. * * *

* * * * *

■ 16. Section 63.1405 is amended by:

■ a. Revising the first sentence of paragraph (a) introductory text;

■ b. Adding paragraph (a)(3); and

■ c. Revising the last sentence of paragraph (b).

The revisions and additions read as follows:

§ 63.1405 Continuous process vent provisions.

(a) *Emission standards.* For each continuous process vent with a Total Resource Effectiveness (TRE) index value, as determined following the procedures specified in § 63.1412(j), less than or equal to 1.2, the owner or operator shall comply with either paragraph (a)(1) or (2) of this section for continuous process vents located at a new affected source, and with either paragraph (a)(1) or (3) of this section for continuous process vents located at an existing affected source. * * *

* * * * *

(3) Reduce emissions to less than or equal to 0.95 kg of total organic HAP per megagram (1.9 pounds of total organic HAP per ton) of resin produced, or to a concentration of 20 ppmv when using a combustion control device or to a concentration of 50 ppmv when using a non-combustion control device, whichever is less stringent.

(b) *Alternative standard.* * * * Any continuous process vents that are not vented to a control device meeting these conditions shall be controlled in accordance with the provisions of paragraphs (a)(1), (2), or (3) of this section, as appropriate.

■ 17. Section 63.1410 is amended by revising the first sentence of the introductory text to read as follows:

§ 63.1410 Equipment leak provisions.

The owner or operator of each affected source shall comply with the requirements of 40 CFR part 63, subpart UU for all equipment, as defined under § 63.1402, that contains or contacts 5 weight-percent HAP or greater and operates 300 hours per year or more, except § 63.1030. * * *

■ 18. Add § 63.1411 to read as follows:

§ 63.1411 Requirements for pressure relief devices.

Except as specified in paragraph (d) of this section, the owner or operator must comply with the requirements specified in paragraphs (a) and (b) of this section for pressure relief devices in organic HAP gas or vapor service. Except as specified in paragraph (d) of this section, the owner or operator must also comply with the requirements specified in paragraph (c) of this section for all pressure relief devices in organic HAP service.

(a) *Operating requirements.* Except during a pressure release event, operate each pressure relief device in organic HAP gas or vapor service with an instrument reading of less than 500 ppm above background as described in Method 21 of 40 CFR part 60, Appendix A.

(b) *Pressure release requirements.* For pressure relief devices in organic HAP gas or vapor service, the owner or operator must comply with either paragraph (b)(1) or (2) of this section following a pressure release, as applicable.

(1) If the pressure relief device does not consist of or include a rupture disk, conduct instrument monitoring, as described in Method 21 of 40 CFR part 60, Appendix A, no later than 5 calendar days after the pressure relief device returns to organic HAP service following a pressure release to verify that the pressure relief device is operating with an instrument reading of less than 500 ppm above background, except as provided in § 63.1024(d).

(2) If the pressure relief device consists of or includes a rupture disk, install a replacement disk as soon as practicable after a pressure release, but no later than 5 calendar days after the pressure release, except as provided in § 63.1024(d).

(c) *Pressure release management.* Except as specified in paragraph (d) of this section, emissions of organic HAP to the atmosphere from pressure relief devices in organic HAP service are prohibited, and the owner or operator must comply with the requirements specified in paragraphs (c)(1) and (2) of this section for all pressure relief devices in organic HAP service.

(1) The owner or operator must equip each pressure relief device in organic HAP service with a device(s) or parameter monitoring system that is capable of:

(i) Identifying the pressure release;

(ii) Recording the time and duration of each pressure release; and

(iii) Notifying operators immediately that a pressure release is occurring. The device or monitoring system may be either specific to the pressure relief device itself or may be associated with the process system or piping sufficient to indicate a pressure release to the atmosphere. Examples of these types of devices and systems include, but are not limited to, a rupture disk indicator, magnetic sensor, motion detector on the pressure relief valve stem, flow monitor, or pressure monitor.

(2) If any pressure relief device in organic HAP service releases to atmosphere as a result of a pressure release event, the owner or operator must calculate the quantity of organic HAP released during each pressure release event and report this quantity as required in § 63.1417(f)(13)(iii). Calculations may be based on data from the pressure relief device monitoring alone or in combination with process

parameter monitoring data and process knowledge.

(d) *Pressure relief devices routed to a control device, process, fuel gas system, or drain system.* If a pressure relief device in organic HAP service is designed and operated to route all HAP emissions from pressure releases through a closed vent system to a control device or to a process, fuel gas system, or drain system, the owner or operator is not required to comply with paragraphs (a), (b), or (c) (if applicable) of this section for that pressure relief device. The fuel gas system or closed vent system and control device (if applicable) must meet the requirements of § 63.1034, as applicable (except that the term ''pressure relief devices'' shall apply instead of the term ''equipment leaks'' in § 63.1034). The drain system (if applicable) must meet the requirements of § 63.136.

■ 19. Section 63.1412 is amended by revising the last sentence of paragraph (c) to read as follows:

§ 63.1412 Continuous process vent applicability assessment procedures and methods.

* * * * *

(c) *Applicability assessment requirement.* * * * Operations during periods of malfunction shall not constitute representative conditions for the purpose of an applicability test.

* * * * *

■ 20. Section 63.1413 is amended by:
■ a. Revising paragraph (a)(2) introductory text;
■ b. Redesignating paragraph (c)(5) as paragraph (c)(6);
■ c. Adding paragraph (c)(5);
■ d. Redesignating paragraph (h) as paragraph (i);
■ e. Adding paragraph (h);
■ f. Revising newly redesignated paragraphs (i) introductory text and (i)(4) introductory text;
■ g. Revising newly redesignated paragraphs (i)(4)(i), the first sentence of (i)(4)(iii), and (i)(5) and (6).

The revisions and additions read as follows:

§ 63.1413 Compliance demonstration procedures.

(a)* * *

(2) *Performance tests.* Performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being tested and in accordance with the General Provisions at § 63.7(a)(1), (a)(3), (d), (e)(2), (e)(4), (g), and (h), with the exceptions specified in paragraph (a)(1) of this section. Representative conditions exclude periods of startup and shutdown unless specified by the Administrator or an applicable subpart. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests. Data shall be reduced in accordance with the EPA approved methods specified in this subpart or, if other test methods are used, the data and methods shall be validated according to the protocol in Method 301 of Appendix A of this part.

* * * * *

(c) * * *

(5) Initial and continuous compliance with the emission limit specified in § 63.1405(a)(3) shall be demonstrated following the procedures in paragraph (h) of this section.

* * * * *

(h) *Continuous process vent compliance at existing sources.* (1) Each owner or operator complying with the mass emission limit specified in § 63.1405(a)(3) shall determine initial compliance as specified in paragraph (h)(1)(i) of this section and continuous compliance as specified in paragraph (h)(1)(ii) of this section.

(i) *Initial compliance.* Initial compliance shall be based on the average of the first 6 monthly average emission rate data points. The 6-month average shall be compared to the mass emission limit specified in § 63.1405(a)(3).

(ii) *Continuous compliance.* For the first year of compliance, continuous compliance shall be based on a cumulative average monthly emission rate calculated each month based on the available monthly emission rate data points (e.g., 7 data points after 7 months of operation, 8 data points after 8 months of operation) beginning the first month after initial compliance is demonstrated. The first continuous compliance cumulative average monthly emission rate shall be calculated using the first 7 monthly average emission rate data points. After the first year of compliance, a 12-month rolling average monthly emission rate shall be calculated each month based on the previous 12 monthly emission rate data points. Continuous compliance shall be determined by comparing the cumulative average monthly emission rate or the 12-month rolling average monthly emission rate to the mass emission limit specified in § 63.1405(a)(3).

(2) *Procedures to determine the monthly emission rate.* (i) The monthly emission rate, kilograms of organic HAP per megagram of product, shall be determined at the end of each month using Equation 5 of this section:

$$ER = \frac{E_i}{RP_m} \qquad \text{[Eq. 5]}$$

Where:

ER = Emission rate of organic HAP from continuous process vent, kg of HAP/Mg product.

E_i = Emission rate of organic HAP from continuous process vent i as determined using the procedures specified in paragraph (h)(2)(ii) of this section, kg/month.

RP_m = Amount of resin produced in one month as determined using the procedures specified in paragraph (h)(2)(iii) of this section, Mg/month.

(ii) The monthly emission rate of organic HAP, in kilograms per month, from an individual continuous process vent (E_i) shall be determined. Once organic HAP emissions have been estimated, as specified in paragraph (h)(2)(ii)(A) of this section for uncontrolled continuous process vents or paragraphs (h)(2)(ii)(A) and (B) of this section for continuous process vents vented to a control device or control technology, the owner or operator may use the estimated organic HAP emissions (E_i) until the estimated organic HAP emissions are no longer representative due to a process change or other reason known to the owner or operator. If organic HAP emissions (E_i) are determined to no longer be representative, the owner or operator shall redetermine organic HAP emissions for the continuous process vent following the procedures in paragraph (h)(2)(ii)(A) of this section for uncontrolled continuous process vents or paragraphs (h)(2)(ii)(A) and (B) of this section for continuous process vents vented to a control device or control technology.

(A) For continuous process vents estimated through engineering assessment, as described in § 63.1414(d)(10), to emit less than 10 tons per year of uncontrolled organic HAP emissions, the owner or operator may use the emissions determined using engineering assessment in Equation 5 of this section or may determine organic HAP emissions using the procedures specified in paragraph (a)(1)(i) of this section. For continuous process vents estimated through engineering assessment, as described in

§ 63.1414(d)(10), to emit 10 tons per year or greater of uncontrolled organic HAP emissions, uncontrolled organic HAP emissions shall be estimated following the procedures specified in paragraph (a)(1)(i) of this section.

(B) For continuous process vents vented to a control device or control technology, controlled organic HAP emissions shall be determined as follows:

(*1*) Uncontrolled organic HAP emissions shall be determined following the procedures in paragraph (h)(2)(ii)(A) of this section.

(*2*) Control device or control technology efficiency shall be determined using the procedures in paragraph (a)(1)(i) of this section for large control devices or the procedures in paragraph (a)(1)(ii) of this section for small control devices.

(*3*) Controlled organic HAP emissions shall be determined by applying the control device or control technology efficiency, determined in paragraph (h)(2)(ii)(B)(*2*) of this section, to the uncontrolled organic HAP emissions, determined in paragraph (h)(2)(ii)(B)(*1*) of this section.

(iii) The rate of resin produced, RP_M (Mg/month), shall be determined based on production records certified by the owner or operator to represent actual production for the month. A sample of the records selected by the owner or operator for this purpose shall be provided to the Administrator in the Precompliance Report as required by § 63.1417(d).

(i) *Deviations.* Paragraphs (i)(1) through (4) of this section describe deviations from the emission limits, the operating limits, the work practice standards, and the emission standard, respectively. Paragraph (i)(5) of this section describes situations that are not deviations. Paragraph (i)(6) of this section describes periods that are excluded from compliance determinations.

* * * * *

(4) *Deviation from the emission standard.* If monitoring data are insufficient, as described in paragraphs (i)(4)(i) through (iii) of this section, there has been a deviation from the emission standard.

(i) The period of control device or control technology operation is 4 hours or greater in an operating day, and monitoring data are insufficient to constitute a valid hour of data, as defined in paragraph (i)(4)(iii) of this section, for at least 75 percent of the operating hours;

* * * * *

(iii) Monitoring data are insufficient to constitute a valid hour of data, as used in paragraphs (i)(4)(i) and (ii) of this section, if measured values are unavailable for any of the 15-minute periods within the hour. * * *

(5) *Situations that are not deviations.* If any of the situations listed in paragraphs (i)(5)(i) or (ii) of this section occur, such situations shall not be considered to be deviations.

(i) Monitoring data cannot be collected during monitoring device calibration check or monitoring device malfunction; or

(ii) Monitoring data are not collected during periods of nonoperation of the affected source or portion thereof (resulting in cessation of the emissions to which the monitoring applies).

(6) *Periods not considered to be part of the period of control or recovery device operation.* The periods listed in paragraphs (i)(6)(i) and (ii) of this section are not considered to be part of the period of control or recovery device operation for purposes of determining averages or periods of control device or control technology operation.

(i) Monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments; or

(ii) Periods of nonoperation of the affected source (or portion thereof), resulting in cessation of the emissions to which the monitoring applies.

■ 21. Section 63.1414 is amended by adding paragraph (d)(10) to read as follows:

§ 63.1414 Test methods and emission estimation equations.

* * * * *

(d) * * *

(10) For continuous process vent emissions determined by engineering assessment, the engineering assessment includes, but is not limited to, the examples provided in § 63.1412(k)(3).

■ 22. Section 63.1415 is amended by revising the second sentence of paragraph (b)(1)(ii)(C) to read as follows:

§ 63.1415 Monitoring requirements.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(C) * * * The plan shall require determination of gas stream flow by a method which will at least provide a value for either a representative or the highest gas stream flow anticipated in the scrubber during representative operating conditions other than malfunctions. * * *

* * * * *

■ 23. Section 63.1416 is amended by:

■ a. Revising paragraphs (b), (c)(4), (d)(3)(iv)(B), and (e)(3)(iv)(B);

■ b. Adding paragraphs (f)(5), (f)(6), and (g)(5);

■ c. Revising the first sentence of paragraph (h)(1)(i);

■ d. Revising paragraph (h)(1)(ii);

■ e. Revising the first sentence of paragraph (h)(1)(iii);

■ f. Revising the last sentence of paragraph (h)(2)(iii); and

■ g. Revising paragraph (h)(2)(iv).

The revisions and additions read as follows:

§ 63.1416 Recordkeeping requirements.

* * * * *

(b) *Malfunction records.* Records shall be kept as specified in paragraphs (b)(1) through (3) of this section.

(1) In the event that an affected unit fails to meet an applicable standard, record the number of failures. For each failure record the date, time, and duration of each failure.

(2) For each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(3) Record actions taken to minimize emissions in accordance with § 63.1420(h)(4), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(c) * * *

(4) Monitoring data recorded during periods identified in paragraphs (c)(4)(i) and (ii) of this section shall not be included in any average computed under this subpart. Records shall be kept of the times and durations of all such periods and any other periods during process or control device or recovery device or control technology operation when monitors are not operating:

(i) Monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments; and

(ii) Periods of non-operation of the affected source (or portion thereof) resulting in cessation of the emissions to which the monitoring applies.

* * * * *

(d) * * *

(3) * * *

(iv) * * *

(B) If there is a deviation from the mass emission limit, as specified in § 63.1413(i), the individual monthly emission rate data points making up the cumulative average monthly emission rate or the 12-month rolling average monthly emission rate, as appropriate.

* * * * *

(e) * * *

(3) * * *

(iv) * * *

(B) If there is a deviation from the emission limit, as specified in § 63.1413(i)(1), the individual monthly emission rate data points making up the rolling average monthly emission rate or the 12-month rolling average monthly emission rate, as appropriate.

* * * * *

(f) * * *

(5) If a continuous process vent is seeking to demonstrate compliance with the mass emission limit specified in § 63.1405(a)(3), keep records specified in paragraphs (f)(5)(i) and (ii) of this section.

(i) The results of the initial compliance demonstration specified in § 63.1413(h)(1)(i).

(ii) The monthly organic HAP emissions from the continuous process vent determined as specified in § 63.1413(h)(2).

(6) When using a flare to comply with § 63.1405(a), keep the records specified in paragraphs (f)(6)(i) through (f)(6)(iii) of this section.

(i) The flare design (i.e., steam-assisted, air-assisted or non-assisted);

(ii) All visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the compliance determination required by § 63.1413(g); and

(iii) Periods when all pilot flames were absent during the compliance determination required by § 63.1413(g).

(g) * * *

(5) For pressure relief devices in organic HAP service, keep records of the information specified in paragraphs (g)(5)(i) through (v) of this section, as applicable.

(i) A list of identification numbers for pressure relief devices that vent to a fuel gas system, process, drain system, or closed-vent system and control device, under the provisions in § 63.1411(d).

(ii) A list of identification numbers for pressure relief devices subject to the provisions in § 63.1411(a).

(iii) A list of identification numbers for pressure relief devices equipped with rupture disks, under the provisions in § 63.1411(b)(2).

(iv) The dates and results of the monitoring following a pressure release for each pressure relief device subject to the provisions in § 63.1411(a) and (b). The results shall include:

(A) The background level measured during each compliance test.

(B) The maximum instrument reading measured at each piece of equipment during each compliance test.

(v) For pressure relief devices in organic HAP service subject to § 63.1411(c), keep records of each pressure release to the atmosphere, including the following information:

(A) The source, nature, and cause of the pressure release.

(B) The date, time, and duration of the pressure release.

(C) An estimate of the quantity of total HAP emitted during the pressure release and the calculations used for determining this quantity.

(D) The actions taken to prevent this pressure release.

(E) The measures adopted to prevent future such pressure releases.

(h) * * *

(1) * * *

(i) The monitoring system is capable of detecting unrealistic or impossible data during periods of operation (e.g., a temperature reading of −200 °C on a boiler) and will alert the operator by alarm or other means. * * *

(ii) The monitoring system generates, updated at least hourly throughout each operating day, a running average of the parameter values that have been obtained during that operating day or block, and the capability to observe this running average is readily available on-site to the Administrator during the operating day. The owner or operator shall record the occurrence of any period meeting the criteria in paragraphs (h)(1)(ii)(A) and (B) of this section. All instances in an operating day or block constitute a single occurrence:

(A) The running average is above the maximum or below the minimum established limits; and

(B) The running average is based on at least six 1-hour average values.

(iii) The monitoring system is capable of detecting unchanging data during periods of operation, except in circumstances where the presence of unchanging data is the expected operating condition based on past experience (e.g., pH in some scrubbers) and will alert the operator by alarm or other means. * * *

* * * * *

(2) * * *

(iii) * * * For any calendar week, if compliance with paragraphs (h)(1)(i) through (iv) of this section does not result in retention of a record of at least one occurrence or measured parameter value, the owner or operator shall record and retain at least one value during a period of operation.

(iv) For purposes of paragraph (h)(2) of this section, a deviation means that the daily average, batch cycle daily average, or block average value of monitoring data for a parameter is greater than the maximum, or less than the minimum established value.

■ 24. Section 63.1417 is amended by:

■ a. Revising the first sentence of paragraph (d);

■ b. Revising paragraphs (d)(8), (d)(9), and (d)(11)(ii);

■ d. Revising paragraph (e) introductory text;

■ e. Adding paragraph (e)(10);

■ f. Revising the first sentence of paragraph (f)(1);

■ g. Revising paragraphs (f)(3)(i) and (ii) and (f)(5) introductory text;

■ h. Adding paragraph (f)(13);

■ i. Revising paragraph (g);

■ j. Revising paragraphs (h) introductory text and the first sentence of (h)(7) introductory text;

■ k. Adding paragraph (h)(8); and

■ l. Revising paragraph (k)(3)(i)(F).

The revisions and additions read as follows:

§ 63.1417 Reporting requirements.

* * * * *

(d) *Precompliance Report.* Owners or operators of affected sources requesting an extension for compliance; requesting approval to use alternative monitoring parameters, alternative continuous monitoring and recordkeeping, or alternative controls; requesting approval to use engineering assessment to estimate organic HAP emissions from a batch emissions episode as described in § 63.1414(d)(6)(i)(C); wishing to establish parameter monitoring levels according to the procedures contained in § 63.1413(a)(4)(ii); establishing parameter monitoring levels based on a design evaluation as specified in § 63.1413(a)(3); or following the procedures in § 63.1413(e)(2); or following the procedures in § 63.1413(h)(2), shall submit a Precompliance Report according to the schedule described in paragraph (d)(1) of this section. * * *

* * * * *

(8) If an owner or operator is complying with the mass emission limit specified in § 63.1405(a)(3), the sample of production records specified in § 63.1413(h)(2) shall be submitted in the Precompliance Report.

(9) If an owner or operator is complying with the mass emission limit specified in § 63.1406(a)(1)(iii) or (a)(2)(iii), § 63.1407(b)(2), or § 63.1408(b)(2), the sample of production records specified in § 63.1413(e)(2) shall be submitted in the Precompliance Report.

* * * * *

(11) * * *

(ii) Supplements to the Precompliance Report may be submitted to request

approval to use alternative monitoring parameters, as specified in paragraph (j) of this section; to use alternative continuous monitoring and recordkeeping, as specified in paragraph (k) of this section; to use alternative controls, as specified in paragraph (d)(5) of this section; to use engineering assessment to estimate organic HAP emissions from a batch emissions episode, as specified in paragraph (d)(6) of this section; or to establish parameter monitoring levels according to the procedures contained in § 63.1413(a)(4)(ii) or (a)(3), as specified in paragraph (d)(7) of this section.

(e) *Notification of Compliance Status.* For existing and new affected sources, a Notification of Compliance Status shall be submitted within 150 days after the compliance dates specified in § 63.1401. For equipment leaks, the Notification of Compliance Status shall contain the information specified in 40 CFR part 63, subpart UU. For storage vessels, continuous process vents, batch process vents, and aggregate batch vent streams, the Notification of Compliance Status shall contain the information listed in paragraphs (e)(1) through (9) of this section. For pressure relief devices subject to the requirements of § 63.1411(c), the owner or operator shall also submit the information listed in paragraph (e)(10) of this section in a supplement to the Notification of Compliance Status within 150 days after the first applicable compliance date for pressure relief device monitoring.

* * * * *

(10) For pressure relief devices in organic HAP service, a description of the device or monitoring system to be implemented, including the pressure relief devices and process parameters to be monitored (if applicable), and a description of the alarms or other methods by which operators will be notified of a pressure release.

(f) * * *

(1) Except as specified in paragraph (f)(12) of this section, a report containing the information in paragraph (f)(2) of this section or containing the information in paragraphs (f)(3) through (11) and (13) of this section, as appropriate, shall be submitted semiannually no later than 60 days after the end of each 180 day period. * * *

* * * * *

(3) * * *

(i) All information specified in 40 CFR part 63, subpart WW and subpart SS for storage vessels; 40 CFR part 63, subpart SS for continuous process vents required to comply with subpart SS; § 63.1416(d)(3)(ii) for batch process vents; and § 63.1416(e) for aggregate batch vent stream.

(ii) The daily average values, batch cycle daily average values, or block average values of monitored parameters for deviations, as specified in § 63.1413(i), of operating parameters. In addition, the periods and duration of periods when monitoring data were not collected shall be specified.

* * * * *

(5) If there is a deviation from the mass emission limit specified in § 63.1405(a)(3), § 63.1406(a)(1)(iii) or (a)(2)(iii), § 63.1407(b)(2), or § 63.1408(b)(2), the following information, as appropriate, shall be included:

* * * * *

(13) For pressure relief devices, Periodic Reports must include the information specified in paragraphs (f)(13)(i) through (iii) of this section.

(i) For pressure relief devices in organic HAP service subject to § 63.1411, report confirmation that all monitoring to show compliance was conducted within the reporting period.

(ii) For pressure relief devices in organic HAP gas or vapor service subject to § 63.1411(b), report any instrument reading of 500 ppm above background or greater, more than 5 days after the relief device returns to organic HAP gas or vapor service after a pressure release.

(iii) For pressure relief devices in organic HAP service subject to § 63.1411(c), report each pressure release to the atmosphere, including the following information:

(A) The source, nature, and cause of the pressure release.

(B) The date, time, and duration of the pressure release.

(C) An estimate of the quantity of total HAP emitted during the pressure release and the method used for determining this quantity.

(D) The actions taken to prevent this pressure release.

(E) The measures adopted to prevent future such pressure releases.

(g) *Reports of Malfunctions.* If a source fails to meet an applicable standard, report such events in the Periodic Report. Report the number of failures to meet an applicable standard. For each instance, report the date, time and duration of each failure. For each failure the report must include a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(h) *Other reports.* Other reports shall be submitted as specified in paragraphs (h)(1) through (8) of this section.

* * * * *

(7) Whenever a continuous process vent becomes subject to control requirements under § 63.1405(a), 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. * * *

* * * * *

(8) *Electronic reporting.* Within 60 days after the date of completing each performance test (as defined in § 63.2), the owner or operator must submit the results of the performance tests, including any associated fuel analyses, required by this subpart according to the methods specified in paragraphs (h)(8)(i) or (ii) of this section.

(i) For data collected using test methods supported by the EPA-provided software, the owner or operator shall submit the results of the performance test to the EPA by direct computer-to-computer electronic transfer via EPA-provided software, unless otherwise approved by the Administrator. Owners or operators, who claim that some of the information being submitted for performance tests is confidential business information (CBI), must submit a complete file using EPA-provided software that includes information claimed to be CBI on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: WebFIRE Administrator, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA by direct computer-to-computer electronic transfer via EPA-provided software.

(ii) For any performance test conducted using test methods that are not compatible with the EPA-provided software, the owner or operator shall submit the results of the performance test to the Administrator at the appropriate address listed in § 60.4.

* * * * *

(k) * * *

(3) * * *

(i) * * *

(F) If the daily average is not a deviation, as defined in § 63.1413(i), from the operating parameter, the data for that operating day may be converted to hourly average values, and the four or more individual records for each hour in the operating day may be discarded.

* * * * *

■ 25. Table 1 to Subpart OOO is amended by:

■ a. Removing entries 63.1(a)(6)–63.1(a)(8) and 63.1(a)(9);

■ b. Adding entries 63.1(a)(6) and 63.1(a)(7)–63.1(a)(9);
■ c. Revising entries 63.1(c)(4), 63.6(e), 63.6(e)(1)(i), and 63.6(e)(1)(ii);
■ d. Adding entry 63.6(e)(3);
■ e. Removing entries 63.6(e)(3)(i), 63.6(e)(3)(i)(A), 63.6(e)(3)(i)(B), 63.6(e)(3)(i)(C), 63.6(e)(3)(ii), 63.6(e)(3)(iii), 63.6(e)(3)(iv), 63.6(e)(3)(v), 63.6(e)(3)(vi), 63.6(e)(3)(vii), 63.6(e)(3)(vii)(A), 63.6(e)(3)(vii)(B), 63.6(e)(3)(vii)(C), 63.6(e)(3)(viii), and 63.6(e)(3)(ix);
■ f. Revising entries 63.6(f)(1), 63.7(e)(1), 63.8(c)(1)(i), 63.8(c)(1)(ii), 63.8(c)(1)(iii), and 63.10(d)(5); and
■ g. Removing footnote a.

The revisions and additions read as follows:

TABLE 1 TO SUBPART OOO OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOO AFFECTED SOURCES

Reference	Applies to subpart OOO	Explanation
* * * * * * *		
63.1(a)(6)	Yes	
63.1(a)(7)–63.1(a)(9)	No	[Reserved].
* * * * * * *		
63.1(c)(4)	No	[Reserved].
* * * * * * *		
63.6(e)	Yes	Except as otherwise specified in this table.
63.6(e)(1)(i)	No	See § 63.1400(k)(4) for general duty requirement.
63.6(e)(1)(ii)	No	
* * * * * * *		
63.6(e)(3)	No	
63.6(f)(1)	No	
* * * * * * *		
63.7(e)(1)	No	See § 63.1413(a)(2).
* * * * * * *		
63.8(c)(1)(i)	No	
63.8(c)(1)(ii)	No	
63.8(c)(1)(iii)	No	
* * * * * * *		
63.10(d)(5)	No	See § 63.1417(g) for malfunction reporting requirements.
* * * * * * *		

■ 26. Table 5 to Subpart OOO is amended by removing entry 63.1417(g) and adding entry 63.1417(h)(8) to read as follows:

TABLE 5 TO SUBPART OOO OF PART 63—REPORTS REQUIRED BY THIS SUBPART

Reference	Description of report	Due date
* * * * * * *		
63.1417(h)(8)	Electronic reporting	Within 60 days after completing performance test.

* * * * *

[FR Doc. 2014–23099 Filed 10–7–14; 8:45 am]
BILLING CODE 6560–50–P

at the bridge as soon as possible, but not more than one hour after malfunction or disability of the remote system.

* * * * *

Dated: October 30, 2014.

Stephen P. Metruck,

Rear Admiral, United States Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2014–27296 Filed 11–18–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA–HQ–OAR–2009–0234; EPA–HQ–OAR–2011–0044; FRL–9919–29–OAR]

RIN 2060–AS07

Reconsideration of Certain Startup/Shutdown Issues: National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units

AGENCY: Environmental Protection Agency.

ACTION: Final rule; notice of final action on reconsideration.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action on its reconsideration of the startup and shutdown provisions in the final rules titled, ''National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units.'' The national emission standards for hazardous air pollutants (NESHAP) issued pursuant to Clean Air Act (CAA) section 112 are referred to as the Mercury and Air Toxics Standards (MATS), and the new source performance standards (NSPS) issued pursuant to CAA section 111 are referred to as the Utility NSPS.

On November 30, 2012, the U.S. Environmental Protection Agency (EPA) granted reconsideration of, proposed, and requested comment on a limited set of issues in the February 16, 2012, final MATS and Utility NSPS, including certain issues related to the final work practice standards applicable during startup periods and shutdown periods. On June 25, 2013, the EPA reopened the public comment period for the reconsideration issues related to the startup and shutdown provisions of MATS and the startup and shutdown provisions related to the particulate matter (PM) standard in the Utility NSPS. The EPA is now taking final action on the standards applicable during startup periods and shutdown periods in MATS and on startup and shutdown provisions related to the PM standard in the Utility NSPS.

DATES: The effective date of the rule is November 19, 2014.

ADDRESSES: *Docket.* The EPA established two dockets for this action: Docket ID No. EPA–HQ–OAR–2011–0044 (NSPS action) and Docket ID No. EPA–HQ–OAR–2009–0234 (MATS NESHAP action). All documents in the dockets are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available (e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute). Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For the MATS NESHAP action: Mr. William Maxwell, Energy Strategies Group, Sector Policies and Programs Division (D243–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; Telephone number: (919) 541–5430; Fax number (919) 541–5450; Email address: *maxwell.bill@epa.gov.* For the NSPS action: Mr. Christian Fellner, Energy Strategies Group, Sector Policies and Programs Division (D243–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; Telephone number: (919) 541–4003; Fax number (919) 541–5450; Email address: *fellner.christian@epa.gov.*

SUPPLEMENTARY INFORMATION:

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

I. General Information
- A. Does this action apply to me?
- B. How do I obtain a copy of this document?
- C. Judicial Review

II. Background

III. Summary of This Action

IV. Summary of Final Action and Changes Since Proposal—MATS Startup/Shutdown Issues

V. Summary of Final Action and Changes Since Proposal—Utility NSPS

VI. Impacts of This Final Rule
- A. Summary of Emissions Impacts, Costs and Benefits
- B. What are the air impacts?
- C. What are the energy impacts?
- D. What are the compliance costs?
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VII. Statutory and Executive Order Reviews
- A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory 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 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. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
- K. Congressional Review Act

I. General Information

A. Does this action apply to me?

Categories and entities potentially affected by this action include:

Category	NAICS Code [1]	Examples of potentially regulated entities
Industry	221112	Fossil fuel-fired electric utility steam generating units.
Federal government	[2] 221122	Fossil fuel-fired electric utility steam generating units owned by the federal government.
State/local/tribal government	[2] 221122	Fossil fuel-fired electric utility steam generating units owned by municipalities.

Category	NAICS Code [1]	Examples of potentially regulated entities
	921150	Fossil fuel-fired electric utility steam generating units in Indian country.

[1] North American Industry Classification System.
[2] Federal, state, or local government-owned and operated establishments are classified according to the activity in which they are engaged.

This table is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. To determine whether your facility, company, business, organization, etc., would be regulated by this action, you should examine the applicability criteria in 40 CFR 60.40, 60.40Da, or 60.40c or in 40 CFR 63.9982. If you have any questions regarding the applicability of this action to a particular entity, consult either the air permitting authority for the entity or your EPA regional representative as listed in 40 CFR 60.4 or 40 CFR 63.13 (General Provisions).

B. How do I obtain a copy of this document?

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

C. Judicial Review

Under CAA section 307(b)(1), judicial review of this 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 January 20, 2015. Under CAA section 307(d)(7)(B), only an objection to this final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Note, under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

II. Background

On February 16, 2012, the final MATS and the Utility NSPS rules were published in the **Federal Register**. 77 FR 9304. Following promulgation of the final rules, the Administrator received petitions for reconsideration of various provisions of both MATS and the Utility NSPS pursuant to CAA section 307(d)(7)(B), including requests to reconsider the work practice standards applicable during startup periods and shutdown periods that were included in the final rule. Copies of the MATS petitions are provided in Docket ID No. EPA–HQ–OAR–2009–0234. Copies of the Utility NSPS petitions are provided in Docket ID No. EPA–HQ–OAR–2011–0044. The EPA granted reconsideration of the startup and shutdown provisions because the agency proposed to require sources to comply with the numeric standards at all times and did not propose a work practice standard for startup periods and shutdown periods; thus, the public was not provided an opportunity to comment on the work practice requirements contained in the final rule.[1] On November 30, 2012, the EPA published a proposed rule reconsidering certain new source standards issued in MATS and the startup and shutdown provisions in MATS and the Utility NSPS, among other things. 77 FR 71323. The EPA proposed certain minor changes to the startup and shutdown provisions contained in the 2012 final rule based on information obtained in the petitions for reconsideration. On April 24, 2013 (78 FR 24073), the EPA took final action on the new source standards that were reconsidered and also the technical corrections contained in the November 30, 2012, proposed action. The EPA did not take final action on the startup and shutdown provisions, and, on June 25, 2013, the EPA added new information and analysis to the docket and reopened the public comment period for the proposed revisions to the startup and shutdown provisions in MATS and the startup and shutdown provisions related to the PM standard in the Utility NSPS.

III. Summary of This Action

This final action includes final amendments to the startup and shutdown provisions of the final MATS and Utility NSPS issued by the EPA on February 16, 2012. This action does not alter or reopen any other MATS or Utility NSPS provisions, including those provisions recently upheld by the U.S. Court of Appeals for the District of Columbia Circuit (Court) in *White Stallion Energy Center* v. *EPA* on April 15, 2014. 784 F.3d 1222 (D.C. Cir. 2014). The February 2012 final rule is and remains in effect for all sources, and existing sources must comply with the final rule by April 16, 2015, or seek an extension of that compliance date from the appropriate title V permitting authority.

The November 30, 2012, proposed reconsideration rule reopened, among other things: (1) The requirements applicable during startup periods and shutdown periods in MATS, and (2) the startup and shutdown provisions related to the PM standard in the Utility NSPS. We are taking final action today on the requirements for startup periods and shutdown periods contained in 40 CFR Part 63, subpart UUUUU, and 40 CFR Part 60, subpart Da.

As noted above, in the proposed reconsideration rule, the EPA proposed revisions to, and took comment on, the definitions of "startup" and "shutdown" and the work practice requirements associated with those periods in the final MATS rule. The EPA also took comment on the startup and shutdown provisions relating to the PM standard in the Utility NSPS. The EPA received a number of comments regarding the proposed startup and shutdown provisions, including data and information relevant to the proposed work practice standard that applies during such periods, and the agency also reviewed EGU nitrogen oxides (NO_X) and sulfur dioxide (SO_2) emissions data generated during startup periods and shutdown periods and submitted to the EPA pursuant to title IV of the CAA (i.e. the Acid Rain Program). On June 25, 2013 (78 FR 38001), the EPA reopened the public comment period on the startup/shutdown provision and solicited comment on both the public comments

[1] The EPA continues to believe that the final existing source standards contain sufficient variability to include startup periods and shutdown periods. Furthermore, in light of what we have learned concerning the performance of the best performing sources during startup and shutdown (e.g., clean fuel use and efficient engagement of air pollution control devices (APCDs)), we believe that the best performing electric utility steam generating units (EGUs) for startup periods and shutdown periods will have hazardous air pollutant (HAP) emissions that are lower than the numeric standards, when averaged over the startup and shutdown period as defined. However, as explained in the record, the lack of HAP data for these periods and the current technical challenges to accurately measure HAP emissions during startup and shutdown cause us to establish a work practice for such periods.

provided in response to the November 30, 2012, proposal, as well as the startup and shutdown technical support document (TSD) that was based on the Acid Rain Program data that was made available in the docket.[2] The agency has reviewed all of the comments received on the startup and shutdown issues. As described below, the EPA is taking final action on the startup and shutdown provisions in MATS and the Utility NSPS.

Because this final rule is very similar to the February 2012 final rule, the impacts of these revisions on the costs and the benefits of the final rule are minor.

IV. Summary of Final Action and Changes Since Proposal—MATS Startup/Shutdown Issues

After consideration of the public comments received and other information, the EPA is finalizing the startup and shutdown provisions contained in the final MATS rule and we are also finalizing an alternative compliance option for startup periods and shutdown periods.[3] We address several significant comments in this preamble. For a complete summary of the comments received on the issues we are finalizing today and our responses thereto, please refer to the memorandum "National Emission Standards For Hazardous Air Pollutants From Coal- And Oil-Fired Electric Utility Steam Generating Units—Reconsideration Of Certain Startup/Shutdown Issues; Summary Of Public Comments And Responses" (RTC) in Docket ID No. EPA–HQ–OAR–2009–0234.

As discussed in more detail below, the alternative work practice standard for startup periods and shutdown periods requires coal- and oil-fired EGUs to initiate startup using only clean fuels and to continue combusting the maximum amount of clean fuels possible at the facility throughout the entire startup period. EGUs that chose to comply with the alternative work practice will be required to have sufficient clean fuel capacity to startup and warm the facility to the point where the primary PM controls (e.g., fabric filters (FFs) and electrostatic precipitators (ESPs)) can be brought on line at the same time as, or within 1 hour of, the addition of the primary fuel (i.e., coal, residual oil, or solid oil-derived fuel) to the EGU. If a facility does not have sufficient clean fuel capacity to enable initiation and operation of the PM controls within 1 hour of addition of primary fuel, then the source will have to increase its clean fuel capacity or take other action to comply with the work practice requirements in this final rule.[4] The alternate included in this final rule also requires EGUs to comply with the applicable numeric standards within 4 hours of the generation of electricity or thermal energy for use either on site or for sale over the grid (i.e., the end of startup) and to continue to maximize clean fuel use throughout that period.

The EPA has established these final alternative requirements after determining what the best performing EGUs do during startup periods and shutdown periods. The EPA used several different metrics to determine the best performing sources for various aspects of the work practice requirements and definitions. Specifically, concerning the use of clean fuels, the comments received and the Acid Rain data in the record indicate that most EGU operations start using clean fuels and that many of those EGUs generate electricity while using clean fuels and/or routinely engage their PM controls before or within 1 hour of beginning to combust coal, residual oil, or solid oil-derived fuel. The clean fuels identified by the commenters and included in the final rule are inherently cleaner from a HAP emissions perspective than coal, residual oil, or solid oil-derived fuel, and, for this reason, maximizing the use of clean fuels during startup will greatly limit the emissions of HAP while EGUs are warming up to temperatures sufficient to engage the air pollution control devices (APCDs). Thus, we considered those EGUs that use clean fuels for the longest period of time before the introduction of coal and the generation of electricity to be the best performing EGUs because they are likely to have the lowest amount of HAP emissions during the startup period. In addition, the best performing EGUs were also determined to be those with the ability to engage PM control devices at the time (i.e., within 1 hour) of introduction of primary fuel. Further, we believe all of the concerns raised by commenters about the ability to engage the PM controls can be safely resolved to allow compliance with the final work practice, as explained in the RTC.[5] We believe it is appropriate to use generation of electricity as an indicator of startup for two reasons. First, the information we have indicates that the only reason the owner/operator of an EGU chooses to fire fuel in a boiler is to generate electricity. Therefore, any event that starts with firing of fuel in a boiler that has been shut down will culminate in generation of electricity. Second, introduction of coal to the boiler is also always associated with generation of electricity. The TSD and other information confirm our understanding.

For determining the appropriate time after generation to define the end of startup (i.e., the time when the numerical standards apply), the EPA conducted an analysis of continuous emission monitor system (CEMS) data for NO_X and SO_2 from EGUs to determine the range of times after initial generation of electricity or thermal energy that EGUs typically take to engage and operate all of their APCDs. The EPA determined the best performing 12 percent of EGUs by identifying those EGUs that were able to engage their APCDs most quickly after the initial generation of electricity or thermal energy and averaged that time to determine the end of the startup period when the numeric standards would become applicable. Specifically, we evaluated the average startup period for the best performing 12 percent of EGUs for which the EPA has the relevant data (i.e., those with the relevant NO_X and/or SO_2 controls). We

[2] The EPA is still reviewing the other issues raised in the petitions for reconsideration and is not taking any action at this time with respect to those issues.

[3] This preamble does not discuss the startup and shutdown provisions provided in the February 2012 final MATS rule. (See 77 FR 9486, 9493–9494.) We are not altering those provisions in this final action. However, the critical control requirement (i.e., the requirement to use clean fuels to start and warm the EGU and relevant controls prior to coal, residual, or solid oil-derived fuel combustion, as well as recordkeeping and reporting procedures for those requirements) is the same for both. We are maintaining the final rule approach and will evaluate the continued need for the alternative definition during our ongoing 8-year reviews. We intend to use HAP and HAP surrogate data collected during periods of startup and periods of shutdown to evaluate the accuracy of CEMS from the start of electricity generation to the end of startup as defined under the alternative included in this final rule (i.e., 4 hours after electricity generation). We will use these data to help determine whether it is appropriate to make changes to the rule in the future.

[4] We note that the startup and shutdown provisions contained in the February 16, 2012, final MATS rule also required EGUs to maximize clean fuels during startup periods and shutdown periods, as sources are required to comply with all MATS and NSPS standards at the time of electricity generation. Therefore, EGUs complying with the work practice as finalized on February 16, 2012, will necessarily be required to warm their units on clean fuels alone for extended periods unless the operators determine that compliance over the 30-day averaging period can be achieved without certain HAP controls for a portion of time after the defined startup period. EGU operators may conclude compliance without controls for a short period after startup is possible for a number of reasons, including the variability included in the numeric standards and our understanding from regulating many HAP categories that sources generally over-control to ensure a compliance margin is maintained.

[5] See, e.g., EPA–HQ–OAR–2009–0234–20269, –20275, and –20303.

used 12 percent of the sources with the relevant controls because the metric upon which the end of startup is based depends on the presence of the relevant controls, not on the actual NO_X and SO_2 emissions. Thus, sources without the relevant controls cannot be compared against sources with the relevant controls for purposes of defining the end of startup in this final rule. CAA section 112(d)(3)(A) directs the EPA to establish MACT floor standards based on the performance on the best performing 12 percent of sources for which the Administrator has data, and, in this case, the agency does not have relevant data from all sources in the category. For this reason, it is reasonable to establish the work practice based on 12 percent of the sources with the relevant data (i.e., those EGUs with the relevant NO_X or SO_2 controls).

We used this approach to determine the end of startup because it is reasonable to expect the EGUs that are able to most quickly and efficiently engage their controls after the generation of electricity to be the best performing sources and to have the lowest HAP emissions during and directly after the startup period, and because we are confident that EGUs will be able to accurately measure HAP emissions with CEMS at this time. The requirement to maximize the use of clean fuels (with inherently low HAP emissions) during the startup period ensures that HAP emissions are minimized during that time. Because EGUs subject to Acid Rain Program requirements are required to submit continuous NO_X and SO_2 data to the EPA, the agency believes it has data on all startup events from those EGUs subject to that program, which comprise nearly all EGUs subject to this rule, for over a decade. Thus, we believe we have a full data set from which to determine the end of the startup period for the best performing 12 percent of sources for which we have the relevant data.[6] We maintain it is reasonable to use the CAA section 112(d)(3) metric for establishing MACT floors for existing sources as a starting point for determining the appropriate work practice when presented with such comprehensive data. *See* CAA 112(h)(1) (directing the agency to establish a work practice standard ''which in the Administrator's judgment is consistent with the provisions of subsection (d) or (f) of this section.'').

[6] We note that these data are not reliable for quantifying emissions for this analysis but, rather, the data allow us to evaluate when controls are turned on for the purpose of determining when startup ends.

For shutdown periods, the EPA determined that sources could cease adding coal or oil to the EGU prior to shutting down the APCDs. We determined that sources able to run their control devices even after coal or oil is added to the EGU for the last time before shutdown were the best performing sources because HAP emissions would be minimized as the EGU combusts the remaining coal or oil in the boiler.

The final work practice standard, when applied across the industry, will greatly reduce HAP emissions during startup periods and shutdown periods. The requirement to maximize clean fuel use throughout the startup period will significantly limit HAP emissions because of the inherently low HAP emissions associated with the clean fuels identified in 40 CFR 63.10042.[7] In addition, the requirement to engage and operate PM controls as expeditiously as possible and within 1 hour of coal, residual oil, or solid oil-derived fuel combustion will limit HAP emissions that are particulate in nature throughout the remainder of the startup period. We believe that application of this work practice will lead to HAP emissions during startup periods and shutdown periods that are comparable to, and potentially lower than, those levels authorized during normal operations when averaged over the entire startup and/or shutdown period. During the 8-year review required under CAA section 112(d)(6), the agency intends to further assess HAP emissions during startup and shutdown based on data collected from sources complying with the final rule, though we recognize that prospectively our ability to establish numerical standards during startup periods and shutdown periods will depend, at least in part, on the further development of testing methodologies that will allow the agency to accurately measure emissions during those periods with an acceptable level of certainty.

The specific provisions of the alternative startup and shutdown requirements and our rationales for those provisions are discussed in more detail below and in the RTC document in Docket ID No. EPA–HQ–OAR–2009–0234.

[7] Natural gas is one of the clean fuels identified in this final rule and the agency determined in 2000 that it was neither appropriate nor necessary to regulate natural gas-fired EGUs because the impacts from HAP emissions from such units are ''negligible.'' See ''Regulatory Finding on the Emissions of Hazardous Air Pollutants from Electric Utility Steam Generating Units,'' 65 FR 79825, 79831 (December 20, 2000).

1. Definitions

In the November 2012 reconsideration proposal, we proposed revisions to the definitions of startup and shutdown contained in the final MATS rule and set forth in 40 CFR 63.10042, after receiving petitions for reconsideration of the startup and shutdown provisions in the final MATS rule. Petitioners asserted, among other things, that the final rule's definitions of startup and shutdown were not sufficiently clear, should accommodate operation of cogeneration units, and did not accurately reflect startup conditions for all affected units. We received additional comments on these issues during the public comment periods. For more discussion of the petitions for reconsideration and the comments on the definitions in the final rule, see the RTC in Docket ID No. EPA–HQ–OAR–2009–0234.

As a result of comments received on the November 2012 proposal and the June 2013 reopening of the public comment period, we have further revised the proposed definitions as follows.

a. Startup. The definition of startup in the November 2012 reconsideration proposed rule was similar to the definition the EPA finalized in MATS in February 2012. In this final reconsideration rule, we have maintained the final MATS definition of startup and, in addition, are finalizing an alternative definition of startup based on the November 2012 proposal and the analysis in the startup and shutdown TSD. Sources may choose to use either definition of startup when complying with the startup and shutdown requirements. We are finalizing both definitions because we believe that they both meet the requirements of CAA section 112 to reduce HAP emissions during this time period and will provide operators with flexibility, even though we question the ability to accurately measure HAP emissions at the start of electricity generation. A discussion of the comments and analyses that led to inclusion of the alternative startup definition is provided below.

In the November 2012 reconsideration proposal, the EPA proposed that startup be defined as the period in which operation of an EGU is initiated for any purpose. The proposed definition indicated that startup begins with either the first-ever firing of fuel in an EGU for the purpose of producing electricity or useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes or the firing of fuel in an EGU for any purpose after a shutdown event. The proposed

definition indicated that startup ended when the EGU generates electricity that is sold or used for any other purpose (including on site use), or the EGU makes useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes, whichever is earlier. The agency received comments stating that the general approach provided in the proposed definition of ''startup'' (particularly the end of startup) was directionally correct but did not allow sufficient time for the APCDs to become effective and, thus, the industry was concerned that some EGUs would not be able to achieve the MATS emission limits finalized in the February 2012 rule at the end of startup as defined in the final MATS rule. The comments further stated the opinion that startup did not end with first generation of electricity or production of steam as the EPA had proposed. Instead, some comments suggested that the defined end of startup should be changed to be 4 hours after 25-percent load is first reached or 12 hours after first electricity generation, whichever occurs first. Some comments stated that even longer time periods were necessary for certain types of EGUs, that different startup periods should be defined for different types of EGUs, and that additional consideration should be given to a wider variety of APCDs. Other comments maintained that the definition in the final MATS rule was appropriate and indicated that any extension of time during which the EGUs were not subject to the final rule's emission limits was not in accordance with CAA section 112.

The EPA disagrees with the commenters to the extent they maintain that a work practice is required after emissions can be accurately measured or that the agency is bound to the time contained in the final rule where, as here, we conclude that the HAP measurement methodologies are not capable of accurately measuring HAP emissions during the defined startup period. The EPA did, however, conduct an additional technical analysis after its initial review of the comments and in June 2013 published a document reopening the public comment period. The document specifically requested comment on the additional technical analysis the EPA had conducted in response to comments received concerning the end of startup. See ''Assessment of startup period at coal-fired electric generating units'' (Docket ID No. EPA–HQ–OAR–2009–0234–20378). In the analysis, the EPA examined several indicators that allowed the agency to assess the time required to engage APCDs at affected EGUs. Using these indicators, we found no significant difference in performance related to startup between the different groups or types of EGUs assessed in the analysis (e.g., circulating fluidized bed (CFB), stoker, subcritical, supercritical). We further indicated that the results of our analysis supported defining the end of startup at coal- and oil-fired EGUs as occurring at the time to achieve 25 percent of the EGU's nameplate generating capacity (megawatts, MW) plus 3 hours, or the start of electricity generation plus 6 hours, whichever comes first.

The EPA has reviewed all of the comments received on the proposed definition of startup in response to these two opportunities for public comment and has revised the June 2013 analysis. Based on this review, we are finalizing a revised definition of ''startup'' that uses the approach outlined in the June 2013 assessment with revisions as discussed below.

Defining the End of ''Startup''

The June 2013 analysis suggested a potential end time for startup of 6 hours after the start of electricity generation or 3 hours after a coal- or oil-fired EGU reaches 25 percent of nameplate capacity, whichever occurs first. In other words, 6 hours after the start of generation or 3 hours after reaching electricity generation equal to 25 percent of nameplate capacity, whichever comes first, an EGU would have to start monitoring and reporting its emissions for the purpose of complying with the numeric emissions standards contained in MATS.

The EPA took this approach because we determined that flue gas conditions will be adequate to accurately measure HAP emissions with CEMS 4 hours after the generation of electricity. The approach evaluated the time for all APCDs to be functioning because we determined that stack conditions will be stable at this point. The analysis was based on our review of hourly SO_2 and NO_X emissions from CEMS installations from nearly 9,500 distinct startup events at more than 400 coal-fired EGUs, including CFB boilers, and subcritical and supercritical pulverized coal boilers equipped with SO_2 APCDs (e.g., wet or dry flue gas desulfurization (FGD)) and/or NO_X APCDs (e.g., selective catalytic reduction (SCR)). The EPA analyzed hourly SO_2 and NO_X emissions primarily because changes in SO_2 and NO_X emissions are reasonable indicators of when APCDs are operational and stack conditions will be sufficiently stable to allow for accurate measurement of HAP emissions with CEMS. We also note that SO_2 emissions are a surrogate for acid gases (e.g., hydrogen chloride); SO_2 APCDs can be used for co-benefit mercury (Hg) control; and NO_X SCR APCDs may increase the oxidation of Hg, influencing the effectiveness of Hg controls.[8] The goal of the analysis was to identify the approximate time it took, on average, to initiate operation of SO_2 and NO_X APCDs because it was those controls (e.g., scrubbers and SCR) that industry commenters stated required additional time to engage after the start of generation of electricity or useful thermal energy. The goal in conducting the analysis was not to determine the time it took for APCDs at all EGUs to become fully operational, but instead to determine the average time for the engagement of APCD to determine a reasonable end of startup.

The EPA received detailed comments on the June 2013 analysis and the proposed rule. Although commenters' opinions varied, the EPA identified three distinct groups of comments. The first group agreed with the EPA's approach to define a time limit following the start of generation, but many commenters suggested that more time was necessary to safely and/or fully engage APCDs. The second group commented that CAA section 112 requires the EPA to establish standards based on the average of the best performing 12 percent of EGUs, not the average of the fleet. The third group disagreed with the EPA's approach, stating that many APCDs could not be fully functional within the time limits specified by the EPA, and citing the need for greater flexibility.

The EPA evaluated the information provided by commenters and considered the different approaches to define the end of startup.[9] After careful consideration and in light of issues raised in comments and data provided, the EPA has revised its initial approach for determining the end of startup in

[8] The EPA did not include hourly PM data in this analysis because PM CEMS data are not available and PM CEMS have not yet been certified to accurately measure during periods of startup and periods of shutdown as defined in this final rule.

[9] It is important to remember that the hour at which startup ends is the hour at which reporting for the purpose of determining compliance begins. Therefore, EGUs must collect and report emissions and heat input or generation data following the end of startup. These data are used in calculating whether an EGU is in compliance with the 30-day average emission limits. MATS does not mandate that all APCDs must be fully operational at the end of startup (nor does it mandate that emissions during any given hour during this period must be below the 30-day average emission limits); rather, MATS mandates only that sources comply with the MATS emission standards at that time.

several respects. First, in the June 2013 analysis, we did not attempt to identify the EGUs that were the best performing sources, but instead simply looked at a category-wide average time for engagement of APCDs. As certain commenters noted, the category-wide average may not satisfy the CAA section 112(h) requirement that the EPA establish work practice standards "which in the Administrator's judgment [are] consistent with the provisions of subsections (d) or (f) of this section [112]." To more appropriately track this statutory directive, the EPA revised the analysis and identified the EGUs that were able to most quickly engage their APCDs because we determined that the best performing EGUs for purposes of defining the end of startup are those that are able to most efficiently engage their controls after the start of electricity generation. The EPA then averaged the time it took for such EGUs to bring their APCDs on line to determine a reasonable time after generation of electricity to define the end of startup. The EPA chose this approach in the final rule because we believe it most closely follows the requirements of CAA section 112.

The EPA analysis of startup events at coal-fired EGUs indicates that the best performing EGUs can, on average, initiate operation of their SO_2 and NO_X APCDs within 4 hours following the start of generation (see Technical Support Document (TSD) titled "Assessment of startup period at coal-fired electric generating units—Revised" in Docket ID No. EPA–HQ–OAR–2009–0234). In addition, the Agency is confident that stack conditions at this time are conducive for accurate measurements of HAP emissions using CEMS. For these reason, and because SO_2 can be used as a surrogate for the control of acid gases and SO_2 and NO_X APCDs can impact the control of Hg emissions, and because we believe based on comments and other information that SO_2 and NO_X controls are generally the last APCDs to be engaged, the EPA has determined that the end of startup should be defined as the end of the 4th hour following the start of generation of electricity or useful thermal energy. The agency has also determined that it is not necessary to include any additional variability because the agency believes it has information on all of the startup events from the EGUs with the relevant data so startup time variability is fully represented in the available data.

b. Shutdown. The EPA is maintaining the definition of "shutdown" proposed in the November 2012 action, and further requiring that all APCDs must be operated as long as coal, residual oil, or solid oil-derived fuel is being fired in the EGU and as long thereafter as possible, considering safety and system integrity.

The RTC contains a summary of the comments received on this topic and the EPA's response to those comments.

2. Work Practice Standards and Clean Fuels

The final work practice for startup periods requires EGUs to initiate startup using clean fuels and to combust only clean fuels until primary fuel (e.g., coal, residual oil, or solid oil-derived fuel) is fed into the EGU, at which time the EGU must engage and operate its PM controls as soon as possible and no later than 1 hour thereafter. After engagement of PM controls, EGUs are required to maintain maximum clean fuel use until the end of startup (i.e., 4 hours after the start of generation of electricity or useful thermal energy). The maximization of clean fuel use after addition of primary fuel to the EGU assures that the least amount of HAP possible will be emitted from the units during the startup period. The final rule also includes more fuels on the list of clean fuels that may be combusted during startup periods and shutdown periods, as discussed below.

The EPA is finalizing a requirement in the work practice that PM controls be engaged and operated within 1 hour of coal, residual oil, or solid oil-derived fuel being fired. In the November 2012 proposal, the EPA proposed to require that once an EGU starts firing coal, residual oil, or solid oil-derived fuel, all of the applicable control devices had to be engaged, with certain listed exceptions. PM-specific control devices were not included in that list of excepted controls because the EPA believed that PM controls on EGUs could be engaged (i.e., operational) at the best performing EGUs at the time the primary fuel (i.e., coal, residual oil, or solid oil-derived fuel) is fired. The EPA has reviewed both the record and the comments received, and we have determined that the EGUs that are able to engage PM controls (through either use of PM-specific controls (e.g., ESP, FF) or wet FGD scrubber system alone or in conjunction with PM controls) within 1 hour following the initiation of firing of coal, residual oil, or solid oil-derived fuel are the best performing sources for purposes of minimizing particulate HAP emissions during startup periods.[10] Therefore, we are finalizing a requirement that an owner/operator must engage and operate the PM controls within 1 hour of first firing of coal, residual oil, or solid oil-derived fuel.

Moreover, in order to demonstrate an EGU's capacity to maximize the use of clean fuels during startup periods and its ability to bring PM control devices online in an expeditious manner following first firing of coal, residual oil, or solid oil-derived fuel, the rule now requires EGU owners or operators to determine and report each EGU's maximum storage capacity for clean fuels and maximum capacity for heat input while combusting clean fuels alone. The rule also requires EGU owners or operators to identify, record, and report semiannually each instance of startup or shutdown, specifying the dates and times that clean fuel use begins and ends; the dates and times that primary (i.e., coal or oil) fuel use starts or ends; and the hourly clean fuel usage, heat input, and electrical output.

In addition, for those non-liquid oil-fired EGUs not using PM CEMS, HAP metals CEMS, or PM continuous parameter monitoring system (CPMS) as a compliance determination method or not meeting low emitting EGU (LEE) status[11] for PM or non-mercury HAP metals emissions or those liquid oil-fired EGUs not using PM CEMS or PM CPMS as a compliance determination method or not meeting LEE status for PM or HAP metals emissions, parametric monitoring data will be required to help show PM control device effectiveness upon first use of coal, residual oil, or solid oil-derived fuel. This type of data is not required from EGUs using PM CEMS, HAP metals CEMS, or PM CPMS, as those instruments are already required to provide these data during startup periods; those data are suitable for assessing how soon and how well PM control devices are operating. Likewise, once EGUs meet the LEE status for PM or non-mercury HAP metals emissions for non-liquid oil-fired EGUs (or HAP metals emissions for liquid oil-fired EGUs), they will no longer need to supply additional information regarding PM control device operation during startup periods, for it is reasonable to expect their PM control devices to be properly sized and operated in order to demonstrate consistent operation at less than 50 percent of the emissions limit over a 3-year period. It is also reasonable to expect that the information recorded and calculated during startup periods and shutdown periods from LEE-eligible EGUs will show better emissions performance

[10] Docket ID Nos. EPA–HQ–OAR–2009–0234–20269, EPA–HQ–OAR–2009–0234–20275.

[11] See 40 CFR 63.10005(h).

when compared to similar information obtained from EGUs without LEE status.

Upon initiation of first use of coal, residual oil, or solid oil-derived fuel, EGUs not using PM CEMS or PM CPMS as a compliance determination method or not meeting LEE status for PM or non-mercury HAP metals emissions for non-liquid oil-fired EGUs (or HAP metals emissions for liquid oil-fired EGUs) are also required to record hourly and report semi-annually the pre- and post-PM control device flow rates and temperatures, as well as fan amps. Moreover, the PM control device-specific parameters are required to be recorded hourly and reported semi-annually. The EGUs with ESPs are required to record the number of fields in service and the secondary current and voltage for each hour of startup and shutdown. The EGUs with FFs are required to record the number of compartments in service and the differential pressure across the baghouse. Finally, the EGUs with wet scrubbers that are necessary for filterable PM emission control will record scrubber liquid-to-flue gas ratios and scrubber liquid differential pressure for each hour of startup and shutdown.

Given that we do not have much information concerning continuous PM emissions or PM emission control devices during periods of startup, the final rule requires owners or operators of EGUs that choose to use definition (2) of ''startup'' contained in 40 CFR 63.10042 to provide a report prepared by an independent professional engineer that describes the EGU, PM emissions, and PM emissions control devices both as designed and in their current form. This information will show how each EGU is able, or has been modified, to meet the requirements of this rule. In addition, the information will specify the time needed to engage PM emission control devices from initial fuel combustion in the EGU; the effectiveness of each PM emission control device, both upon control device startup and at normal operation; the PM emission rate; and the uncontrolled PM emissions rate. The report will be submitted as part of the EGU's Notification of Compliance Status, and the information contained in the report will aid us in determining whether or not additional work practice requirements may be needed during startup periods to minimize HAP emissions.

Finally, the EPA acknowledges the comments asserting safety issues that must be considered during startup of PM controls (e.g., carbon monoxide buildup, fabric blinding). We believe that almost all EGUs will be able to alter their source through any number of means, including increasing clean fuel capacity and modifying APCD operation, and comply with the final work practice requirements; however, we recognize that there may be rare occasions that preclude a viable compliance option consistent with the final rule. Therefore, we are finalizing that an owner/operator may submit to the Administrator a request for an EGU-specific case-by-case emission standard consistent with 40 CFR 63.6(g). Such a request requires notice-and-comment rulemaking. Approval or disapproval authority for this type of request is delegated to the Assistant Administrator of the Office of Air and Radiation, and, for purposes of this rule, will be delegated no further.[12] However, the EPA will only consider requests that provide evidence of a documented manufacturer-identified safety issue and can provide proof that the PM control device is adequately designed and sized to meet the final PM emission limit. As identified in 40 CFR 63.10011(g)(4), in its request for the case-by-case determination, the owner/operator must provide, among other materials, documentation that: (1) The EGU is using clean fuels to the maximum extent possible to bring the EGU and PM control device up to the temperature necessary to alleviate or prevent the identified safety issues prior to the combustion of primary fuel in the EGU, (2) the EGU has explicitly followed the manufacturer's procedures to alleviate or prevent the identified safety issue, (3) the source provides details of the manufacturer's statement of concern, and (4) the source provides evidence that the PM control device is adequately designed and sized to meet the final PM emission limit. In addition, the source will have to indicate the other measures it will take to limit HAP emissions during startup periods and shutdown periods to ensure a control level consistent with the final work practice requirements. In order to ensure compliance with the work practice standards during startup periods, EGU owners or operators who request an alternative non-opacity emission standard shall comply with definition (1) of startup contained in 40 CFR 63.10042 (i.e., the definition contained in the final rule promulgated on February 12, 2012) [13] until the final alternative non-opacity emission standard is promulgated in the **Federal Register**.

We also proposed several revisions to the work practice standards issued in the final MATS rule in response to petitions on the final rule. Petitioners asserted that the final rule's work practice standards should include additional fuels as ''clean fuels'' and recognize operating limitations of certain EGU types and APCDs. Specifically, petitioners contended that the list of clean fuels required for use during startup in order to minimize emissions should include, among others, synthetic natural gas, synthesis gas (syngas), biodiesel, and ultra-low sulfur diesel (ULSD). The EPA has also been informed that propane is used to startup some EGUs.

In this final action, we are adding certain synthetic natural gas (that meets the specification necessary for that gas to be transported on a Federal Energy Regulatory Commission (FERC) regulated pipeline), synthesis gas that has been processed through a gas clean-up train such that it is suitable for use in the system's combustion turbine, and ULSD to the list of clean fuels. In addition, the EPA does see merit, as suggested by some commenters, of further broadening the definition of ''clean fuels.'' After reviewing other rules that use or require clean fuels, we believe that inclusion of those fuels meeting the requirements of 40 CFR Part 80, subpart I (''Subpart I—Motor Vehicle Diesel Fuel; Nonroad, Locomotive, and Marine Diesel Fuel; and ECA Marine Fuel'') is appropriate. Specifically, the definitions and provisions of 40 CFR 80.2, 80.501, 80.510, and 80.520 address sulfur content restrictions relating to distillate, diesel (including ULSD), and biodiesel fuels. The EPA believes that requiring use of clean fuels, including those we are adding in this final rule, for EGUs will significantly limit the HAP emissions from these sources during startup periods and shutdown periods. For example, information provided to the EPA on another rulemaking (found in Docket ID No. EPA–HQ–OAR–2008–0708–1459) [14] showed that the use of ULSD will significantly reduce emissions of air toxics, including metallic HAP (e.g., nickel, zinc, lead (Pb)) compared to the use of ''regular'' diesel. The EPA also believes that combustion of the other 40 CFR Part 80, subpart I, fuels meeting the subject definitions will cause significantly lower HAP emissions than

[12] See Delegation 7–121 and *Delegation of Authority under the Clean Air Act to Approve Alternatives to Test Methods and Procedures in Parts 60, 61, 63, and 65,* from Gina McCarthy to Stephen Page, September 30, 2011, in docket ID EPA–HQ–OAR–2009–0234.

[13] See 77 FR 9303; February 16, 2012.

[14] Email and attachments from Paul Miller, NESCAUM, to Melanie King, EPA. NESCAUM's RICE NESHAP comments. October 11, 2012, also found in Docket ID No. EPA–HQ–OAR–2009–0234.

coal and residual oil, and, as stated above, EGUs must use clean fuels to the maximum extent possible during startup periods and shutdown periods.

We are maintaining the work practice requirement in the final MATS that requires EGU source owners and operators, when firing coal, residual oil, or solid oil-derived fuel in the EGU during startup or shutdown, to vent emissions to the main stack(s) and operate all control devices necessary to meet all operating and emissions standards that are applicable to the source pursuant to other CAA or state requirements. In addition, any partial (fractional) operating hour that may occur at the beginning of a startup period or at the end of a shutdown period is to be flagged in reports as an hour of startup or shutdown.

For more discussion of each of these issues, please refer to the RTC, the TSD, and the memo "Startup and shutdown provisions" (Docket ID No. EPA–HQ–OAR–2009–0234–20224) in Docket ID No. EPA–HQ–OAR–2009–0234.

3. Treatment of IGCC EGU Syngas

The EPA is finalizing both the use of flares and the use of duct burners for integrated gasification combined cycle (IGCC) units to handle syngas not combusted in the turbine during startup periods and shutdown periods.

An IGCC EGU includes both a gasification unit and a combustion unit and syngas is generated in the gasifier for the primary purpose of being combusted in the associated combustion turbine. The EPA understands that, in some cases, the gasified fuel can be used for other purposes such as the production of chemicals (e.g., fertilizers, methanol) if the facility has been designed to do so. During the startup periods and shutdown periods, some or all of the syngas produced for the purpose of power production may not be combusted in the turbine. We proposed two options for IGCC EGUs for handling syngas not fired in the combustion turbine: (1) Syngas must be flared, not vented, or (2) syngas must be routed to duct burners, which may need to be installed, and the flue gas from the duct burners must be routed to the heat recovery steam generator. We solicited comments on the need to flare the unfired syngas, if it is more appropriate to require routing of the unfired syngas back into the system for all IGCC EGUs, and on the costs of adding duct burners, should they be required.

Industry commenters stated that it is important that flaring remain an option for routine startups and shutdowns for safety reasons and as a viable option for non-routine events such as EGU "trips" when the combustion turbine cannot combust syngas. Commenters noted that the flaring option is especially critical as the re-routing option can only be used by IGCC EGUs under limited circumstances as the syngas may lack sufficient pressure for re-injection and gasifiers are often once-through systems that do not support re-routing of the syngas. Commenters indicated that the actual flaring step of an IGCC startup is relatively short and ordinarily lasts less than 2 hours and that only clean syngas is flared during a routine startup.

The EPA is finalizing both options, use of flaring or duct burners, for handling of syngas not combusted in the turbine during startup periods and shutdown periods.[15] The EPA believes that the controls are comparable and that allowing the option will provide flexibility to owners/operators of IGCC EGUs to choose either of the options subject to operational constraints at their IGCC EGUs. The EPA believes it appropriate to cover gasifier syngas during startup periods and shutdown periods of the combustion turbine portion of the IGCC because the units are inextricably linked and the unused gas would not be generated but for the startup of the combustion portion of the IGCC unit. The EPA is requiring the use of either flares or duct burners to combust unused syngas during startup periods and shutdown periods.

4. Common Stacks

The final MATS rule at 40 CFR 63.10010(a)(1), (2), and (3) required owners or operators of EGUs with common stacks to either monitor the EGUs separately or monitor the common stack and assign the same emissions value to each EGU. No specific requirements concerning monitoring during startup periods or shutdown periods were given because the EPA believed the provisions as finalized were sufficient. Consistent with the monitoring provisions in the final rule, owners or operators of EGUs with common stacks are required to monitor and report emissions for compliance purposes at all times when any EGU using a common stack is operating in a non-startup/shutdown mode, even if another EGU using that common stack is in startup/shutdown mode. 40 CFR 63.10005(a)(2)(iii) reinforces and clarifies this requirement. Also, consistent with the final rule, work practice standards, rather than numeric emissions limits, apply during startup periods or shutdown periods, but only to EGUs in startup or shutdown mode. Today's reconsidered rule maintains the approach of the final rule. Owners or operators of EGUs with common stacks may either monitor each EGU separately upstream of the common stack or from the common stack. Monitoring must be operational (except for periods of monitor malfunction and during required quality assurance (QA) and maintenance activities) at all times that any fuel is being combusted, and compliance with numeric emission limits is required except for periods when all EGUs sharing the common stack are in startup or shutdown mode. Should an owner or operator choose to monitor the common stack, then emissions obtained from the monitoring will be applied to each EGU that shares the stack. This approach remains consistent with the final rule, and is not expected to be problematic emissions-wise for any EGU using a common stack, because the EGUs in startup periods or shutdown periods are required to use clean fuels and comply with the other work practice requirements. In addition, the EGUs sharing the common stack and operating in a mode other than startup or shutdown are required to operate such that they meet their emissions limits. We believe, based on evaluation of source compliance for many years, that sources generally operate in a manner to ensure a compliance margin to avoid potential exceedances.[16] Thus, we maintain the monitoring options available in the final rule are sufficient to address concerns from commenters.

As discussed below, the EPA is also establishing a default electrical load of 5 percent of the maximum sustainable electrical load of the EGU. This default value will be allowed to be used during periods of startup or periods of shutdown when the electrical load is zero. For EGUs sharing a common stack with just one common monitoring system, this default value will be available only when the electrical load is zero for an EGU sharing the common stack that is in a period of startup or shutdown. As soon as a non-zero electrical load is produced, that non-zero load must be used in electrical output-based emission rate calculations for each EGU in a startup or shutdown period, even if the load is less than 5 percent of capacity. Note that the electrical load of all EGUs in operation and sharing a common stack with just

[15] IGCC units that are also designed to co-produce chemicals or other products using syngas may also choose to use the unburned syngas in that process.

[16] ". . . (S)ources do not design to meet a standard, but rather to meet a level comfortably lower. They do so in order to provide a compliance margin on those days where emissions rise due to inherent and uncontrollable variability . . ." See 77 FR 42386; July 18, 2012.

one common monitoring system are to be summed when electrical output-based emission rate calculations are made.

Section 1.2.5 of the RTC contains both a summary of comments received on this topic and the EPA's response to those comments.

5. Diluent Cap

Apart from allowing use of a diluent cap when calculating Hg emissions during startup periods or shutdown periods, the final rule contained no allowance for use of a diluent cap. The November 2012 proposal sought comment on the need for a diluent cap for other HAP emissions during startup periods and shutdown periods. Use of a diluent cap can be important during startup periods and shutdown periods because CEMS values can approach infinity because the denominator in the calculations for CEMS values can approach zero during those periods. Moreover, use of a diluent cap becomes a common stack issue when one or more of the EGUs is in a startup or shutdown mode and just one monitoring instrument is used in the stack.

The EPA considered each comment and decided to allow use of default carbon dioxide (CO_2) or oxygen (O_2) values as identified in Section 3.3.4.1 of Appendix F of 40 CFR part 75, but only for startup periods or shutdown periods when CO_2 values are below or O_2 values are above default values for use in all pollutant calculations. For non-IGCC EGUs, the default CO_2 value is 5 percent and the default O_2 value is 14 percent. This means that when CEMS CO_2 measurements are below 5 percent, EGU owners or operators are allowed to use 5 percent CO_2 in their calculations. Because the startup analysis showed that CEMS CO_2 measurements exceeded default values within 2 hours of generation, the EPA does not expect to find default values being used when startup periods end. Likewise, when CEMS O_2 measurements are larger than 14 percent, EGU owners or operators will be able to use 14-percent O_2 in their calculations. IGCC EGUs will be allowed to use 1 percent as a default CO_2 value or 19 percent as a default O_2 value. As mentioned earlier, default diluent gas values will be allowed for use in calculations for startup periods or shutdown periods when CO_2 CEMS values are below or O_2 CEMS values are above default values. The rule requires EGU owners or operators to use actual CO_2 or O_2 CEMS values for all other operating periods. Although the EPA has no specific data or information concerning emissions during transient events outside startup or shutdown periods, the EPA expects the short duration of these transient events outside startup or shutdown periods that could cause CO_2 or O_2 CEMS to be below (or above) default values to have little, if any, impact on the 30-boiler operating day rolling averages.

The rule retains the requirement for EGU owners or operators to report instrumental CEMS, PM CPMS, and sorbent trap information, as well as flow rate information during startup periods or shutdown periods. Such information may prove useful in assessing potential emissions or operational limits in future rulemaking activities. Finally, the rule requires EGU owners or operators to identify each hour of startup or shutdown in which a diluent cap value is used.

Section 5.1 of the RTC contains both a summary of comments received on this topic and the EPA's response.

6. Default Electrical Output

The final rule provided no allowance regarding default electrical output. The November 2012 proposal sought comment on the need for a default electrical output for those owners or operators who choose to comply with a mass per electrical output standard. Use of a default electrical output cap can be important during startup periods and shutdown periods because the calculated mass per electrical output values can approach infinity when the electrical output is zero during those periods.

Upon consideration of the comments, the rule will provide a default electrical load value that EGU owners or operators will be allowed to use during startup periods or shutdown periods to calculate emissions rates for an EGU, as long as the electrical load for the EGU is zero. Once the EGU begins generating electricity, the source must use the actual electrical output in compliance calculations, even if the output is below the 5 percent default value. Moreover, use of a default electrical load is not allowed during periods other than startup or shutdown. As suggested by one commenter, the default electrical load will be equivalent to 5 percent of the maximum sustainable electrical output in megawatts of an EGU, as defined in section 6.5.2.1(a)(1) of appendix A to part 75, and included in an EGU's Part 75 electronic monitoring plan. This maximum sustainable load is either the nameplate capacity of the EGU or the highest electrical load observed in at least four representative quarters of EGU operation. When used in a common stack application, the default electrical load is 5 percent of the combined maximum sustainable electrical load of the EGUs that are in startup or shutdown mode during an hour in which the electrical load is zero. The default electrical load is allowed to be used in electrical output-based emission rate calculations (either pounds per megawatt-hour (lb/MWh) or pounds per gigawatt-hour (lb/GWh)) for any hour in which the actual electrical load for a single EGU or for every EGU venting to a common stack is zero. The EPA considered, but decided against, requiring measurement of thermal heat output and conversion back into equivalent electrical output; instead, the EPA decided to use a simpler approach based on already-existing requirements of the Acid Rain Program that we believe are most appropriate considering CAA section 112 and in light of the available data. Finally, the rule requires EGU owners or operators to identify each hour of startup or shutdown in which a default electrical load value is used.

Section 5.2 of the RTC contains both a summary of comments received on this topic and the EPA's response to significant comments.

7. Use of Sorbent Traps

The final rule required continuous Hg data collection using sorbent traps or Hg CEMS under all process operating conditions, including, but not limited to, startup periods and shutdown periods, over the entire 30 boiler operating day LEE qualification testing period. For sorbent traps, the EPA allowed use of redundant backup sorbent trap monitoring systems during startup periods and shutdown periods; and required operation of sorbent trap monitoring systems and collection of Hg data at all times EGUs operate, but did not allow use of Hg data collected during startup or shutdown periods to be included in compliance calculations.

After consideration of comments received on Hg monitoring during startup or shutdown periods using sorbent trap monitoring systems, the EPA decided that the final reconsidered rule will contain three alternative approaches for measuring Hg emissions during startup periods or shutdown periods. In the first approach, EGU owners or operators will continue to be able to use Hg CEMS for measuring Hg emissions.

The second approach relies on at least two separate sorbent monitoring systems. Although the rule has no prohibition against an EGU owner or operator using one sorbent trap monitoring system for compliance purposes during periods other than startup or shutdown and one (or more) sorbent trap monitoring systems for

startup periods or shutdown periods through the use of a non-redundant backup system (per section 2.2.2 of Appendix A to subpart UUUUU of Part 63), it will be clarified that two separate sorbent monitoring systems are allowed. Reliance on this second approach would address one commenter's concern that Hg compliance data could not be separated from Hg data collected during startup and/or shutdown periods when demonstrating compliance with numerical standards based on a sorbent trap system. When an EGU with at least two such systems (one for startup periods or shutdown periods and the other for all other periods) entered into a startup or shutdown period, the EGU owner or operator could switch monitoring systems either manually or automatically. As part of an EGU owner or operator's rubric for choosing which Hg measurement approach to use, the EGU owner or operator should take into account that any process operating hour for which quality assured Hg concentration data are not obtained is counted as an hour of monitoring system downtime, per section 1.4 of Appendix A to subpart UUUUU of Part 63. Therefore, if an EGU owner or operator believes change-out of sorbent monitoring traps may take too long, other approaches may be more suitable. An EGU owner or operator should carefully consider all costs—not only of sorbent tubes, analyses, and associated labor, but also of non-compliance due to data gaps, when determining whether this approach is appropriate.

The third approach, relying on just one sorbent trap monitoring system for all periods of operation (startup, shutdown, and normal), will be identified in the rule as a viable option for Hg monitoring, and, for EGU owners or operators who choose this option, the rule will allow data collected during startup or shutdown periods to be used for compliance purposes. The EPA expects little impact on Hg emissions during startup or shutdown periods, because, as explained above, we believe the rule contains sufficient variability to include startup and shutdown periods; clean fuels will be used during those periods; default diluent and electrical output values, which tend to constrain emissions, will be available for use; and emissions occurring during those periods will be included in a 30- (or 90-) boiler operating day rolling average. EGU owners or operators may find that this third approach would work well for those instances in which sudden and unpredictable shutdown events occur, for there would be no need to swap sorbent trap monitoring systems to capture shutdown emissions.

Finally, the EPA disagrees with commenters who claim that collecting data during startup and shutdown will serve no purpose relative to compliance with MATS and indicated that if the EPA needs to collect startup and shutdown data to better understand performance for a future rulemaking, that can be addressed through the information collection request (ICR) process where the EPA demonstrates the need and identifies a systematic plan to gather the data. As explained in the final rule preamble,[17] collection of startup and shutdown information will provide the EPA with information to more fully analyze the ability and appropriateness of establishing numeric emissions and operating limits during startup periods or shutdown periods so the issue can be addressed as part of the ongoing 8-year review of this rule. Collection of these data as part of the rule will also serve to reduce, if not eliminate, future ICR requests on this topic. The EPA also disagrees with commenters who wish to place all startup and shutdown information on those EGU owners or operators who choose to use Hg CEMS, for EPA remains interested in how well sorbent tube monitoring systems operate during startup periods or shutdown periods. Not collecting that information from those systems would leave a gap in the EPA's knowledge base.

Section 5.3 of the RTC contains both a summary of comments received on this topic and the EPA's response to significant comments.

V. Summary of Final Action and Changes Since Proposal—Utility NSPS

The current PM startup and shutdown requirements in the Utility NSPS are included in 40 CFR 60.42Da(e)(2) and require the owner/operator of an affected EGU to meet the work practice standards specified in Table 3 of 40 CFR Part 63, subpart UUUUU (i.e., the MATS rule). The Utility NSPS docket received a total of 23 public comments on the startup/shutdown reconsideration proposal. One of these comments was a duplicate. Of the remaining 22 comments, 15 were received in both dockets, and 7 were received in the Utility NSPS docket alone. Of the seven comments received in the Utility NSPS docket alone, four were said to be sent to the MATS docket, but no documents that matched the ones in the Utility NSPS docket were found in the MATS docket. However, the majority of the comments overlap with issues raised as part of the startup and shutdown provision included in MATS. The EPA responses to these issues are discussed in the MATS portion of the preamble and docket and have not been repeated here or in the Utility NSPS docket.

The sole NSPS-specific comment we received was that the Utility NSPS should include a definition of startup and shutdown that is consistent with the MATS definition and that the definitions of startup and shutdown in the Utility NSPS, MATS, and Industrial Boiler NESHAP (subpart DDDDD) rules should be consistent. There are situations where a facility is subject to the PM standard under 40 CFR Part 60, subpart Da, but is not subject to MATS (e.g., a biomass-fired EGU with natural gas burners >250 million British thermal units per hour). This facility would, therefore, be subject to the Industrial Boiler NESHAP. We have concluded that it is appropriate for industrial boilers and EGUs to have the same PM startup and shutdown work practice standards for both the NSPS and MATS. Therefore, we are amending 40 CFR 60.42Da(e)(2) so that owners or operators of facilities subject to 40 CFR Part 63, subpart UUUUU, shall meet the work practice standards specified in Table 3 to Subpart UUUUU of Part 63, and owners or operators of facilities subject to 40 CFR Part 63, subpart DDDDD, shall meet the work practice standards specified in Table 3 to Subpart DDDDD of Part 63.

We are also amending the regulatory text in the Utility NSPS to incorporate the relevant startup and shutdown definitions. We have concluded that the amended regulatory text is sufficient, and adding definitions of startup and shutdown are not necessary for the Utility NSPS. Using this approach is beneficial because any future amendments to the MATS startup and shutdown provisions will automatically be incorporated into the Utility NSPS.

VI. Impacts of This Final Rule

A. Summary of Emissions Impacts, Costs and Benefits

Because this final rule is no more stringent than the February 2012 final rule, we expect no additional costs or benefits associated with these revisions.

B. What are the air impacts?

This final rule is no more stringent than the February 2012 final rule. Accordingly, we believe that this final action will not result in significant changes in emissions of any of the regulated pollutants.

[17] See 77 FR 9382 (February 16, 2012).

C. What are the energy impacts?

This final action is not anticipated to have an effect on the supply, distribution, or use of energy. As previously stated, this final rule is no more stringent than the February 2012 final rule.

D. What are the compliance costs?

We believe there will be no significant change in compliance costs as a result of this final action because electric power companies would take the same or similar actions (e.g., operating control devices, recording clean fuel use, etc.) as they would have to comply with the previously finalized MATS standards. Moreover, we find no additional monitoring costs are necessary to comply with this final action because EGU owners or operators could continue to use the startup and shutdown provisions of the promulgated rule to demonstrate compliance; however, as in any other rule, EGU owners or operators may choose to conduct additional monitoring (and incur its expense) for their own purposes.

E. What are the economic and employment impacts?

Because we expect that electric power companies would take the same or similar actions to meet the requirements finalized in this action as they would have chosen to comply with the previously finalized MATS standards, we do not anticipate that this final action will result in significant changes in emissions, energy impacts, costs, benefits, or economic impacts. Likewise, we believe this action will not have any impacts on the price of electricity, employment or labor markets, or the U.S. economy.

F. What are the benefits of the final standards?

As previously stated, we do not anticipate any significant emission changes resulting from this action. Therefore, there are no direct monetized benefits or disbenefits associated with this action.

VII. Statutory and Executive Order Reviews

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

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735; October 4, 1993) and is, therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821; January 21, 2011).

Because this final rule is no more stringent than the February 2012 final rule, we do not expect any additional costs, benefits, or economic impacts associated with these revisions. The EPA prepared an analysis of the potential costs and benefits associated with the 2012 final rule. This analysis is contained in the ''Economic Impact Analysis for the Final Reconsideration of the Mercury and Air Toxics Standards'' found in Docket ID No. EPA–HQ–OAR–2009–0234.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This action clarifies but does not change the information collection requirements previously finalized and, as a result, does not impose any additional burden on industry. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations (see 77 FR 9304) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0567. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule 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 action on small entities, a small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less that 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. Categories and entities potentially regulated by the final rule with applicable NAICS codes are provided in section I.A of this preamble.

According to the SBA size standards for NAICS code 221122, Utilities—Fossil Fuel Electric Power Generation, a firm is small if, including its affiliates, it is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed 4 million MWh.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that none of the small entities will experience a significant impact because the action imposes no additional regulatory requirements on owners or operators of affected sources.

D. Unfunded Mandates Reform Act

This action contains no federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or tribal governments or the private sector. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector. Therefore, this action is not subject to the requirements of UMRA sections 202 or 205.

This action is also not subject to the requirements of UMRA section 203 because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action contains no requirements that apply to such governments or impose obligations upon them.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this action.

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

This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249; November 9, 2000). 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 this action.

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

This action is not subject to Executive Order 13045 (62 FR 19885; April 23, 1997) because it is not economically significant as defined in Executive Order 12866. The EPA has evaluated the environmental health or safety effects of the final MATS on children. The results of the evaluation are discussed in that final rule (77 FR 9304; February 16, 2012) and are contained in Docket ID No. EPA–HQ–OAR–2009–0234.

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 of 1995 (NTTAA); Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards (VCS) in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impracticable. 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 requires the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable VCS.

This action does not involve VCS. Therefore, the EPA did not consider the use of any VCS.

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

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

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations because it does not affect the level of protection provided to human health or the environment. The EPA has evaluated the environmental health or environmental effects of the final MATS on minority, low-income, or indigenous populations. The results of the evaluation are discussed in that final rule (77 FR 9304; February 16, 2012) and are contained in Docket ID No. EPA–HQ–OAR–2009–0234.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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 rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This final rule will be effective on November 19, 2014.

List of Subjects

40 CFR Part 60

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

40 CFR Part 63

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

Dated: November 7, 2014.

Gina McCarthy,

Administrator.

For the reasons discussed in the preamble, the EPA amends 40 CFR parts 60 and 63 to read as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for 40 CFR part 60 continues to read as follows:

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

■ 2. Section 60.42Da is amended by revising paragraph (e)(2) to read as follows:

§ 60.42Da Standards for particulate matter (PM).

* * * * *

(e) * * *

(2) During startup periods and shutdown periods, owners or operators of facilities subject to subpart UUUUU of part 63 of this chapter shall meet the work practice standards specified in Table 3 to subpart UUUUU of part 63 and use the relevant definitions in § 63.10042, and owners or operators of facilities subject to subpart DDDDD of part 63 shall meet the work practice standards specified in Table 3 to subpart DDDDD of part 63 and use the relevant definition used in § 63.7575.

* * * * *

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

■ 3. The authority citation for 40 CFR part 63 continues to read as follows:

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

■ 4. Section 63.10000 is amended by revising paragraph (c)(1)(vi) and adding paragraph (l) to read as follows:

§ 63.10000 What are my general requirements for complying with this subpart?

* * * * *

(c)(1) * * *

(vi) If your coal-fired or solid oil-derived fuel-fired EGU does not qualify as a LEE for Hg, you must demonstrate initial and continuous compliance through use of a Hg CEMS or a sorbent trap monitoring system, in accordance with appendix A to this subpart.

(A) You may choose to use separate sorbent trap monitoring systems to comply with this subpart: One sorbent trap monitoring system to demonstrate compliance with the numeric mercury emissions limit during periods other than startup or shutdown and the other sorbent trap monitoring system to report average mercury concentration during startup periods or shutdown periods.

(B) You may choose to use one sorbent trap monitoring system to demonstrate compliance with the mercury emissions limit at all times

(including startup periods and shutdown periods) and to report average mercury concentration. You must follow the startup or shutdown requirements that follow and as given in Table 3 to this subpart for each coal-fired, liquid oil-fired, or solid oil-derived fuel-fired EGU.

* * * * *

(l) On or before the date an EGU is subject to this subpart, you must install, certify, operate, maintain, and quality assure each monitoring system necessary for demonstrating compliance with the work practice standards for PM or non-mercury HAP metals during startup periods and shutdown periods. You must collect, record, report, and maintain data obtained from these monitoring systems during startup periods and shutdown periods.

■ 5. Section 63.10005 is amended by revising paragraph (a)(2) to read as follows:

§ 63.10005 What are my initial compliance requirements and by what date must I conduct them?

(a) * * *

(2) To demonstrate initial compliance using either a CMS that measures HAP concentrations directly (*i.e.,* an Hg, HCl, or HF CEMS, or a sorbent trap monitoring system) or an SO_2 or PM CEMS, the initial performance test consists of 30- (or, if emissions averaging for Hg is used, 90-) boiler operating days of data collected by the initial compliance demonstration date specified in § 63.9984(f) with the certified monitoring system. Pollutant emission rates measured during startup periods and shutdown period (as defined in § 63.10042) are not to be included in the compliance demonstration, except as otherwise provided in § 63.10000(c)(1)(vi)(B) and paragraph (a)(2)(iii) of this section.

(i) The 30- (or, if applicable, 90-) boiler operating day CMS performance test must demonstrate compliance with the applicable Hg, HCl, HF, PM, or SO_2 emissions limit in Table 1 or 2 to this subpart.

(ii) You must collect hourly data from auxiliary monitoring systems (i.e., stack gas flow rate, CO_2, O_2, or moisture, as applicable) during the performance test period, in order to convert the pollutant concentrations to units of the standard. If you choose to comply with an electrical output-based emission limit, you must also collect hourly electrical load data during the performance test period.

(iii) For a group of affected units that are in the same subcategory, are subject to the same emission standards, and share a common stack, if you elect to demonstrate compliance by monitoring emissions at the common stack, startup and shutdown emissions (if any) that occur during the 30-(or, if applicable, 90-) boiler operating day performance test must either be excluded from or included in the compliance demonstration as follows:

(A) If one of the units that shares the stack either starts up or shuts down at a time when none of the other units is operating, you must exclude all pollutant emission rates measured during the startup or shutdown period, unless you are using a sorbent trap monitoring system to measure Hg emissions and have elected to include startup and shutdown emissions in the compliance demonstrations;

(B) If all units that are currently operating are in the startup or shutdown mode, you must exclude all pollutant emission rates measured during the startup or shutdown period, unless you are using a sorbent trap monitoring system to measure Hg emissions and have elected to include startup and shutdown emissions in the compliance demonstrations; or

(C) If any unit starts up or shuts down at a time when another unit is operating, and the other unit is not in the startup or shutdown mode, you must include all pollutant emission rates measured during the startup or shutdown period in the compliance demonstrations.

* * * * *

■ 6. Section 63.10007 is amended by revising paragraph (a)(1), redesignating paragraph (f) as paragraph (g), and adding a new paragraph (f) to read as follows:

§ 63.10007 What methods and other procedures must I use for the performance tests?

(a) * * *

(1) If you use CEMS (Hg, HCl, SO_2, or other) to determine compliance with a 30- (or, if applicable, 90-) boiler operating day rolling average emission limit, you must collect quality- assured CEMS data for all unit operating conditions, including startup and shutdown (see § 63.10011(g) and Table 3 to this subpart), except as otherwise provided in § 63.10020(b). Emission rates determined during startup periods and shutdown periods (as defined in § 63.10042) are not to be included in the compliance determinations, except as otherwise provided in §§ 63.10000(c)(1)(vi)(B) and 63.10005(a)(2)(iii).

* * * * *

(f) If you elect to (or are required to) use CEMS to continuously monitor Hg, HCl, HF, SO_2, or PM emissions (or, if applicable, sorbent trap monitoring systems to continuously collect Hg emissions data), the following default values are available for use in the emission rate calculations during startup periods or shutdown periods (as defined in § 63.10042). For the purposes of this subpart, these default values are not considered to be substitute data.

(1) *Diluent cap values.* If you use CEMS (or, if applicable, sorbent trap monitoring systems) to comply with a heat input-based emission rate limit, you may use the following diluent cap values for a startup or shutdown hour in which the measured CO_2 concentration is below the cap value or the measured O_2 concentration is above the cap value:

(i) For an IGCC EGU, you may use 1% for CO_2 or 19% for O_2.

(ii) For all other EGUs, you may use 5% for CO_2 or 14% for O_2.

(2) *Default electrical load.* If you use CEMS to continuously monitor Hg, HCl, HF, SO_2, or PM emissions (or, if applicable, sorbent trap monitoring systems to continuously collect Hg emissions data), the following default value is available for use in the emission rate calculations during startup periods or shutdown periods (as defined in § 63.10042). For the purposes of this subpart, this default value is not considered to be substitute data. For a startup or shutdown hour in which there is heat input to an affected EGU but zero electrical load, you must calculate the pollutant emission rate using a value equivalent to 5% of the maximum sustainable electrical output, expressed in megawatts, as defined in section 6.5.2.1(a)(1) of Appendix A to part 75 of this chapter. This default electrical load is either the nameplate capacity of the EGU or the highest electrical load observed in at least four representative quarters of EGU operation. For a monitored common stack, the default electrical load is used only when all EGUs are operating (i.e., combusting fuel) are in startup or shutdown mode, and have zero electrical generation. Under those conditions, a default electrical load equal to 5% of the combined maximum sustainable electrical load of the EGUs that are operating but have a total of zero electrical load must be used to calculate the hourly electrical output-based pollutant emissions rate.

* * * * *

■ 7. Section 63.10010 is amended by revising paragraph (f)(4) and adding paragraph (l) to read as follows:

§ 63.10010 What are my monitoring, installation, operation, and maintenance requirements?

* * * * *

(f) * * *

(4) Use only unadjusted, quality-assured SO_2 concentration values in the emissions calculations; do not apply bias adjustment factors to the part 75 SO_2 data and do not use part 75 substitute data values. For startup or shutdown hours (as defined in § 63.10042) the default electrical load and the diluent cap are available for use in the hourly SO_2 emission rate calculations, as described in § 63.10007(f). Use a flag to identify each startup or shutdown hour and report a special code if the diluent cap or default electrical load is used to calculate the SO_2 emission rate for any of these hours.

* * * * *

(l) You must install, certify, operate, maintain, and quality assure each monitoring system necessary for demonstrating compliance with the PM or non-mercury metals work practice standards for startup periods.

(1) You shall develop a site-specific monitoring plan for PM or non-mercury metals work practice monitoring during startup periods.

(2) You shall submit the site-specific monitoring plan upon request by the Administrator.

(3) The provisions of the monitoring plan must address the following items:

(i) Monitoring system installation;

(ii) Performance and equipment specifications;

(iii) Schedule for initial and periodic performance evaluations;

(iv) Performance evaluation procedures and acceptance criteria;

(v) On-going operation and maintenance procedures; and

(vi) On-going recordkeeping and reporting procedures.

(4) You may rely on monitoring system specifications or instructions to address paragraphs (l)(3)(i) through (vi) of this section.

(5) You must operate and maintain the monitoring system according to the site-specific monitoring plan.

■ 8. Section 63.10011 is amended by revising paragraph (g) to read as follows:

§ 63.10011 How do I demonstrate initial compliance with the emission limits and work practice standards?

* * * * *

(g) You must follow the startup or shutdown requirements as given in Table 3 to this subpart for each coal-fired, liquid oil-fired, or solid oil-derived fuel-fired EGU.

(1) You may use the diluent cap and default electrical load values, as described in § 63.10007(f), during startup periods or shutdown periods.

(2) You must operate all CMS, collect data, calculate pollutant emission rates, and record data during startup periods or shutdown periods.

(3) You must report the information as required in § 63.10031.

(4) If you choose to use paragraph (2) of the definition of ''startup'' in § 63.10042 and you find that you are unable to safely engage and operate your particulate matter (PM) control(s) within 1 hour of first firing of coal, residual oil, or solid oil-derived fuel, you may choose to rely on paragraph (1) of definition of ''startup'' in § 63.10042 or you may submit a request to use an alternative non-opacity emissions standard, as described below.

(i) As mentioned in § 63.6(g)(1), the request will be published in the **Federal Register** for notice and comment rulemaking. Until promulgation in the **Federal Register** of the final alternative non-opacity emission standard, you shall comply with paragraph (1) of the definition of ''startup'' in § 63.10042. You shall not implement the alternative non-opacity emissions standard until promulgation in the **Federal Register** of the final alternative non-opacity emission standard.

(ii) The request need not address the items contained in § 63.6(g)(2).

(iii) The request shall provide evidence of a documented manufacturer-identified safely issue.

(iv) The request shall provide information to document that the PM control device is adequately designed and sized to meet the PM emission limit applicable to the EGU.

(v) In addition, the request shall contain documentation that:

(A) The EGU is using clean fuels to the maximum extent possible to bring the EGU and PM control device up to the temperature necessary to alleviate or prevent the identified safety issues prior to the combustion of primary fuel in the EGU;

(B) The EGU has explicitly followed the manufacturer's procedures to alleviate or prevent the identified safety issue; and

(C) Identifies with specificity the details of the manufacturer's statement of concern.

(vi) The request shall specify the other work practice standards the EGU owner or operator will take to limit HAP emissions during startup periods and shutdown periods to ensure a control level consistent with the work practice standards of the final rule.

(vii) You must comply with all other work practice requirements, including but not limited to data collection, recordkeeping, and reporting requirements.

■ 9. Section 63.10020 is amended by revising paragraph (c) and adding paragraph (e) to read as follows:

§ 63.10020 How do I monitor and collect data to demonstrate continuous compliance?

* * * * *

(c) You may not use data recorded during EGU startup or shutdown in calculations used to report emissions, except as otherwise provided in §§ 63.10000(c)(1)(vi)(B) and 63.10005(a)(2)(iii). In addition, data recorded during monitoring system malfunctions or monitoring system out-of-control periods, repairs associated with monitoring system malfunctions or monitoring system out-of-control periods, or required monitoring system quality assurance or control activities may not be used in calculations used to report emissions or operating levels. You must use all of the quality-assured data collected during all other periods in assessing the operation of the control device and associated control system.

* * * * *

(e) Additional requirements during startup periods or shutdown periods.

(1) During each period of startup, you must record for each EGU:

(i) The date and time that clean fuels being combusted for the purpose of startup begins;

(ii) The quantity and heat input of clean fuel for each hour of startup;

(iii) The electrical load for each hour of startup;

(iv) The date and time that non-clean fuel combustion begins; and

(v) The date and time that clean fuels being combusted for the purpose of startup ends.

(2) During each period of shutdown, you must record for each EGU:

(i) The date and time that clean fuels being combusted for the purpose of shutdown begins;

(ii) The quantity and heat input of clean fuel for each hour of shutdown;

(iii) The electrical load for each hour of shutdown;

(iv) The date and time that non-clean fuel combustion ends; and

(v) The date and time that clean fuels being combusted for the purpose of shutdown ends.

(3) For PM or non-mercury HAP metals work practice monitoring during startup periods, you must monitor and collect data according to this section and the site-specific monitoring plan required by § 63.10011(l).

(i) Except for an EGU that uses PM CEMS or PM CPMS to demonstrate compliance with the PM emissions limit or that has LEE status for filterable PM or total non-Hg HAP metals for non-

liquid oil-fired EGUs (or HAP metals emissions for liquid oil-fired EGUs), or individual non-mercury metals CEMS you must:

(A) Record temperature and flow rate of post-combustion (exhaust) gas and amperage of forced draft fan(s) upstream of each filterable PM control device during each hour of startup.

(B) Record temperature and flow rate of exhaust gas and amperage of induced draft fan(s) downstream of each filterable control device during each hour of startup.

(C) For an EGU with an electrostatic precipitator, record the number of fields in service, as well as each field's secondary voltage and secondary current during each hour of startup.

(D) For an EGU with a fabric filter, record the number of compartments in service, as well as the differential pressure across the baghouse during each hour of startup.

(E) For an EGU with a wet scrubber needed for filterable PM control, record the scrubber liquid to fuel ratio and the differential pressure of the liquid during each hour of startup.

(ii) [Reserved]

■ 10. Section 63.10021 is amended by revising paragraph (h) to read as follows:

§ 63.10021 How do I demonstrate continuous compliance with the emission limitations, operating limits, and work practice standards?

* * * * *

(h) You must follow the startup or shutdown requirements as given in Table 3 to this subpart for each coal-fired, liquid oil-fired, or solid oil-derived fuel-fired EGU.

(1) You may use the diluent cap and default electrical load values, as described in § 63.10007(f), during startup periods or shutdown periods.

(2) You must operate all CMS, collect data, calculate pollutant emission rates, and record data during startup periods or shutdown periods.

(3) You must report the information as required in § 63.10031.

(4) You may choose to submit an alternative non-opacity emission standard, in accordance with the requirements contained in § 63.10011(g)(4). Until promulgation in the **Federal Register** of the final alternative non-opacity emission standard, you shall comply with paragraph (1) of the definition of ''startup'' in § 63.10042.

* * * * *

■ 11. Section 63.10022 is amended by revising the introductory text of paragraph (a) and adding paragraph (a)(4) to read as follows:

§ 63.10022 How do I demonstrate continuous compliance under the emissions averaging provision?

(a) Following the compliance date, the owner or operator must demonstrate compliance with this subpart on a continuous basis by meeting the requirements of paragraphs (a)(1) through (4) of this section.

* * * * *

(4) For each existing EGU participating in the emissions averaging option, operate in accordance with the startup or shutdown work practice requirements given in Table 3 to this subpart.

* * * * *

■ 12. Section 63.10030 is amended by revising the introductory text of paragraph (e) and adding paragraph (e)(8) to read as follows:

§ 63.10030 What notifications must I submit and when?

* * * * *

(e) When you are required to conduct an initial compliance demonstration as specified in § 63.10011(a), you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii). The Notification of Compliance Status report must contain all the information specified in paragraphs (e)(1) through (8) of this section, as applicable.

* * * * *

(8) Identification of whether you plan to rely on paragraph (1) or (2) of the definition of ''startup'' in § 63.10042.

(i) Should you choose to rely on paragraph (2) of the definition of ''startup'' in § 63.10042 for your EGU, you shall include a report that identifies:

(A) The original EGU installation date;

(B) The original EGU design characteristics, including, but not limited to, fuel and PM controls;

(C) Each design PM control device efficiency;

(D) The design PM emission rate from the EGU in terms of pounds PM per MMBtu and pounds PM per hour;

(E) The design time from start of fuel combustion to necessary conditions for each PM control device startup;

(F) Each design PM control device efficiency upon startup of the PM control device;

(G) The design EGU uncontrolled PM emission rate in terms of pounds PM per hour;

(H) Each change from the original design that did or could have changed PM emissions, including, but not limited to, each different fuel mix, each revision to each PM control device, and each EGU revision, along with the month and year that the change occurred;

(I) Current EGU PM producing characteristics, including, but not limited to, fuel mix and PM controls;

(J) Current PM emission rate from the EGU in terms of pounds PM per MMBtu and pounds per hour;

(K) Current PM control device efficiency from each PM control device;

(L) Current time from start of fuel combustion to conditions necessary for each PM control device startup;

(M) Current PM control device efficiency upon startup of each PM control device; and

(N) Current EGU uncontrolled PM emission rate in terms of pounds PM per hour.

(ii) The report shall be prepared, signed, and sealed by a professional engineer licensed in the state where your EGU is located. Apart from preparing, signing, and sealing this report, the professional engineer shall be independent and not otherwise employed by your company, any parent company of your company, or any subsidiary of your company.

■ 13. Section 63.10031 is amended by revising the introductory text of paragraph (c) and adding paragraph (c)(5) to read as follows:

§ 63.10031 What reports must I submit and when?

* * * * *

(c) The compliance report must contain the information required in paragraphs (c)(1) through (5) of this section.

* * * * *

(5) For each instance of startup or shutdown:

(i) Include the maximum clean fuel storage capacity and the maximum hourly heat input that can be provided for each clean fuel determined according to the requirements of § 63.10032(f).

(ii) Include the information required to be monitored, collected, or recorded according to the requirements of § 63.10020(e).

(iii) If you choose to use CEMS for compliance purposes, include hourly average CEMS values and hourly average flow rates. Use units of milligrams per cubic meter for PM CEMS, micrograms per cubic meter for Hg CEMS, and ppmv for HCl, HF, or SO_2 CEMS. Use units of standard cubic meters per hour on a wet basis for flow rates.

(iv) If you choose to use a separate sorbent trap measurement system for startup or shutdown reporting periods, include hourly average mercury

concentration in terms of micrograms per cubic meter.

(v) If you choose to use a PM CPMS, include hourly average operating parameter values in terms of the operating limit, as well as the operating parameter to PM correlation equation.

* * * * *

■ 14. Section 63.10032 is amended by revising paragraph (f) to read as follows:

§ 63.10032 What records must I keep?

* * * * *

(f) Regarding startup periods or shutdown periods:

(1) You must keep records of the occurrence and duration of each startup or shutdown;

(2) You must keep records of the determination of the maximum clean fuel capacity for each EGU;

(3) You must keep records of the determination of the maximum hourly clean fuel heat input and of the hourly clean fuel heat input for each EGU; and

(4) You must keep records of the information required in § 63.10020(e).

* * * * *

■ 15. In § 63.10042:

■ a. Revise the definitions for ''Boiler operating day,'' ''Shutdown'', and ''Startup''; and

■ b. Add in alphabetical order new definitions for ''Clean fuel,'' ''Default electrical load,'' and ''Diluent cap.''

The revisions and additions read as follows:

§ 63.10042 What definitions apply to this subpart?

* * * * *

Boiler operating day means a 24-hour period that begins at midnight and ends the following midnight during which any fuel is combusted at any time in the EGU, excluding startup periods or shutdown periods. It is not necessary for the fuel to be combusted the entire 24-hour period.

* * * * *

Clean fuel means natural gas, synthetic natural gas that meets the specification necessary for that gas to be transported on a Federal Energy Regulatory Commission (FERC) regulated pipeline, propane, distillate oil, synthesis gas that has been processed through a gas clean-up train such that it could be used in a system's combustion turbine, or ultra-low-sulfur diesel (ULSD) oil, including those fuels meeting the requirements of 40 CFR part 80, subpart I (''Subpart I—Motor Vehicle Diesel Fuel; Nonroad, Locomotive, and Marine Diesel Fuel; and ECA Marine Fuel'').

* * * * *

Default electrical load means an electrical load equal to 5 percent of the maximum sustainable electrical output (megawatts), as defined in section 6.5.2.1(a)(1) of Appendix A to part 75 of this chapter, of an affected EGU that is in startup or shutdown mode. For monitored common stack configurations, the default electrical load is 5 percent of the combined maximum sustainable electrical load of the EGUs that are in startup or shutdown mode during an hour in which the electrical load for all operating EGUs is zero. The default electrical load is used to calculate the electrical output-based emission rate (lb/MWh or lb/GWh, as applicable) for any startup or shutdown hour in which the actual electrical load is zero. The default electrical load is not used for EGUs required to make heat input-based emission rate (lb/MMBtu or lb/TBtu, as applicable) calculations. For the purposes of this subpart, the default electrical load is not considered to be a substitute data value.

* * * * *

Diluent cap means a default CO_2 or O_2 concentration that may be used to calculate the Hg, HCl, HF, or SO_2 emission rate (lb/MMBtu or lb/TBtu, as applicable) during a startup or shutdown hour in which the measured CO_2 concentration is below the cap value or the measured O_2 concentration is above the cap value. The appropriate diluent cap values for EGUs are presented in § 63.10007(f) and in section 6.2.1.2 of Appendix A to this subpart. For the purposes of this subpart, the diluent cap is not considered to be a substitute data value.

* * * * *

Shutdown means the period in which cessation of operation of an EGU is initiated for any purpose. Shutdown begins when the EGU no longer generates electricity or makes useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes or when no coal, liquid oil, syngas, or solid oil-derived fuel is being fired in the EGU, whichever is earlier. Shutdown ends when the EGU no longer generates electricity or makes useful thermal energy (such as steam or heat) for industrial, commercial, heating, or cooling purposes, and no fuel is being fired in the EGU. Any fraction of an hour in which shutdown occurs constitutes a full hour of shutdown.

Startup means:

(1) Either the first-ever firing of fuel in a boiler for the purpose of producing electricity, or the firing of fuel in a boiler after a shutdown event for any purpose. Startup ends when any of the steam from the boiler is used to generate electricity for sale over the grid or for any other purpose (including on-site use). Any fraction of an hour in which startup occurs constitutes a full hour of startup; or

(2) The period in which operation of an EGU is initiated for any purpose. Startup begins with either the firing of any fuel in an EGU for the purpose of producing electricity or useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes (other than the first-ever firing of fuel in a boiler following construction of the boiler) or for any other purpose after a shutdown event. Startup ends 4 hours after the EGU generates electricity that is sold or used for any other purpose (including on site use), or 4 hours after the EGU makes useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes (16 U.S.C. 796(18)(A) and 18 CFR 292.202(c)), whichever is earlier. Any fraction of an hour in which startup occurs constitutes a full hour of startup.

* * * * *

■ 16. Revise Table 3 to subpart UUUUU of part 63 to read as follows:

TABLE 3 TO SUBPART UUUUU OF PART 63—WORK PRACTICE STANDARDS

[As stated in § 63.9991, you must comply with the following applicable work practice standards:]

If your EGU is . . .	You must meet the following . . .
1. An existing EGU	Conduct a tune-up of the EGU burner and combustion controls at least each 36 calendar months, or each 48 calendar months if neural network combustion optimization software is employed, as specified in § 63.10021(e).
2. A new or reconstructed EGU	Conduct a tune-up of the EGU burner and combustion controls at least each 36 calendar months, or each 48 calendar months if neural network combustion optimization software is employed, as specified in § 63.10021(e).

TABLE 3 TO SUBPART UUUUU OF PART 63—WORK PRACTICE STANDARDS—Continued

[As stated in § 63.9991, you must comply with the following applicable work practice standards:]

If your EGU is . . .	You must meet the following . . .
3. A coal-fired, liquid oil-fired (excluding limited-use liquid oil-fired subcategory units), or solid oil-derived fuel-fired EGU during startup.	You have the option of complying using either of the following work practice standards. (1) If you choose to comply using paragraph (1) of the definition of "startup" in § 63.10042, you must operate all CMS during startup. Startup means either the first-ever firing of fuel in a boiler for the purpose of producing electricity, or the firing of fuel in a boiler after a shutdown event for any purpose. Startup ends when any of the steam from the boiler is used to generate electricity for sale over the grid or for any other purpose (including on site use). For startup of a unit, you must use clean fuels as defined in § 63.10042 for ignition. Once you convert to firing coal, residual oil, or solid oil-derived fuel, you must engage all of the applicable control technologies except dry scrubber and SCR. You must start your dry scrubber and SCR systems, if present, appropriately to comply with relevant standards applicable during normal operation. You must comply with all applicable emissions limits at all times except for periods that meet the applicable definitions of startup and shutdown in this subpart. You must keep records during startup periods. You must provide reports concerning activities and startup periods, as specified in § 63.10011(g) and § 63.10021(h) and (i). (2) If you choose to comply using paragraph (2) of the definition of "startup" in § 63.10042, you must operate all CMS during startup. You must also collect appropriate data, and you must calculate the pollutant emission rate for each hour of startup. For startup of an EGU, you must use one or a combination of the clean fuels defined in § 63.10042 to the maximum extent possible throughout the startup period. You must have sufficient clean fuel capacity to engage and operate your PM control device within one hour of adding coal, residual oil, or solid oil-derived fuel to the unit. You must meet the startup period work practice requirements as identified in § 63.10020(e). Once you start firing coal, residual oil, or solid oil-derived fuel, you must vent emissions to the main stack(s). You must comply with the applicable emission limits within 4 hours of start of electricity generation. You must engage and operate your particulate matter control(s) within 1 hour of first firing of coal, residual oil, or solid oil-derived fuel. You must start all other applicable control devices as expeditiously as possible, considering safety and manufacturer/supplier recommendations, but, in any case, when necessary to comply with other standards made applicable to the EGU by a permit limit or a rule other than this Subpart that require operation of the control devices. Relative to the syngas not fired in the combustion turbine of an IGCC EGU during startup, you must either: (1) flare the syngas, or (2) route the syngas to duct burners, which may need to be installed, and route the flue gas from the duct burners to the heat recovery steam generator. If you choose to use just one set of sorbent traps to demonstrate compliance with Hg emission limits, you must comply with all applicable Hg emission limits at all times; otherwise, you must comply with all applicable emission limits at all times except for startup or shutdown periods conforming to this practice. You must collect monitoring data during startup periods, as specified in § 63.10020(a) and (e). You must keep records during startup periods, as provided in §§ 63.10032 and 63.10021(h). Any fraction of an hour in which startup occurs constitutes a full hour of startup. You must provide reports concerning activities and startup periods, as specified in §§ 63.10011(g), 63.10021(i), and 63.10031.
4. A coal-fired, liquid oil-fired (excluding limited-use liquid oil-fired subcategory units), or solid oil-derived fuel-fired EGU during shutdown.	You must operate all CMS during shutdown. You must also collect appropriate data, and you must calculate the pollutant emission rate for each hour of shutdown. While firing coal, residual oil, or solid oil-derived fuel during shutdown, you must vent emissions to the main stack(s) and operate all applicable control devices and continue to operate those control devices after the cessation of coal, residual oil, or solid oil-derived fuel being fed into the EGU and for as long as possible thereafter considering operational and safety concerns. In any case, you must operate your controls when necessary to comply with other standards made applicable to the EGU by a permit limit or a rule other than this Subpart and that require operation of the control devices. If, in addition to the fuel used prior to initiation of shutdown, another fuel must be used to support the shutdown process, that additional fuel must be one or a combination of the clean fuels defined in § 63.10042 and must be used to the maximum extent possible. Relative to the syngas not fired in the combustion turbine of an IGCC EGU during shutdown, you must either: (1) flare the syngas, or (2) route the syngas to duct burners, which may need to be installed, and route the flue gas from the duct burners to the heat recovery steam generator. You must comply with all applicable emission limits at all times except during startup periods and shutdown periods at which time you must meet this work practice. You must collect monitoring data during shutdown periods, as specified in § 63.10020(a). You must keep records during shutdown periods, as provided in §§ 63.10032 and 63.10021(h). Any fraction of an hour in which shutdown occurs constitutes a full hour of shutdown. You must provide reports concerning activities and shutdown periods, as specified in §§ 63.10011(g), 63.10021(i), and 63.10031.

■ 17. Revise Table 9 to subpart UUUUU of part 63 to read as follows:

TABLE 9 TO SUBPART UUUUU OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART UUUUU

[As stated in § 63.10040, you must comply with the applicable General Provisions according to the following]

Citation	Subject	Applies to subpart UUUUU
§ 63.1	Applicability	Yes.
§ 63.2	Definitions	Yes. Additional terms defined in § 63.10042.
§ 63.3	Units and Abbreviations	Yes.
§ 63.4	Prohibited Activities and Circumvention	Yes.
§ 63.5	Preconstruction Review and Notification Requirements.	Yes.
§ 63.6(a), (b)(1)–(5), (b)(7), (c), (f)(2)–(3), (h)(2)–(9), (i), (j).	Compliance with Standards and Maintenance Requirements.	Yes.
§ 63.6(e)(1)(i)	General Duty to minimize emissions	No. See § 63.10000(b) for general duty requirement.
§ 63.6(e)(1)(ii)	Requirement to correct malfunctions ASAP.	No.
§ 63.6(e)(3)	SSM Plan requirements	No.
§ 63.6(f)(1)	SSM exemption	No.
§ 63.6(h)(1)	SSM exemption	No.
§ 63.6(g)	Compliance with Standards and Maintenance Requirements, Use of an alternative non-opacity emission standard.	Yes. See §§ 63.10011(g)(4) and 63.10021(h)(4) for additional requirements.
§ 63.7(e)(1)	Performance testing	No. See § 63.10007.
§ 63.8	Monitoring Requirements	Yes.
§ 63.8(c)(1)(i)	General duty to minimize emissions and CMS operation.	No. See § 63.10000(b) for general duty requirement.
§ 63.8(c)(1)(iii)	Requirement to develop SSM Plan for CMS.	No.
§ 63.8(d)(3)	Written procedures for CMS	Yes, except for last sentence, which refers to an SSM plan. SSM plans are not required.
§ 63.9	Notification Requirements	Yes.
§ 63.10(a), (b)(1), (c), (d)(1)–(2), (e), and (f).	Recordkeeping and Reporting Requirements.	Yes, except for the requirements to submit written reports under § 63.10(e)(3)(v).
§ 63.10(b)(2)(i)	Recordkeeping of occurrence and duration of startups and shutdowns.	No.
§ 63.10(b)(2)(ii)	Recordkeeping of malfunctions	No. See § 63.10001 for recordkeeping of (1) occurrence and duration and (2) actions taken during malfunction.
§ 63.10(b)(2)(iii)	Maintenance records	Yes.
§ 63.10(b)(2)(iv)	Actions taken to minimize emissions during SSM.	No.
§ 63.10(b)(2)(v)	Actions taken to minimize emissions during SSM.	No.
§ 63.10(b)(2)(vi)	Recordkeeping for CMS malfunctions	Yes.
§ 63.10(b)(2)(vii)–(ix)	Other CMS requirements	Yes.
§ 63.10(b)(3), and (d)(3)–(5)		No.
§ 63.10(c)(7)	Additional recordkeeping requirements for CMS—identifying exceedances and excess emissions.	Yes.
§ 63.10(c)(8)	Additional recordkeeping requirements for CMS—identifying exceedances and excess emissions.	Yes.
§ 63.10(c)(10)	Recording nature and cause of malfunctions.	No. See § 63.10032(g) and (h) for malfunctions recordkeeping requirements.
§ 63.10(c)(11)	Recording corrective actions	No. See § 63.10032(g) and (h) for malfunctions recordkeeping requirements.
§ 63.10(c)(15)	Use of SSM Plan	No.
§ 63.10(d)(5)	SSM reports	No. See § 63.10021(h) and (i) for malfunction reporting requirements.
§ 63.11	Control Device Requirements	No.
§ 63.12	State Authority and Delegation	Yes.
§§ 63.13–63.16	Addresses, Incorporation by Reference, Availability of Information, Performance Track Provisions.	Yes.
§§ 63.1(a)(5), (a)(7)–(9), (b)(2), (c)(3)–(4), (d), 63.6(b)(6), (c)(3), (c)(4), (d), (e)(2), (e)(3)(ii), (h)(3), (h)(5)(iv), 63.8(a)(3), 63.9(b)(3), (h)(4), 63.10(c)(2)–(4), (c)(9).	Reserved	No.

■ 18. Appendix A to subpart UUUUU is amended by adding sections 7.1.2.5, 7.1.8.5, and 7.1.8.6, to read as follows:

Appendix A to Subpart UUUUU of Part 63—Hg Monitoring Provisions

* * * * *

7. Recordkeeping and Reporting

* * * * *

7.1.2 *Operating Parameter Records.* * * *

* * * * *

7.1.2.5 If applicable, a flag to indicate that the hour is a startup or shutdown hour (as defined in § 63.10042).

* * * * *

7.1.8 *Hg Emission Rate Records.* * * *

* * * * *

7.1.8.5 If applicable, a code to indicate that the default electrical load (as defined in § 63.10042) was used to calculate the Hg emission rate.

7.1.8.6 If applicable, a code to indicate that the diluent cap (as defined in § 63.10042) was used to calculate the Hg emission rate.

* * * * *

■ 19. Appendix B to subpart UUUUU is amended by revising section 9.3.1 and adding sections 10.1.2.5, 10.1.7.5, and 10.1.7.6 to read as follows:

Appendix B to Subpart UUUUU of Part 63—-HCl and HF Monitoring Provisions

* * * * *

9. Data Reduction and Calculations

* * * * *

9.3.1 For heat input-based emission rates, select an appropriate emission rate equation from among Equations 19–1 through 19–9 in EPA Method 19 in Appendix A–7 to part 60 of this chapter, to calculate the HCl or HF emission rate in lb/MMBtu. Multiply the HCl concentration value (ppm) by 9.43×10^{-8} to convert it to lb/scf, for use in the applicable Method 19 equation. For HF, the conversion constant from ppm to lb/scf is 5.18×10^{-8}. The appropriate diluent cap value from section 6.2.1.2 of Appendix A to this subpart may be used to calculate the HCl or HF emission rate (lb/MMBtu) during startup or shutdown hours.

* * * * *

10. Recordkeeping Requirements

* * * * *

10.1.2 *Operating Parameter Records.* * * *

* * * * *

10.1.2.5 If applicable, a flag to indicate that the hour is a startup or shutdown hour (as defined in § 63.10042).

* * * * *

10.1.7 *HCl and HF Emission Rate Records.* * * *

* * * * *

10.1.7.5 If applicable, a code to indicate that the default electrical load (as defined in § 63.10042) was used to calculate the HCl or HF emission rate.

10.1.7.6 If applicable, a code to indicate that the diluent cap (as defined in § 63.10042) was used to calculate the HCl or HF emission rate.

* * * * *

[FR Doc. 2014–27125 Filed 11–18–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2009–0234; FRL–9919–21–OAR]

RIN 2060–AS39

National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Steam Generating Units

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to amend the National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Steam Generating Units (Mercury and Air Toxics Standards (MATS)). This direct final rule amends the reporting requirements in the MATS rule by temporarily requiring affected sources to submit all required emissions and compliance reports to the EPA through the Emissions Collection and Monitoring Plan System (ECMPS) Client Tool and temporarily suspending the requirement for affected sources to submit certain reports using the Electronic Reporting Tool and the Compliance and Emissions Data Reporting Interface (CEDRI).

DATES: This rule is effective on January 5, 2015 without further notice, unless the EPA receives adverse comment by December 19, 2014. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that some or all of the amendments in the final rule will not take effect.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID Number EPA–HQ–OAR–2009–0234, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Attention Docket ID Number EPA–HQ–OAR–2009–0234.
- *Fax:* (202) 566–9744. Attention Docket ID Number EPA–HQ–OAR–2009–0234.
- *Mail:* U.S. Postal Service, send comments to: U.S. Environmental Protection Agency, EPA Docket Center, Mail Code: 28221T, Attention Docket ID Number EPA–HQ–OAR–2009–0234, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Ave. NW., Washington, DC 20004. Attention Docket ID Number EPA–HQ–OAR–2009–0234. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions. Direct your comments to Docket ID Number EPA–HQ–OAR–2009–0234. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information

(iii) That is completed on or after January 1, 2010.

■ 25. In § 157.11, add paragraph (h) to read as follows:

§ 157.11 Pumping, piping and discharge arrangements.

* * * * *

(h) Every oil tanker of 150 gross tons or more delivered on or after January 1, 2010, as defined in § 157.08(o), that has installed a sea chest that is permanently connected to the cargo pipeline system, must be equipped with both a sea chest valve and an inboard isolation valve. The sea chest must be able to be isolated from the cargo piping system by use of a positive means while the tanker is loading, transporting, or discharging cargo. This positive means must be is installed in the pipeline in such a way as to prevent, under all circumstances, the section of pipe between the sea chest valve and the inboard valve from being filled with cargo.

■ 26. Add § 157.14 to read as follows:

§ 157.14 Pump-room bottom protection.

Each oil tanker of 5,000 tons deadweight or more constructed on or after January 1, 2007, must meet the minimum standard of pump room bottom protection required by Annex I, Regulation 22 (incorporated by reference, see § 157.02).

■ 27. Amend § 157.19 as follows:

■ a. Revise paragraph (a) introductory;

■ b. Redesignate paragraphs (b) through (e) as paragraphs (c) through (f), respectively; and

■ c. Add new paragraph (b).

The revision and addition read as follows:

§ 157.19 Cargo tank arrangement and size.

(a) With the exception of those vessels listed in paragraph (b) of this section, this section applies to:

* * * * *

(b) This section does not apply to U.S. or foreign oil tankers delivered on or after January 1, 2010.

* * * * *

■ 28. Add § 157.20 to read as follows:

§ 157.20 Accidental oil outflow performance.

Each oil tanker which is delivered on or after January 1, 2010 must meet the minimum standard of accidental oil outflow performance required by Annex I, Regulation 23 (incorporated by reference, see § 157.02).

Dated: January 16, 2015.

J.G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2015–01925 Filed 2–3–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2002–0037; FRL–9921–80–OAR]

RIN 2060–AS45

National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources Wastewater Limit Withdrawal

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to amend the National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources. This direct final rule withdraws the total non-vinyl chloride organic hazardous air pollutant (TOHAP) process wastewater emission standards for new and existing polyvinyl chloride and copolymers (PVC) area sources.

DATES: This rule is effective on March 30, 2015 without further notice, unless the EPA receives adverse comment by March 13, 2015. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the amendments in the final rule will not take effect.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID Number EPA–HQ–OAR–2002–0037, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Attention Docket ID Number EPA–HQ–OAR–2002–0037.
- *Fax:* (202) 566–9744. Attention Docket ID Number EPA–HQ–OAR–2002–0037.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Mail Code: 28221T, Attention Docket ID Number EPA–HQ–OAR–2002–0037, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Ave. NW., Washington, DC 20004. Attention Docket ID Number EPA–HQ–OAR–2002–0037. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions. Direct your comments to Docket ID Number EPA–HQ–OAR–2002–0037. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at: *http://www.epa.gov/dockets.*

We request that you also send a separate copy of each comment to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the EPA Docket Center, EPA/DC, EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744,

and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Ms. Jodi Howard, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–4607; fax number: (919) 541–0246; and email address: *howard.jodi@epa.gov.*

SUPPLEMENTARY INFORMATION:

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

I. Why is the EPA issuing a direct final rule?
II. Does this direct final rule apply to me?
III. What should I consider as I prepare my comments for the EPA?
IV. What are the amendments made by this direct final rule?
V. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Paperwork Reduction Act (PRA)
C. Regulatory Flexibility Act (RFA)
D. Unfunded Mandates Reform Act (UMRA)
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. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act (CRA)

I. Why is the EPA issuing a direct final rule?

The EPA is publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the ''Proposed Rules'' section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to the National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources Wastewater Limit Withdrawal, if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If the EPA receives adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that some or all of this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

II. Does this direct final rule apply to me?

Categories and entities potentially regulated by this direct final rule include:

Category	NAICS code [1]	Examples of regulated entities
Polyvinyl chloride resins manufacturing.	325211	Facilities that polymerize vinyl chloride monomer to produce polyvinyl chloride and/or copolymers products.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this direct final rule. To determine whether your facility would be regulated by this direct final rule, you should examine the applicability criteria in 40 CFR 63.11140. If you have any questions regarding the applicability of this action to a particular entity, consult either the air permitting authority for the entity or your EPA regional representative as listed in 40 CFR 63.13.

III. What should I consider as I prepare my comments for the EPA?

Submitting CBI. Do not submit information containing CBI to the EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI for inclusion in the public docket. If you submit a CD–ROM or disk that does not contain CBI, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, and Attention Docket ID Number EPA–HQ–OAR–2002–0037.

IV. What are the amendments made by this direct final rule?

This direct final rule withdraws the PVC area source process wastewater emission standards for TOHAP for new and existing sources in Tables 1 and 2 of 40 CFR part 63, subpart DDDDDD. This rule makes no other changes to Tables 1 and 2, or any other aspect of the PVC rule. 77 FR 22848 (April 17, 2012). The existing rule limits area source process wastewater TOHAP emissions for new and existing sources to 0.018 parts per million by weight for all resin types.

Subsequent to the April 14, 2012, promulgation of the national emission standards for hazardous air pollutants (NESHAP) for PVC Area Sources, PVC industry stakeholders informed the EPA that data from a groundwater remediation stripper that is not part of the PVC Production source category had mistakenly been submitted to the EPA as PVC process wastewater data in response to the EPA's 2009 Clean Air Act (CAA) section 114 survey. Those wastewater data were used to set the new and existing area source TOHAP process wastewater emission standards. The PVC industry stakeholders requested that the PVC area source process wastewater TOHAP emission standards be withdrawn from the PVC Area Source NESHAP since they are not based on data from the PVC Production source category.

The EPA agrees and is taking action to withdraw the area source process wastewater TOHAP emission standards. Since promulgation of the April 2012 PVC Area Source NESHAP, the EPA also has requested process wastewater data in CAA section 114 surveys from companies with PVC area sources and is presently developing a proposed rule in its reconsideration of certain PVC area source NESHAP, including the process wastewater TOHAP emission standards.

Comments on this direct final rule are limited to issues directly associated with the withdrawal of the PVC Area Source NESHAP process wastewater emission standards for TOHAP in Tables 1 and 2 of 40 CFR part 63, subpart DDDDDD. Any other issues

raised in comments are outside the scope of this rulemaking.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive* orders.

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

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

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulation (40 CFR part 63, subpart DDDDDD) and has assigned OMB control number 2060–0684. This action does not change the information collection requirements. The OMB control numbers for the EPA's regulations are listed in 40 CFR part 9.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. To the EPA's knowledge, there are no small entities subject to the final rule.

D. Unfunded Mandates Reform Act (UMRA)

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

E. Executive Order 13132: Federalism

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

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

This action does not have tribal implications, as specified in Executive Order 13175. The final amendments impose no requirements on tribal governments. Thus, Executive Order 13175 does not apply to this action.

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

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

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

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

I. National Technology Transfer and Advancement Act

This action does not involve any new technical standards.

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

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. An evaluation was not needed for this action.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. 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, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: January 23, 2015.

Gina McCarthy,

Administrator.

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

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

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

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

Subpart DDDDDD—National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymer Production Area Sources

■ 2. Table 1 to Subpart DDDDDD of Part 63 is revised to read as follows:

TABLE 1 TO SUBPART DDDDDD OF PART 63—EMISSION LIMITS AND STANDARDS FOR EXISTING AFFECTED SOURCES

For this type of emission point . . .	And for this air pollutant . . .	And for an affected source producing this type of PVC resin . . .	You must meet this emission limit . . .
PVC-only process vents [a]	Vinyl chloride	All resin types	5.3 parts per million by volume (ppmv).
	Total hydrocarbons	All resin types	46 ppmv measured as propane.
	Total organic HAP [b]	All resin types	140 ppmv.
	Dioxins/furans (toxic equivalency basis).	All resin types	0.13 nanograms per dry standard cubic meter (ng/dscm).
PVC-combined process vents [a]	Vinyl chloride	All resin types	0.56 ppmv.
	Total hydrocarbons	All resin types	2.3 ppmv measured as propane.
	Total organic HAP [b]	All resin types	29 ppmv.
	Dioxins/furans (toxic equivalency basis).	All resin types	0.076 ng/dscm.

TABLE 1 TO SUBPART DDDDDD OF PART 63—EMISSION LIMITS AND STANDARDS FOR EXISTING AFFECTED SOURCES—Continued

For this type of emission point . . .	And for this air pollutant . . .	And for an affected source producing this type of PVC resin . . .	You must meet this emission limit . . .
Stripped resin	Vinyl chloride	Bulk resin	7.1 parts per million by weight (ppmw).
		Dispersion resin	1,500 ppmw.
		Suspension resin	36 ppmw.
		Suspension blending resin	140 ppmw.
		Copolymer resin	790 ppmw.
	Total non-vinyl chloride organic HAP.	Bulk resin	170 ppmw.
		Dispersion resin	320 ppmw.
		Suspension resin	36 ppmw.
		Suspension blending resin	500 ppmw.
		Copolymer resin	1,900 ppmw.
Process Wastewater	Vinyl chloride	All resin types	2.1 ppmw.

[a] Emission limits at 3-percent oxygen, dry basis.
[b] Affected sources have the option to comply with either the total hydrocarbon limit or the total organic HAP limit.

■ 3. Table 2 to Subpart DDDDDD of Part 63 is revised to read as follows:

TABLE 2—TO SUBPART DDDDDD OF PART 63—EMISSION LIMITS AND STANDARDS FOR NEW AFFECTED SOURCES

For this type of emission point . . .	And for this air pollutant . . .	And for an affected source producing this type of PVC resin . . .	You must meet this emission limit . . .
PVC-only process vents[a]	Vinyl chloride	All resin types	5.3 parts per million by volume (ppmv).
	Total hydrocarbons	All resin types	46 ppmv measured as propane.
	Total organic HAP[b]	All resin types	140 ppmv.
	Dioxins/furans (toxic equivalency basis).	All resin types	0.13 nanograms per dry standard cubic meter (ng/dscm).
PVC-combined process vents[a]	Vinyl chloride	All resin types	0.56 ppmv.
	Total hydrocarbons	All resin types	2.3 ppmv measured as propane.
	Total organic HAP[b]	All resin types	29 ppmv.
	Dioxins/furans (toxic equivalency basis).	All resin types	0.076 ng/dscm.
Stripped resin	Vinyl chloride	Bulk resin	7.1 parts per million by weight (ppmw).
		Dispersion resin	1,500 ppmw.
		Suspension resin	36 ppmw.
		Suspension blending resin	140 ppmw.
		Copolymer resin	790 ppmw.
	Total non-vinyl chloride organic HAP.	Bulk resin	170 ppmw.
		Dispersion resin	320 ppmw.
		Suspension resin	36 ppmw.
		Suspension blending resin	500 ppmw.
		Copolymer resin	1,900 ppmw.
Process Wastewater	Vinyl chloride	All resin types	2.1 ppmw.

[a] Emission limits at 3 percent oxygen, dry basis.
[b] Affected sources have the option to comply with either the total hydrocarbon limit or the total organic HAP limit.

[FR Doc. 2015–01922 Filed 2–3–15; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2013–0151; FRL–9920–98]

Difenoconazole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of difenoconazole in or on rapeseed subgroup 20A, and dragon fruit. Syngenta Crop Protection requested the rapeseed subgroup 20A tolerance, and Dragonberry/YW International Produce requested the dragonfruit tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective February 4, 2015. Objections and requests for hearings must be received on or before April 6, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2013–0151, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency

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Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2012–0360; FRL–9923–26–OAR]

RIN 2060–AR47

National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Off-Site Waste and Recovery Operations (OSWRO) source category regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, the Environmental Protection Agency (EPA) is finalizing amendments to correct and clarify regulatory provisions related to emissions during periods of startup, shutdown and malfunction (SSM); add requirements for reporting of performance testing through the Electronic Reporting Tool (ERT); revise the routine maintenance provisions; clarify provisions pertaining to open-ended valves and lines (OELs); add monitoring requirements for pressure relief devices (PRDs); clarify provisions for some performance test methods and procedures; and make several minor clarifications and corrections. The revisions to the final rule increase the level of emissions control and environmental protection provided by the OSWRO NESHAP.

DATES: This final action is effective on March 18, 2015.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2012–0360. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet, and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov,* or in hard copy at the EPA Docket Center, EPA WJC West Building, Room Number 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Ms. Paula Hirtz, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards (OAQPS), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2618; fax number: (919) 541–0246; and email address: *hirtz.paula@epa.gov.* For specific information regarding the risk modeling methodology, contact Ms. Darcie Smith, Health and Environmental Impacts Division (C504–06), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2076; fax number: (919) 541–0840; and email address: *smith.darcie@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Ms. Marcia Mia, EPA Office of Enforcement and Compliance Assurance; U.S. EPA, WJC West Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–7042; and email address: *mia.marcia@epa.gov.*

SUPPLEMENTARY INFORMATION:

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

ADAF—age-dependent adjustment factors
BDT—best demonstrated technology
CAA—Clean Air Act
CBI—confidential business information
CDX—Central Data Exchange
CEDRI—Compliance and Emissions Data Reporting Interface
CFR—Code of Federal Regulations
CRA—Congressional Review Act
CWA—Clean Water Act
EPA—Environmental Protection Agency
EPCRA—Emergency Planning and Community Right-To-Know Act
ERT—Electronic Reporting Tool
FR—Federal Register
HAP—hazardous air pollutants
HON—Hazardous Organic NESHAP
HQ—hazard quotient
ICR—information collection request
IPT—integrated project team
kPa—kilopascals
LDAR—leak detection and repair
MACT—maximum achievable control technology
MIR—maximum individual risk
MON—Miscellaneous Organic NESHAP
NAICS—North American Industry Classification System
NATA—National Air Toxics Assessment
NEIC—National Enforcement Investigations Center
NESHAP—National Emissions Standards for Hazardous Air Pollutants
NRDC—Natural Resources Defense Council
NTTAA—National Technology Transfer and Advancement Act
OAQPS—Office of Air Quality Planning and Standards
OECA—Office of Enforcement and Compliance Assurance
OEL—open-ended valve or line
OMB—Office of Management and Budget
OSHA—Occupational Safety and Health Administration
OSWRO—off-site waste and recovery operations
PB–HAP—hazardous air pollutants known to be persistent and bio-accumulative in the environment
POM—polycyclic organic matter
ppm—parts per million
ppmv—parts per million by volume
ppmw—parts per million by weight
PRA—Paperwork Reduction Act
PRD—pressure relief device
psi—pounds per square inch
RCRA—Resource Conservation and Recovery Act
RFA—Regulatory Flexibility Act
RQ—reportable quantity
RTR—residual risk and technology review
SBA—Small Business Administration
SCAQMD—South Coast Air Quality Management District
SOCMI—synthetic organic chemical manufacturing industry
SSM—startup, shutdown and malfunction
TOSHI—target organ-specific hazard index
tpy—tons per year
TSDF—hazardous waste treatment, storage and disposal facilities
TTN—Technology Transfer Network
UMRA—Unfunded Mandates Reform Act
VCS—voluntary consensus standards
VOC—volatile organic compound
VOHAP—volatile organic hazardous air pollutant
XML—extensible markup language

Background Information. On July 2, 2014 (79 FR 37850), the EPA proposed revisions to the OSWRO NESHAP based on our RTR, and we also proposed to amend provisions related to emissions during periods of SSM, to add requirements for electronic reporting of performance testing and monitoring requirements for PRDs, to revise routine maintenance provisions, to clarify provisions for OELs and for some performance test methods and procedures and to make several minor clarifications and corrections. In this action, we are finalizing decisions and revisions for the rule. We summarize key comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of the public comments on the proposal not presented in the preamble

and the EPA's responses to those comments are available in Docket ID No. EPA–HQ–OAR–2012–0360. The background information also includes discussion and technical analyses of other issues addressed in this final rule. A ''track changes'' version of the regulatory language that incorporates the changes in this action is available in the docket.

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

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. Judicial Review and Administrative Reconsideration
II. Background
A. What is the statutory authority for this action?
B. What is the OSWRO source category and how does the NESHAP promulgated on July 1, 1996, regulate HAP emissions from the source category?
C. What changes have been made to the standards since promulgation of the NESHAP for the OSWRO source category?
D. What changes did we propose for the OSWRO source category in our July 2, 2014, proposal?
III. What is included in this final rule?
A. What are the final rule amendments based on the risk review for the OSWRO source category?
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E. What are the effective and compliance dates of the revisions to the OSWRO NESHAP?
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V. Summary of Cost, Environmental and Economic Impacts and Additional Analyses Conducted
A. What are the affected sources?
B. What are the air quality impacts?
C. What are the cost impacts?
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VI. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Paperwork Reduction Act (PRA)
C. Regulatory Flexibility Act (RFA)
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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 (NTTAA)
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

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

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

NESHAP and source category	Examples of regulated entities
Off-Site Waste and Recovery Operations.	Businesses or government agencies that operate any of the following: Hazardous waste treatment, storage and disposal facilities (TSDF); Resource Conservation and Recovery Act (RCRA) exempt hazardous wastewater treatment facilities; nonhazardous wastewater treatment facilities other than publicly-owned treatment works; used solvent recovery plants; RCRA exempt hazardous waste recycling operations; used oil re-refineries.

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

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

In addition to being available in the docket, an electronic copy of this final action will be available on the Internet through the Technology Transfer Network (TTN) Web site, a forum for information and technology exchange in various areas or air pollution control. Following signature by the EPA Administrator, the EPA will post a copy of this final action at *http://www.epa.gov/ttn/atw/offwaste/oswropg.html.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same Web site.

Additional information is available on the RTR Web site at *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.* This information includes an overview of the RTR program, links to project Web sites for the RTR source categories and detailed emissions and other data we used as inputs to the risk assessments.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by May 18, 2015. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for the EPA to reconsider the rule, ''[i]f the

person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, EPA WJC West Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

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

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

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 79 FR 37850.

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

B. What is the OSWRO source category and how does the NESHAP promulgated on July 1, 1996, regulate HAP emissions from the source category?

The EPA promulgated the OSWRO NESHAP on July 1, 1996 (61 FR 34139). The standards are codified at 40 CFR part 63, subpart DD. The OSWRO industry consists of facilities that conduct operations to manage, convey or handle wastes or recoverable materials that are received from other facilities. The source category covered by the OSWRO NESHAP currently includes approximately 56 facilities. However, based on available permit information, seven facilities are known to be exempt from most of the rule requirements due to the low HAP content of the off-site waste they receive or because they comply instead with 40 CFR part 61, subpart FF, as allowed by the OSWRO NESHAP, and they are not expected to be affected by the final rule amendments.

In general, the rule applies to waste management units and recovery operations that are located at major sources of HAP emissions, are used to manage, convey or handle used oil, used solvent or waste received from other facilities, and contain at least one of 97 organic HAP specified in the rule.[2] The HAP emission sources at facilities subject to the OSWRO NESHAP are tanks, containers, surface impoundments, oil-water separators, organic-water separators, process vents and transfer systems used to manage offsite material and equipment leaks. The MACT standards regulate these emissions sources through emission limits, equipment standards and work practices.

C. What changes have been made to the standards since promulgation of the NESHAP for the OSWRO source category?

Rule changes have been made to the OSWRO NESHAP since the promulgation of the NESHAP on July 1, 1996, in several separate actions. On July 20, 1999 (64 FR 38950), the EPA issued a direct final rule that amended specific provisions in the rule to resolve issues and questions raised after promulgation of the final rule. In this action, the EPA also amended other rule language to correct technical omissions, to make requirements consistent with other related air rules, and to correct typographical, printing and grammatical errors. On January 8, 2001 (66 FR 1263), the EPA published technical corrections

[2] The OSWRO MACT rule defines ''waste,'' ''used oil'' and ''used solvent'' in 40 CFR 63.681 Definitions.

and minor technical amendments for the OSWRO NESHAP. In addition, the EPA published proposed and final rules on January 16, 2002 (67 FR 2286), and June 23, 2003 (68 FR 37334), respectively, to clarify which parts of several existing NESHAP, including the OSWRO NESHAP, can be delegated to state, local and tribal agencies. The EPA also published proposed and final rules on July 29, 2005 (70 FR 43992), and April 20, 2006 (71 FR 20446), respectively, to revise certain aspects of SSM requirements in several existing NESHAP, including the OSWRO NESHAP.

D. What changes did we propose for the OSWRO source category in our July 2, 2014, proposal?

On July 2, 2014 (79 FR 37850), the EPA published proposed amendments to the OSWRO NESHAP based on the RTR analyses and also proposed other revisions. The proposed revisions include the following:

- Revisions to the tank requirements to require increased control of emissions for tanks in a specific size range that also contain material above a specified vapor pressure;
- Revisions to the equipment leak requirements to remove the option to comply with either 40 CFR part 63, subpart H or 40 CFR part 61, subpart V, and require compliance with only 40 CFR part 63, subpart H;
- Revisions to requirements related to emissions during periods of SSM;
- The addition of requirements for reporting of performance testing through the ERT;
- Revisions to the routine maintenance provisions to limit the applicability of the provisions to tanks;
- Clarifications to the ''sealed'' requirement of the provisions for OELs;
- Addition of monitoring requirements for PRDs;
- Clarification of provisions for some performance test methods and procedures; and
- Several minor clarifications and corrections.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the OSWRO source category, and amends the OSWRO NESHAP, as proposed, based on those determinations. This action also finalizes the proposed changes to the NESHAP described in section II.D. of this preamble. We are also finalizing minor changes to the NESHAP in consideration of comments received during the public comment period for the proposed rulemaking, as described in section IV.D.2 of this preamble. In the following subsections, we introduce and summarize the final amendments to the OSWRO NESHAP.

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

Pursuant to CAA section 112(f), we are revising the tank and equipment leak requirements of the OSWRO NESHAP. Specifically, as we proposed, we are finalizing our determination that risks from the OSWRO source category are acceptable, considering all of the health information and factors evaluated and also considering risk estimation uncertainty; we are finalizing revisions to the tank requirements to require increased control of emissions for tanks in a specific size range that also contain material above a specified vapor pressure; and we are finalizing revisions to the equipment leak requirements to remove the option to comply with either 40 CFR part 63, subpart H or 40 CFR part 61, subpart V, and require compliance with only 40 CFR part 63, subpart H. We evaluated the costs, emissions reductions, energy implications and cost effectiveness of these revised standards and determined that these measures are cost effective and technically feasible and will provide an ample margin of safety to protect public health and prevent adverse environmental effects from exposure to emissions from the OSWRO source category.

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

We determined that there are developments in practices, processes and control technologies that warrant revisions to the NESHAP for this source category. Therefore, to satisfy the requirements of CAA section 112(d)(6), we are revising the MACT standards to include those developments. Specifically, as we proposed, we are finalizing revisions to the tank requirements to require increased control of emissions for tanks in a specific size range that also contain material above a specified vapor pressure, and we are finalizing revisions, as proposed, to the equipment leak requirements to remove the option to comply with either 40 CFR part 63, subpart H or 40 CFR part 61, subpart V, and require compliance with only 40 CFR part 63, subpart H. As noted in section III.A of the preamble, we are concurrently promulgating these tank and equipment leak revisions under section 112(f)(2) of the CAA to provide an ample margin of safety to protect public health.

C. What are the final rule amendments addressing emissions during periods of startup, shutdown and malfunction?

We are finalizing, as proposed, changes to the OSWRO NESHAP to eliminate the SSM exemption. Consistent with *Sierra Club* v. *EPA* 551 F. 3d 1019 (D.C. Cir. 2008), the EPA has established standards in this rule that apply at all times. Table 2 to Subpart DD of Part 63 (General Provisions applicability table) is being revised to change several references related to requirements that apply during periods of SSM. We also eliminated or revised certain recordkeeping and reporting requirements related to the eliminated SSM exemption. The EPA also made changes to the rule to remove or modify inappropriate, unnecessary or redundant language in the absence of the SSM exemption. We determined that facilities in this source category can meet the applicable emission standards in the OSWRO NESHAP at all times, including periods of startup and shutdown; therefore, the EPA determined that no additional standards are needed to address emissions during these periods.

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

This rule also finalizes, as proposed, revisions to several other OSWRO NESHAP requirements. We describe the revisions in the following paragraphs.

To increase the ease and efficiency of data submittal and data accessibility, we are finalizing, as proposed, a requirement that owners and operators of OSWRO facilities submit electronic copies of certain required performance test reports through an electronic performance test report tool called the ERT. This requirement to submit performance test data electronically to the EPA does not require any additional performance testing and applies only to those performance tests conducted using test methods that are supported by the ERT.

We are finalizing the proposed revisions to the routine maintenance provisions to limit their applicability to tanks routing emissions to a control device rather than any equipment or process routing emissions to a control device. This revision restores the OSWRO NESHAP provisions to the original intent for them to be consistent with the routine maintenance provisions of the Hazardous Organic NESHAP (HON).

To reduce compliance uncertainty associated with ''sealed'' OELs, we are

finalizing the proposed revisions to clarify that OELs are ''sealed'' by a cap, blind flange, plug or second valve when instrument monitoring of the OEL conducted according to Method 21 of 40 CFR part 60, appendix A indicates no readings of 500 parts per million (ppm) or greater. For OELs that are exempt from the requirements to be equipped with a cap, blind flange, plug or second valve, we are requiring them to be equipped with a flow indicator, seal or locking device.

To conform with the reasoning of the Court's ruling in *Sierra Club* v. *EPA,* we are finalizing the proposed requirements regarding releases directly to the atmosphere from safety devices, pressure tanks, bypasses and PRDs. These requirements prohibit bypasses of control devices and prohibit emissions released directly to the atmosphere from PRDs and closure devices on pressure tanks. In addition, we are finalizing the proposed recordkeeping and reporting requirements associated with releases to the atmosphere from bypasses and PRDs. We are also finalizing the proposed requirements that PRDs be monitored with a device or monitoring system that is capable of: (1) Identifying the pressure release; (2) recording the time and duration of each pressure release; and (3) notifying operators immediately that a pressure release is occurring.

We are finalizing, as proposed, several minor changes to the test methods and procedures required by the NESHAP to correct errors and to provide consistency, clarification and flexibility.

In addition, we are finalizing, as proposed, several miscellaneous minor changes to improve the clarity of the rule requirements.

We are also finalizing minor changes to the NESHAP in consideration of comments received during the public comment period for the proposed rulemaking, as described in section IV. D.2 of this preamble.

E. What are the effective and compliance dates of the revisions to the OSWRO NESHAP?

The effective date and compliance dates for the revisions to the OSWRO NESHAP being promulgated in this action have not changed since proposal.

The revisions to the OSWRO NESHAP being promulgated in this action are effective on March 18, 2015.

The compliance date for the revised SSM requirements, electronic reporting requirements, the revised routine maintenance provisions, the operating and pressure release management requirements for PRDs, and the revised requirements regarding bypasses and closure devices on pressure tanks for existing OSWRO facilities is the effective date of the standards March 18, 2015. The compliance date for existing OSWRO facilities to comply with the PRD monitoring requirements is 3 years from the effective date of the standards, March 20, 2018. The compliance date for existing OSWRO facilities to comply with the revised tank requirements is 2 years from the effective date of the standards, March 20, 2017. For equipment leaks, the compliance date for existing sources is 1 year from the effective date of the standards, March 18, 2016.

New sources must comply with all of the standards immediately upon the effective date of the standard, March 18, 2015, or upon startup, whichever is later.

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

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket.

A. Residual Risk Review for the OSWRO Source Category

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

Pursuant to CAA section 112(f), we conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the July 2, 2014, proposed rule for the OSWRO NESHAP (79 FR 37850). The results of the risk assessment are presented briefly below in Table 2, and in more detail in the residual risk document, *Residual Risk Assessment for the Off-Site Waste and Recovery Operations Source Category in Support of the February 2015 Risk and Technology Review Final Rule,* which is available in the docket for this rulemaking. Based on actual emissions for the OSWRO source category, the maximum individual risk (MIR) was estimated to be up to 9-in-1 million, the maximum chronic non-cancer target organ-specific hazard index (TOSHI) value was estimated to be up to 0.6, and the maximum off-site acute hazard quotient (HQ) value was estimated to be up to 1. The total estimated national cancer incidence from this source category, based on actual emission levels, was 0.02 excess cancer cases per year, or one case in every 50 years. Based on MACT-allowable emissions for the OSWRO source category, the MIR was estimated to be up to 20-in-1 million, and the maximum chronic non-cancer TOSHI value was estimated to be up to 1. We also found there were emissions of one persistent and bio-accumulative HAP (PB–HAP) with an available RTR multipathway screening value, and the reported emissions of this HAP, 2-acetylaminofluorene (which is a polycyclic organic matter (POM) compound), were below the multipathway screening value for this compound. Emissions of three environmental HAP, POM, hydrogen chloride and hydrogen fluoride, were reported by OSWRO facilities. For each of these three HAP, the modeled concentrations were below the respective ecological benchmark values. The maximum facility-wide MIR was 200-in-1 million and the maximum facility-wide TOSHI was 4. These risks were found to be due to emissions from non-OSWRO processes at the facility site and were based on actual emissions. We weighed all health risk factors in our risk acceptability determination, and we proposed that the residual risks from the OSWRO source category are acceptable.

TABLE 2—OFF-SITE WASTE AND RECOVERY OPERATIONS INHALATION RISK ASSESSMENT RESULTS

Maximum individual cancer risk (in 1 million) [a]		Estimated population at increased risk levels of cancer	Estimated annual cancer incidence (cases per year)	Maximum chronic non-cancer TOSHI [b]		Maximum screening acute non-cancer HQ [d]
Actual emissions level	MACT-allowable emissions level [c]			Actual emissions level	MACT-allowable emissions level	
9	20	≥ 1-in-1 million: 210,000 ≥ 10-in-1 million: 0	0.02	0.6	1	HQ_{REL} = 1 (glycol ethers).

[a] Estimated maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[b] Maximum TOSHI. The target organ with the highest TOSHI for the OSWRO source category for both actual and MACT-allowable emissions is the respiratory system.
[c] The development of allowable emission estimates can be found in the memo *MACT-Allowable Emissions for the Off-Site Waste and Recovery Operations Source Category,* which is available in the docket for this action.
[d] The maximum off-site acute value of 1 for actual emissions is driven by emissions of glycol ethers. Acute assessments are not performed with MACT-allowable emissions.

We then considered whether the OSWRO NESHAP provides an ample margin of safety to protect public health and whether more stringent standards are necessary to prevent, taking into consideration costs, energy, safety and other relevant factors, an adverse environmental effect. In considering whether the standards should be tightened to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category. The control options identified to reduce risk were the same as those identified under the technology review for the OSWRO source category. Based on that analysis, we proposed to require more stringent controls for tanks of certain sizes and containing materials above a certain vapor pressure. We also proposed to require facilities to comply with the more stringent leak detection and repair (LDAR) program of 40 CFR part 63, subpart H rather than to allow facilities to comply with either 40 CFR part 63, subpart H or 40 CFR part 61, subpart V. Furthermore, we proposed that additional HAP emissions controls for OSWRO process vents are not necessary to provide an ample margin of safety. Based on the results of our screening analysis for risks to the environment, we also proposed that more stringent standards are not necessary to prevent an adverse environmental effect.

2. How did the risk review change for the OSWRO source category since the proposed rule?

Information received by the EPA during the proposal comment period indicates that four additional facilities, not included in the risk review for the OSWRO source category, are subject to the OSWRO NESHAP. These facilities include Eastman Chemical Company in Kingsport, Tennessee; Eastman Chemical Company in Longview, Texas; E.I. DuPont de Nemours and Company in Orange, Texas; and E. I. DuPont de Nemours and Company in Axis, Alabama.

To determine whether to conduct additional risk modeling for these facilities, we reviewed the title V permits and the results of previously performed risk modeling for these facilities. The review of the facility title V permits, as well as conversations with facility representatives, indicated that these facilities are primarily chemical manufacturing plants with processes subject to other NESHAPs that also process some amount of waste received from other facilities within their companies. A review of previously modeled facility-wide risks for these four facilities as part of the risk reviews for the other NESHAP indicate that the maximum facility-wide cancer risks due to emissions of HAP range from 6-in-1 million to 40-in-1 million. These risks are relatively low when compared to the upper end of the range of acceptability of 100-in-1 million. The maximum facility-wide non-cancer risks due to HAP emissions range from 0.08 to 1. In addition, the results show that the facility-wide cancer and non-cancer risks are attributed to HAP emissions from non-OSWRO processes. As the OSWRO processes are minor operations at these facilities, the risk due to OSWRO operations is expected to be a small fraction of the facility-wide risk.

Adding these facilities to the dataset and performing additional modeling would not be expected to result in increased maximum risks from the source category, for the reasons discussed above. Thus, we determined that additional modeling to include these facilities is not necessary, and, based on available information, the risks from these four facilities do not change our decisions regarding risk acceptability or ample margin of safety for the OSWRO source category. We have not otherwise changed any aspects of our risk review since the proposal.

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

The comments received on the proposed risk review were generally supportive of our determination of risk acceptability and ample margin of safety analysis and requirement for additional control. A summary of these comments and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0360).

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

For the reasons explained in the proposed rule, we determined that the risks from the OSWRO source category are acceptable, and the revised requirements for tanks and equipment leaks described above will provide an ample margin of safety to protect public. In addition, for the reasons explained in the proposal, we determined that more stringent standards are not necessary to prevent an adverse environmental effect. Since proposal, neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety or adverse environmental effects have changed. Therefore, pursuant to CAA section 112(f)(2), we are revising the OSWRO NESHAP to require the 40 CFR part 63, subpart H LDAR program and more stringent emissions controls for certain tanks to provide an ample margin of safety to protect public.

B. Technology Review for the OSWRO Source Category

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

Pursuant to CAA section 112(d)(6), we conducted a technology review, which focused on identifying and evaluating developments in practices, processes and control technologies for the emission sources in the OSWRO source category. At proposal, we identified developments in practices, processes or control technologies for process vents, tanks and equipment leaks.

For process vents, one potential control technology was identified at proposal, use of a regenerative thermal oxidizer, which could increase the emissions capture and control efficiency from 95 percent to 98 percent for those process vents that are currently controlled with a carbon adsorption system or other device achieving 95-percent control. We estimated an additional emission reduction of 10 tpy of HAP would be associated with this increase in emissions control efficiency, and the estimated costs would be $350,000 per ton of HAP emission reduction.

For tanks, we identified two potential developments in practices and control techniques at proposal. Option 1 would lower the vapor pressure threshold above which ''Level 2'' control would be required for some tanks. ''Level 2'' control essentially requires one of five options: (1) A fixed roof tank equipped with an internal floating roof; (2) a fixed roof tank equipped with an external floating roof; (3) a tank with a vapor-tight cover and vented through a closed-vent system to a control device that has an efficiency of 95 percent or more; (4) a pressure tank; or (5) a tank inside a permanent total enclosure that is vented through a closed-vent system to an enclosed combustion control device. Option 1 would require Level 2 emissions control for tanks with capacities greater than or equal to 75 cubic meters (m^3), but less than 151 m^3, if the vapor pressure of the stored material is 13 kilopascals (kPa) or greater, instead of 27.6 kPa or greater as required by the current MACT standard. Option 2 would revise the vapor pressure threshold as in Option 1 and increase the required control efficiency from the current 95-percent to a 98-percent emissions reduction for all tanks required to use Level 2 controls. For tank Option 1, we estimated an additional emission reduction of up to 73 tpy and estimated the costs would be $300 per ton of HAP emission reduction. For tank Option 2, we estimated the HAP emissions reduction incremental to Option 1 would be approximately 22 tpy and the incremental cost effectiveness between Option 1 and Option 2 would be $56,000 per ton of HAP emission reduction.

For equipment leaks, we identified the more stringent leak definitions of 40 CFR part 63, subpart H over those of 40 CFR part 61, subpart V as a development in practices, processes or control technologies at proposal. To implement the subpart H LDAR program, two options were identified: Option 1—switching from the subpart V LDAR program to the subpart H LDAR program, without the connector monitoring requirements; Option 2—switching from the subpart V LDAR program to the subpart H LDAR program, with the connector monitoring requirements. For Option 1, we estimated an additional emission reduction of up to 69 tpy and estimated the costs would be $1,000 per ton of HAP emission reduction. For Option 2, we estimated the HAP emissions reduction incremental to Option 1 would be approximately 70 tpy and the incremental cost effectiveness between Option 1 and Option 2 would be $7,000 per ton of HAP emission reduction.

Based on the costs and the emission reductions that would be achieved with the identified developments, we proposed to revise the MACT standard pursuant to CAA section 112(d)(6) to require Level 2 controls for tanks with capacities greater than or equal to 75 m^3, but less than 151 m^3, if the vapor pressure of the stored material is 13 kPa or greater and to require facilities to comply with the subpart H LDAR program, including the subpart H requirements for connectors in gas/vapor service and in light liquid service. We proposed that it was not necessary to revise the MACT standards pursuant to CAA section 112(d)(6) to require 98-percent control, based on the use of a regenerative thermal oxidizer, for process vents. More information concerning our technology review can be found in the memorandum titled, *Technology Review and Cost Impacts for the Proposed Amendments to the Off-Site Waste and Recovery Operations Source Category,* which is available in the docket, and in the preamble to the proposed rule, 79 FR at 37870 to 37873.

2. How did the technology review change for the OSWRO source category?

a. Tanks

The analysis of the proposed control requirements for tanks at existing OSWRO facilities has been revised to reflect new data submitted by industry during the comment period. As part of its comments, the Cement Kiln Recycling Coalition provided information to demonstrate that alternative values or assumptions should be used in the analysis of tank emission reductions and costs of control. These comments were associated with the proposed requirement that Level 2 controls be used for tanks with capacities greater than or equal to 75 m^3, but less than 151 m^3, if the vapor pressure of the stored material is 13 kPa or greater (*i.e.,* Option 1). We reviewed this information, determined that several suggested changes were appropriate because they more accurately reflect the conditions of tanks in the OSWRO source category, and revised our analysis of tank emissions reductions and control costs to incorporate the data submitted by the commenter, where such incorporation was deemed appropriate. The major revisions to the analysis included the use of different parameters in estimating HAP emissions per tank and the inclusion of additional emissions control equipment and ancillary equipment. In addition, through further review of our previous analysis, we determined that the number of tanks nationwide that would require control under Option 1 was overestimated, and we revised the estimated number of tanks that would be affected by Option 1 in this analysis.

As shown in Table 3, our revised estimate of the capital costs for the tanks Option 1 requirement is approximately $139,000, and the total annualized costs are estimated to be approximately $192,000. The estimated HAP emissions reduction is approximately 26 tpy, and the cost effectiveness is approximately $7,000/ton.

TABLE 3—REVISED ESTIMATED NATIONWIDE EMISSIONS REDUCTION AND COSTS OF CONTROL OPTION 1 FOR TANKS AT OSWRO FACILITIES

Regulatory alternative	HAP emissions reduction (tpy)	Capital cost ($)	Annual costs ($/yr)	Cost effectiveness ($/ton HAP)
Option 1	26.4	139,000	192,000	7,000

At proposal, we also evaluated the impacts of requiring an increased HAP emissions control efficiency of 98 percent based on the use of a regenerative thermal oxidizer (*i.e.,* Option 2) and found that the costs of Option 2 were not reasonable given the level of HAP emissions reductions that it would achieve. No comments were received regarding Option 2, and we have not revised the analysis for Option 2.

For further details on the revised tanks analysis, see the technical memorandum titled, *Revised Technology Review for the Off-Site Waste and Recovery Operations Tanks,* available in the docket for this action.

b. Equipment Leaks

As part of its comments on the proposed rule, one commenter noted that the EPA did not account for monitoring of agitator seals on tanks in its analysis of the costs of implementing the more stringent leak definitions for equipment in 40 CFR part 63 subpart H. We have revised our analysis of the costs and emissions reductions associated with switching from the 40 CFR part 61, subpart V LDAR program to the 40 CFR part 63, subpart H LDAR program to include the expected emissions reductions and costs associated with monitoring agitator seals for leaks. Also, based on information received after proposal that there are four additional facilities in the source category that would be subject to the LDAR requirements of the rule, we have revised the analysis to include those facilities. We included this information in the evaluation of both regulatory options: Option 1—switching from a subpart V LDAR program to a subpart H LDAR program, without the subpart H connector monitoring requirements and Option 2—switching from a subpart V LDAR program, with the subpart H connector monitoring requirements.

The revised estimated costs and emissions reductions associated with these two options are shown in Table 4. For Option 1 (subpart H without connector monitoring), we estimate the capital costs to be approximately $414,000, and the total annualized costs are estimated to be approximately $155,000. The estimated HAP emissions reduction is approximately 109 tpy, and the cost effectiveness is approximately $1,000/ton. For Option 2 (subpart H with connector monitoring), we estimate the capital costs to be approximately $2,089,000, and the total annualized costs are estimated to be approximately $664,000. The estimated HAP emissions reduction is approximately 185 tpy, and the cost effectiveness is approximately $4,000/ton. The incremental cost effectiveness between Option 1 and Option 2 is approximately $7,000.

TABLE 4—REVISED ESTIMATED NATIONWIDE EMISSIONS REDUCTION AND COSTS OF EQUIPMENT LEAK CONTROL OPTIONS AT OSWRO FACILITIES

Regulatory alternative	HAP emissions reduction (tpy)	Capital cost ($)	Annual costs ($/yr)	Cost effectiveness ($/ton HAP)	Incremental cost effectiveness ($/ton HAP removed)
Option 1: Subpart H, no connector monitoring	108.7	414,000	155,000	1,000	
Option 2: Subpart H with connector monitoring	184.5	2,089,000	664,000	4,000	7,000

In addition to these revisions to the equipment leak analysis, we also considered comments regarding the costs of connector monitoring. In its comments on the proposed rule, one commenter claimed that the costs the EPA included in its analysis for ongoing connector monitoring and administrative activities were too low. Although we do not agree with the commenter and we continue to believe the costs we used in the analysis for these activities are reasonable, we conducted an additional analysis to assess the potential effect of using the values provided by the commenter on the cost effectiveness of Option 2. This additional analysis showed there would be a slight increase in the Option 2 total annualized cost to $672,000. The cost effectiveness would remain approximately $4,000, and the incremental cost effectiveness between Option 1 and Option 2 would still be approximately $7,000.

For further details on the revised equipment leaks analysis, see the technical memorandum titled, *Revised Technology Review for the Off-Site Waste and Recovery Operations Equipment Leaks,* available in the docket for this action.

c. Process Vents and Other OSWRO Equipment and Processes

For process vents and other equipment and processes at OSWRO facilities, the technology review has not changed since proposal.

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

The following is a summary of the key comments received regarding the OSWRO source category technology review and our responses to these comments. Additional comments on the technology review and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0360).

Comment: One commenter states that the EPA did not account for monitoring of agitator seals on tanks in its analysis of the costs of implementing the more stringent leak definitions for equipment in 40 CFR part 63, subpart H, and

asserts that many tanks at OSWRO facilities are equipped with agitators.

Response: We acknowledge that we did not, prior to proposal, analyze the impacts of including monthly monitoring of agitators with Method 21 for the proposed rule. We performed this analysis in response to comments and have determined that the capital costs per facility for agitator monitoring are approximately $1,000, and the total annualized costs are estimated to be approximately $2,000. The estimated HAP emissions reduction is approximately 0.7 tpy, and the cost effectiveness is approximately $2,000/ton. Agitator monitoring would be included in both LDAR Options 1 and 2. To determine the effect of including agitator monitoring in the LDAR program options, we compared the costs and emissions reductions on a per facility basis rather than for the whole source category to avoid issues with differences in the number of facilities included in the source category. The effect of including agitator monitoring in Option 1 is an increase in the per facility capital costs from approximately $7,000 to approximately $8,000, an increase in the total annualized costs from approximately $1,500 to approximately $3,000, an increase in the estimated HAP emissions reduction from approximately 1.5 to approximately 2.2 tpy, and the cost effectiveness value remaining at approximately $1,000/ton. The effect of including agitator monitoring in Option 2 is an increase in the per facility capital costs from approximately $41,000 to approximately $43,000, an increase in the total annualized costs from approximately $12,000 to approximately $14,000, and an increase in the estimated HAP emissions reduction from approximately 3.1 to approximately 3.8 tpy. The cost effectiveness remains at approximately $4,000/ton, and the incremental cost effectiveness compared with Option 1 remains the same at $7,000/ton. Further details on the revised equipment leaks analysis are documented in the technical memorandum titled, *Revised Technology Review for the Off-Site Waste and Recovery Operations Equipment Leaks,* available in the docket for this action.

Based on our analysis of the costs of a 40 CFR part 63, subpart H LDAR program with monthly agitator monitoring using Method 21, we are finalizing, as proposed, the requirement that OSWRO facilities comply with subpart H, including the subpart H requirements for connectors in gas/vapor service and in light liquid service.

Comment: Several commenters dispute the EPA's emission reduction estimates related to connector monitoring. One of these commenters notes that the EPA based its cost-effectiveness calculations on the approach from the December 21, 2011, memorandum, *Analysis of Emissions Reduction Techniques for Equipment Leaks,* developed for the Uniform Standards, and provides comments on the approach used in this memorandum. This commenter and another commenter state that the leak rate factor of 1.7 for connectors was determined for the refining industry, and the EPA provides no basis that it applies to the synthetic organic chemical manufacturing industry (SOCMI) or the OSWRO source category. One commenter states that if the EPA believes the 1.7 factor is warranted, it should use petroleum refinery leak rates as a starting point instead of SOCMI rates. The commenter asserts that based on the experience of member companies with process units subject to HON connector monitoring, commencement of Method 21 monitoring with a leak definition of 500 ppm will not reduce emissions by 50 percent, as the EPA estimates. This commenter submitted a report that concluded there is no statistical difference in average leak rates between the initial Method 21 inspections and subsequent inspections and that volatile organic compound (VOC) emissions from connectors at plants subject to the HON or Miscellaneous Organic NESHAP (MON) are far below SOCMI average factor estimates. The commenter suggests that sensory methods of detecting leaks are adequate and the imposition of Method 21 in addition to current practices will not further reduce the number of leaks. The commenter asserts that operators are trained to recognize hazards associated with leaks using sensory methods and are expected to take prompt action when leaks occur.

Another commenter asserts that the revised monitoring requirements for connectors will not result in substantial, or any, HAP emission reductions. The commenter's assertion is based on data obtained from LDAR records of its member facilities, where only five connectors were found to have a leak above 500 ppm out of 10,542 connectors analyzed over the past year. The commenter also asserts that the EPA's assumption of 82-percent HAP composition is incorrect, and was taken from an OSWRO NESHAP background information document from 1994 which is based on an outdated HAP list (*i.e.,* methyl ethyl ketone has since been removed).

Response: The EPA stands by our analysis of emission reduction estimates related to connector monitoring for the OSWRO source category.

Regarding the factor used in estimating the leak frequency, we increased the connector leak frequency by a factor of 1.7. As explained below, we believe it is appropriate to apply this factor to the OSWRO source category to account for differences in industry-reported and National Enforcement Investigations Center (NEIC) measured leak frequencies. In 1999, the NEIC published the results of a comparative monitoring study at 17 petroleum refineries, which showed the percentage of valves identified as leaking by NEIC was always higher than the results of monitoring conducted by the petroleum refiners.[3] This NEIC report states that the disparity between the NEIC and company results may be attributable to refineries not monitoring in the manner prescribed in Method 21 of 40 CFR part 60, appendix A–7. In a subsequent analysis of these results, the NEIC results were shown to be higher than the industry results by a factor of at least 2.6 at the 99-percent confidence level.[4] As the initial connector leak frequency used in the analysis of OSWRO connector leak emissions was the same as that used in the Uniform Standards analysis,[5] which was based on industry–supplied data for facilities regulated by the MON, we applied a factor to account for the differences noted between industry-supplied data and NEIC-measured leak frequency data. For the OSWRO analysis, the factor of 1.7 was used rather than 2.6. This 1.7 factor represents the 10th percentile of the data set (*i.e.,* 90 percent of the NEIC leak frequencies were at least 1.7 times higher than the leak frequencies reported by the refineries). This conservative factor was chosen, in part, to account for the possibility that refineries and OSWRO facilities could leak at different rates.

We disagree with the commenter that applying the connector leak frequency

[3] U.S. EPA, Office of Enforcement and Compliance Assurance. October 1999. *Enforcement Alert: Proper Monitoring Essential to Reducing 'Fugitive Emissions' Under Leak Detection and Repair Programs.*

[4] Memorandum from D. Randall, RTI International, to K. Rackley, USEPA. October 30, 2007. *Statistical Analysis of Valve Leak Frequencies Obtained by Industry and EPA for Petroleum Refining Process Units.*

[5] Memorandum from C. Hancy, RTI International, to J. Howard, USEPA. December 21, 2011. *Analysis of Emissions Reduction Techniques for Equipment Leaks. This memorandum is available in the docket for this action.*

factor of 1.7 necessitates the use of petroleum refinery leak frequency rates. Since the process equipment and chemicals used at OSWRO facilities are more similar to those of the SOCMI than those at petroleum refineries, we believe it is appropriate to use SOCMI leak frequencies. Further, the factor we applied to the connector leak frequency to account for differences noted between industry-supplied and NEIC-measured data already accounted for potential differences in leak frequencies between petroleum refineries and OSWRO facilities by using the more conservative factor of 1.7 than the factor of 2.6 that would be applied to refinery data. We note that the initial leak frequency of 0.36 percent used in the OSWRO analysis is the same as that reported by the commenter's member companies for the HON initial monitoring, and we made the conservative assumption that the subsequent leak frequency after implementation of Method 21 monitoring of connectors would be the same as the initial leak frequency. However, we also assumed, as we have in other rulemakings, that these leaking connectors would be fixed so that the average leak frequency over each monitoring cycle would be equal to one-half of the subsequent leak frequency (*i.e.,* 0.18 percent).[6]

We disagree with the commenter's claim that the estimated emissions per connector used in the EPA's analysis are too high. The leak rates used were based on those reported in the Protocol for Equipment Leak Emissions Estimates (EPA–453/R–95–017, November 1995), which determined these leak rates based on screening data from 33 chemical production units and bagging data from 22 chemical production units. We consider this to be relevant and robust data, and the resulting average leak emissions rates are appropriate to use in our analyses.

We agree with the commenter that the HAP composition used in our analyses of 82 percent was taken from the 1994 OSWRO NESHAP background information document. The commenter did not provide any information to show that another estimate of HAP composition would be appropriate, and, without any basis for a different value, we have not changed our analyses to include a different HAP composition.

Comment: Two commenters dispute the EPA's assessment of the costs to monitor connectors. Specifically, one commenter disputes the EPA's assumed cost of $2.50 per monitored connector and outlines the various challenges in monitoring connectors in comparison with other types of equipment components. The other commenter states that the EPA underestimated the annual administrative costs of monitoring connectors and provides their own estimate of $27,000. Both commenters provide a revised analysis of the cost of connector monitoring based on a recent study conducted by one company at one facility, and conclude that monitoring connectors would cost $6.50 per component and $18,139/ton. Another commenter states that the requirement to conduct connector monitoring could result in OSWRO facilities being forced to hire outside consultants to perform the monitoring due to the large number of connectors at each site and that the annual monitoring costs for connectors could be the same as that for all other monitored components.

Response: We have considered the commenters' concerns that the estimated connector monitoring costs used in our analysis of the costs of an LDAR program, including periodic connector monitoring using Method 21, are too low. The two areas in which the commenters dispute the estimated connector monitoring costs are in the ongoing monitoring costs per connector and the estimated annual administrative and reporting costs. Regarding ongoing monitoring costs, we do not believe the $2.50 used in the EPA's analysis is an unreasonable estimate of the monitoring costs per connector. This estimate is based on an average monitoring cost per component of $1.00 to $1.50, and then increased to $2.50 to account for industry claims that connectors are more difficult than other components to monitor.[7] However, to determine how a fee of $6.50 per connector, as suggested by the commenters, would affect the cost effectiveness of the provisions, we conducted an additional analysis of costs of an LDAR program using this value. We note that all monitoring costs already assume an outside contractor would be used. Regarding the administrative and reporting costs, the submitted study includes $27,000 per year for these activities for connectors alone. At the labor rates used in the study, this equates to 781 hours per year. We do not find this amount of time to be reasonable for connector administrative and reporting costs, especially considering that connector monitoring may only be required once every four years. However, it may be possible that our estimate of 50 hours per year at a labor rate of $92.92 per hour overestimates the labor rate and underestimates the amount of time required to complete the necessary administrative requirements. Therefore, we conducted an additional analysis of the costs of the LDAR program assuming twice as many hours as we previously estimated and the labor rates provided by the commenter for these administrative actions. Using these more conservative values, the incremental cost effectiveness for connectors would be $6,825/ton. This incremental cost effectiveness is still $7,000/ton of HAP reduced, as was calculated without the alternate connector monitoring costs. Therefore, using these alternative values would not change our determination that the costs of the subpart H LDAR program (including connector monitoring) are reasonable, given the level of HAP emissions reduction that would be achieved, and we are finalizing the equipment leak amendments to require subpart H LDAR (including connector monitoring) as proposed.

Comment: One commenter states the EPA used several assumptions the commenter does not agree with in its estimate of emissions from tanks. One is that the EPA overestimated the tank throughput. The commenter asserts that, based on data from its members, the average waste throughput is typically less than 20,000,000 gallons for each facility, which is much lower than the EPA's estimate of 35,000,000 gallons per facility. The commenter also disagrees with the EPA's assumption that OSWRO tanks contain 100-percent HAP, as hazardous wastes processed by OSWRO facilities contain a large portion of organic and inorganic non-HAP constituents. The commenter estimates that as little as 50 percent of the tank constituents are HAP and provided a suggested mix of HAP constituents. The commenter also states that the EPA's selection of Houston as the location of the model facility is inappropriate because of its average sub-tropical temperatures, and a location more representative of the national average should be selected. The commenter also states that the EPA's use of the default conservation vent pressure settings of 0.03 pounds per square inch (psi) and −0.03 psi in the calculation of uncontrolled emissions is too low, and actual pressure settings for tanks currently subject to the OSWRO Level 1 control requirements are typically set at 0.5 psi.

[6] Memorandum from K. Parrish and D. Randall, RTI International, to K. Rackley, USEPA. October 30, 2007. *Final Impacts Analysis for Regulatory Options for Equipment Leaks of VOC in the SOCMI.*

[7] Memorandum from K. Parrish and D. Randall, RTI International, to K. Rackley, USEPA. October 30, 2007. *Final Impacts Analysis for Regulatory Options for Equipment Leaks of VOC in the SOCMI.*

This commenter also disputes the EPA's estimate of the costs that would be incurred by facilities to comply with the proposed amendments to the vapor pressure thresholds for tank control level. The commenter states that contrary to the EPA's assumptions, there are a significant number of sources that would require the installation of a new control device or would have to upgrade and/or expand their existing control device systems to comply with the Control Level 2 standards. The commenter asserts that the EPA provided no assessment of whether existing control devices are sized to accommodate additional vented sources, and control devices are typically not sized with significant excess capacity due to economic and space considerations. The commenter states that the EPA also did not consider flame arrestors to prevent back-flash to tanks, which would cost $10,000 per unit. In addition, the commenter asserts that the EPA did not consider capital costs related to engineering installation, or regulatory and safety costs, such as additional process hazard reviews and analyses under either the Occupational Safety and Health Administration (OSHA) Process Safety Management or CAA Risk Management Plan regulations that would likely be required if tanks are connected to a control device.

The commenter also disputes EPA's estimate of annual costs, and states that the EPA did not consider the additional cost associated with operation of the control device itself, such as costs associated with replacement and disposal or regeneration of carbon (for a carbon adsorption system). The commenter asserts that the annual cost should still be applied even if there is an existing control device because annual carbon costs are a function of the throughput of the newly affected units. The commenter further asserts that additional annual and capital costs would be incurred from the operation of a nitrogen blanketing system that may be required if carbon adsorption units is used as the HAP control device.

The commenter estimates that the cost effectiveness of the proposed amendments to the tank vapor pressure thresholds is actually $48,000 per ton of HAP controlled, which the commenter claims is an unnecessary cost to achieve minor emission reductions.

Response: Our analysis presented the best quantification of the emission reductions and costs of the proposed amendments to the tank provisions based on the information available at the time. We have revised some of the assumptions used in the analysis to address concerns raised by the commenter and to include additional information that the commenter has provided. Details of this analysis are presented in the memo, *Revised Technology Review for the Off-Site Waste and Recovery Operations Tanks,* which is available in the docket for this action.

We agree with the commenter that OSWRO tanks likely do not contain 100-percent HAP, and have revised the analysis to include a mix of tank constituents that comprises 60-percent HAP, as suggested by the commenter. We have moved the location of the model facility from Houston to a location near the center of the continental United States, which has temperatures more representative of the national average. We have also increased the conservation vent pressure setting from the default value of 0.03 psi to 0.5 psi, as suggested by the commenter. We did not revise the average waste throughput used in the analysis. The commenter did not provide data to support the claim that the average waste throughput is actually 20,000,000 gallons per facility, and the EPA's estimate of 35,000,000 gallons per facility is supported by data obtained through the 2013 CAA section 114 questionnaire for the one OSWRO facility with tanks in the size and vapor pressure range affected by the proposed standards.

In addition, while some facilities may have control devices with adequate capacity to control emissions from the additional tanks that would become subject to Level 2 control requirements as a result of the proposed amendments, it may be possible that some facilities do not have the required excess capacity. Therefore, we have revised the analysis to add the conservative assumption that each facility would need to install a carbon adsorber to comply with the proposed amendments. The revised analysis includes the cost of a carbon adsorber canister system, including installation and other associated capital costs, as well as annual costs for the operation of the device (*e.g.,* cost of carbon). We have also revised the analysis to include costs for flame arrestors, as suggested by the commenter. We have revised the number of tanks in the analysis from 21 to 14 to account for seven tanks that are known to already be controlled based on information collected through the CAA section 114 questionnaire.

We disagree with the commenter that the cost of nitrogen blanketing systems should be included in the analysis. Nitrogen blankets are not required by the OSWRO NESHAP for use with a control device, and we do not believe that nitrogen blankets are necessary for the operation of control devices, including a carbon adsorption system, as suggested by the commenter. Further, nitrogen blanketing systems can be used on tanks that are not controlled by a control device, and may already be in place for the tanks that would be affected by the revised standard. We also disagree with the commenter that we have not considered capital costs related to engineering installation and regulatory and safety costs. We explicitly include installation costs of equipment, and we follow the procedure of the EPA Control Cost Manual for including indirect costs.

Considering the revisions to emission controls and costs identified above, we have determined that the capital costs for the proposed amendments to the tank provisions are approximately $139,000, and the total annualized costs are estimated to be approximately $192,000. The estimated HAP emissions reduction is approximately 26 tpy, and the cost effectiveness is approximately $7,000 per ton of HAP reduced. While the revised analysis resulted in lower emission reductions at a higher cost than the estimates developed prior to proposal, we still find the amendments to the tank control provisions to be cost effective, and are, therefore, finalizing the amendments as proposed.

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

Based on our revised analysis for tanks, the costs of Option 1 are reasonable, given the level of HAP emissions reduction that would be achieved with this control option. Therefore, as a result of this revised technology review pursuant to CAA section 112(d)(6), we have determined, as we did at proposal, that it is appropriate to revise the OSWRO NESHAP to require Level 2 controls for tanks with capacities greater than or equal to 75 m^3, but less than 151 m^3, if the vapor pressure of the stored material is 13 kPa or greater.

Considering our revised analysis for equipment leaks, we have determined the costs of Option 2, which includes all of the requirements of Option 1, are reasonable, given the level of HAP emissions reduction that would be achieved with this control option. We note that, while we did not include the higher connector monitoring costs analyzed in response to commenter suggestions in this determination, the inclusion of these costs would not change our conclusion that the costs of Option 2 are reasonable, given the level of HAP emissions reduction that would be achieved with this control option.

Therefore, as a result of this revised technology review pursuant to CAA section 112(d)(6), we have determined, as we did at proposal, that it is appropriate to revise the OSWRO NESHAP to require existing and new affected sources to comply with 40 CFR part 63, subpart H rather than 40 CFR part 61, subpart V, including the subpart H requirements for connectors in gas/vapor service and in light liquid service.

As noted in section IV.A.4 of the preamble, we are promulgating these revisions concurrently under section 112(f)(2) of the CAA to provide an ample margin of safety to protect public health. Furthermore, for the reasons discussed above and in the preamble to the proposed rule, we have determined that it is not necessary pursuant to CAA section 112(d)(6) to revise the OSWRO NESHAP to require additional HAP emission controls for process vents or any other equipment or processes at OSWRO facilities.

C. Startup, Shutdown and Malfunction Provisions for the OSWRO Source Category

1. What SSM provisions did we propose for the OSWRO source category?

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the United States Court of Appeals for the District of Columbia Circuit vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously.

We have eliminated the SSM exemption in this rule. Consistent with *Sierra Club* v. *EPA,* the EPA proposed standards in this rule that apply at all times. We have also revised Table 2 (the General Provisions applicability table) in several respects as is explained in more detail below. For example, we have eliminated the incorporation of the General Provisions' requirement that the source develop an SSM plan. We have also eliminated and revised certain recordkeeping and reporting that is related to the SSM exemption as described in detail in the proposed rule and summarized again here.

In proposing the standards in this rule, the EPA took into account startup and shutdown periods and, for the reasons explained below, did not propose alternate standards for those periods. Information on periods of startup and shutdown received from the facilities through CAA section 114 questionnaire responses indicated that emissions during these periods are the same as during normal operations. The facilities do not process waste unless and until their control devices are operating to fully control emissions. Therefore, we determined that separate standards for periods of startup and shutdown are not necessary.

Periods of startup, normal operations and shutdown are all predictable and routine aspects of a source's operations. Malfunctions, in contrast, are neither predictable nor routine. Instead they are, by definition, sudden, infrequent and not reasonably preventable failures of emissions control, process or monitoring equipment. (40 CFR 63.2) (Definition of malfunction). The EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards. Under CAA section 112, emission standards for new sources must be no less stringent than the level "achieved" by the best controlled similar source and for existing sources generally must be no less stringent than the average emission limitation "achieved" by the best performing 12 percent of sources in the category. There is nothing in CAA section 112 that directs the EPA to consider malfunctions in determining the level "achieved" by the best performing sources when setting emission standards. As the United States Court of Appeals for the District of Columbia Circuit has recognized, the phrase "average emissions limitation achieved by the best performing 12 percent of" sources "says nothing about how the performance of the best units is to be calculated." *Nat'l Ass'n of Clean Water Agencies* v. *EPA,* 734 F.3d 1115, 1141 (D.C. Cir. 2013). While the EPA accounts for variability in setting emission standards, nothing in CAA section 112 requires the EPA to consider malfunctions as part of that analysis. A malfunction should not be treated in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of the source to perform in a "normal or usual manner" and no statutory language compels the EPA to consider such events in setting CAA section 112 standards.

Further, accounting for malfunctions in setting emission standards would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree and duration of various malfunctions that might occur. As such, the performance of units that are malfunctioning is not "reasonably" foreseeable. See, *e.g., Sierra Club* v. *EPA,* 167 F.3d 658, 662 (D.C. Cir. 1999) ("The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to 'invest the resources to conduct the perfect study.' "). See also *Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) ("In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation."). In addition, emissions during a malfunction event can be significantly higher than emissions at any other time of source operation. For example, if an air pollution control device with 99-percent removal goes off-line as a result of a malfunction (as might happen if, for example, the bags in a baghouse catch fire) and the emission unit is a steady state type unit that would take days to shut down, the source would go from 99-percent control to zero control until the control device was repaired. The source's emissions during the malfunction would be 100 times higher than during normal operations. As such, the emissions over a 4-day malfunction period would exceed the annual emissions of the source during normal operations. As this example illustrates, accounting for malfunctions could lead to standards that are not reflective of (and significantly less stringent than) levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret CAA section 112 to avoid such a result. The EPA's approach to malfunctions is consistent with CAA section 112 and is a reasonable interpretation of the statute.

In the event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods,

including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112(d) standard was, in fact, sudden, infrequent, not reasonably preventable and was not instead caused in part by poor maintenance or careless operation. 40 CFR 63.2 (definition of malfunction).

If the EPA determines in a particular case that an enforcement action against a source for violation of an emission standard is warranted, the source can raise any and all defenses in that enforcement action, and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

In summary, the EPA interpretation of the CAA and, in particular, section 112 is reasonable and encourages practices that will avoid malfunctions. Administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations.

To address the United States Court of Appeals for the District of Columbia Circuit vacatur of portions of the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM, *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), we proposed to revise and add certain provisions to the OSWRO rule. As described in detail below, we proposed to revise the General Provisions Applicability Table (Table 2) to change several references related to requirements that apply during periods of SSM. We also proposed to add the following provisions to the OSWRO rule: (1) The general duty to minimize emissions at all times; (2) the requirement for sources to comply with the emission limits in the rule at all times, with clarification for what constitutes a deviation; (3) performance testing conditions requirements; (4) excused monitoring excursions provisions; and (5) malfunction recordkeeping and reporting requirements.

i. General Duty

We proposed to revise the General Provisions applicability table (Table 2) entry for 40 CFR 63.6(e) by adding rows specifically for 40 CFR 63.6(e)(1)(i), 63.6(e)(1)(ii), 63.6(e)(1)(iii), and 63.6(e)(3) and to include a ''no'' in the column 2 for the 40 CFR 63.6(e)(1)(i) entry. Section 63.6(e)(1)(i) describes the general duty to minimize emissions. Some of the language in that section is no longer necessary or appropriate in light of the elimination of the SSM exemption. We proposed instead to add general duty regulatory text at 40 CFR 63.683(e) that reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM. With the elimination of the SSM exemption, there is no need to differentiate between normal operations, startup and shutdown, and malfunction events in describing the general duty. Therefore, the language the EPA proposed for 40 CFR 63.683(e) does not include that language from 40 CFR 63.6(e)(1).

We also proposed to include a ''no'' in column 2 for the newly added entry for 40 CFR 63.6(e)(1)(ii). Section 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty requirement being added at 63.683(e).

The provisions of 40 CFR 63.6(e)(1)(iii) still apply, and we proposed to keep the ''yes'' in column 2 for that section. For 40 CFR 63.6(e)(2), we proposed to include a ''no'' in the second column for that section because it is a reserved section in the General Provisions.

We also proposed to clarify in the applicability section of 40 CFR 63.680(g)(1) and (2) that the emission limits of subpart DD apply at all times except when the affected source is not operating and that the owner or operator must not shut down items of equipment required or used for compliance with the requirements of subpart DD.

ii. SSM Plan

We proposed to include a ''no'' in column 2 for the newly added 40 CFR 63.6(e)(3) entry. Generally, this paragraph requires development of an SSM plan and specifies SSM recordkeeping and reporting requirements related to the SSM plan. As noted, the EPA proposed to remove the SSM exemptions. Therefore, affected units will be subject to an emission standard during such events. The applicability of a standard during such events will ensure that sources have ample incentive to plan for and achieve compliance and thus the SSM plan requirements are no longer necessary.

iii. Compliance With Standards

We proposed to revise the General Provisions applicability table (Table 2) entry for 40 CFR 63.6(f)(1) by changing the ''yes'' in column 2 to a ''no.'' The current language of 40 CFR 63.6(f)(1) exempts sources from non-opacity standards during periods of SSM. As discussed above, the Court in *Sierra Club* vacated the exemptions contained in this provision and held that the CAA requires that some section 112 standards apply continuously. Consistent with *Sierra Club,* the EPA proposed to revise the standards in this rule to apply at all times.

iv. Performance Testing

We proposed to revise the General Provisions applicability table (Table 2) entry for 40 CFR 63.7(e)(1) by changing the ''yes'' in column 2 to a ''no.'' Section 63.7(e)(1) describes performance testing requirements. The EPA instead proposed to add a performance testing requirement at 40 CFR 63.694(l). The performance testing requirements we proposed to add differ from the General Provisions performance testing provisions in several respects. The regulatory text does not include the language in 40 CFR 63.7(e)(1) that restated the SSM exemption and language that precluded startup and shutdown periods from being considered ''representative'' for purposes of performance testing. The proposed performance testing provisions specified that performance tests conducted under this subpart should be based on representative performance (*i.e.,* performance based on normal operating conditions) of the affected source. As in 40 CFR 63.7(e)(1), performance tests conducted under this subpart should not be conducted during malfunctions because conditions during malfunctions often are not representative of normal operating conditions. The EPA proposed to add language that requires the owner or operator to record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Section 63.7(e) requires that the owner or operator make available to the Administrator such records ''as may be necessary to determine the condition of the performance test'' upon request, but does not specifically require the information to be recorded. The regulatory text the EPA proposed to add to this provision builds on that requirement and makes explicit the requirement to record the information.

v. Monitoring

We proposed to revise the General Provisions applicability table (Table 2) entries for 40 CFR 63.8(c)(1)(i) and (iii) by changing the ''yes'' in column 2 to a ''no.'' The cross-references to the general duty and SSM plan requirements in those subparagraphs are not necessary in light of other requirements of 40 CFR 63.8 that require good air pollution control practices (40 CFR 63.8(c)(1)) and that set out the requirements of a quality control program for monitoring equipment (40 CFR 63.8(d)).

vi. Recordkeeping

We proposed to revise the General Provisions applicability table (Table 2) entry for 40 CFR 63.10(b)(2)(i) by changing the ''yes'' in column 2 to a ''no.'' Section 63.10(b)(2)(i) describes the recordkeeping requirements during startup and shutdown. These recording provisions are no longer necessary because the EPA proposed that recordkeeping and reporting applicable to normal operations will apply to startup and shutdown. In the absence of special provisions applicable to startup and shutdown, such as a startup and shutdown plan, there is no reason to retain additional recordkeeping for startup and shutdown periods.

We proposed to revise the General Provisions applicability table (Table 2) entry for 40 CFR 63.10(b)(2)(ii) by changing the ''yes'' in column 2 to a ''no.'' Section 63.10(b)(2)(ii) describes the recordkeeping requirements during a malfunction. The EPA proposed to add such requirements to 40 CFR 63.696(h). The regulatory text we proposed to add differs from the General Provisions it is replacing in that the General Provisions require the creation and retention of a record of the occurrence and duration of each malfunction of process, air pollution control and monitoring equipment. The EPA proposed that this requirement apply to any failure to meet an applicable standard and is requiring that the source record the date, time and duration of the failure rather than the ''occurrence.'' The EPA also proposed to add to 40 CFR 63.696(h) a requirement that sources keep records that include a list of the affected source or equipment and actions taken to minimize emissions, an estimate of the quantity of each regulated pollutant emitted over the standard for which the source failed to meet the standard, and a description of the method used to estimate the emissions. Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA proposed to require that sources keep records of this information to ensure that there is adequate information to allow the EPA to determine the severity of any failure to meet a standard, and to provide data that may document how the source met the general duty to minimize emissions when the source has failed to meet an applicable standard.

We proposed to revise the General Provisions applicability table (Table 2) entry for 40 CFR 63.10(b)(2)(iv) by changing the ''yes'' in column 2 to a ''no.'' When applicable, the provision requires sources to record actions taken during SSM events when actions were inconsistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required. The requirement previously applicable under 40 CFR 63.10(b)(2)(iv)(B) to record actions to minimize emissions and record corrective actions is now applicable by reference to 40 CFR 63.696(h).

We proposed to revise the General Provisions applicability table (Table 2) entry for 40 CFR 63.10(b)(2)(v) by changing the ''yes'' in column 2 to a ''no.'' When applicable, the provision requires sources to record actions taken during SSM events to show that actions taken were consistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required.

vii. Reporting

We proposed to revise the General Provisions applicability table (Table 2) entry for 40 CFR 63.10(d)(5)(i) by consolidating it with the entry for 63.10(d)(5)(ii) and changing the ''yes'' in column 2 to ''no.'' Section 63.10(d)(5)(i) describes the reporting requirements for SSM. To replace the General Provisions reporting requirements, the EPA proposed to add reporting requirements to 40 CFR 63.697(b)(3). The replacement language differs from the General Provisions requirement in that it eliminates periodic SSM reports as a stand-alone report. We proposed language that requires sources that fail to meet an applicable standard at any time to report the information concerning such events in the semiannual summary report already required under this rule. We proposed that the report must contain the number, date, time, duration and the cause of such events (including unknown cause, if applicable), a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available or engineering judgment based on known process parameters. The EPA proposed this requirement to ensure that there is adequate information to determine compliance, to allow the EPA to determine the severity of the failure to meet an applicable standard, and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

We will no longer require owners or operators to determine whether actions taken to correct a malfunction are consistent with an SSM plan, because plans would no longer be required. The proposed amendments, therefore, eliminated the cross reference to 40 CFR 63.10(d)(5)(i) that contains the description of the previously required SSM report format and submittal schedule from this section. These specifications are no longer necessary because the events will be reported in otherwise required reports with similar format and submittal requirements.

We proposed to revise the General Provisions applicability table (Table 2) entry for 40 CFR 63.10(d)(5)(ii) by consolidating it with the entry for 63.10(d)(5)(i) and changing the ''yes'' in column 2 to a ''no.'' Section 63.10(d)(5)(ii) describes an immediate report for startups, shutdown and malfunctions when a source failed to meet an applicable standard but did not follow the SSM plan. We will no longer require owners and operators to report when actions taken during a startup, shutdown or malfunction were not consistent with an SSM plan, because plans would no longer be required.

2. How did the SSM provisions change for the OSWRO source category?

We have not changed any aspect of the SSM provisions since the proposal.

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

Comments were received regarding the proposed revisions to remove the SSM exemptions for the OSWRO source category. Some commenters suggested that the rule should provide a six-month compliance period for the SSM provisions, that the rule requirements, which were based on steady-state conditions, should not apply during periods of malfunction, and that the EPA should establish work practice standards for malfunctions. One

commenter generally supported the revised provisions for the emission standards in the OSWRO NESHAP to apply at all times but suggested that more stringent monitoring, recordkeeping, reporting and notification requirements are needed for malfunctions. The commenters did not provide new information or a basis for EPA to change the proposed provisions and did not provide sufficient information to show that facilities cannot comply with the MACT standards at all times, including periods of startup, shutdown and malfunction. The comments and our specific responses to those comments can be found in the Comment Summary and Response document available in the docket for this action (EPA–HQ–OAR–2012–0360).

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

For the reasons provided above, provided in the preamble for the proposed rule and provided in the comment summary and response document available in the docket, we have removed the SSM exemption from the OSWRO NESHAP; eliminated or revised certain recordkeeping and reporting requirements related to the eliminated SSM exemption; and removed or modified inappropriate, unnecessary or redundant language in the absence of the SSM exemption. We are, therefore, finalizing our proposed determination that facilities comply with the standards at all times and no additional standards are needed to address emissions during startup or shutdown periods.

D. Other Changes Made to the OSWRO NESHAP

1. What other changes did we propose for the OSWRO NESHAP?

i. Electronic Reporting

As stated in the preamble to the proposed rule, to increase the ease and efficiency of data submittal and data accessibility, the EPA proposed to require owners and operators of OSWRO facilities to submit electronic copies of certain required performance test reports.

Data will be collected by direct computer-to-computer electronic transfer using EPA-provided software. This EPA-provided software is an electronic performance test report tool called the ERT. The ERT will generate an electronic report package which will be submitted to the Compliance and Emissions Data Reporting Interface (CEDRI) and then archived to the EPA's Central Data Exchange (CDX). A description and instructions for use of the ERT can be found at *http://www.epa.gov/ttn/chief/ert/index.html* and CEDRI can be accessed through the CDX Web site (*http://www.epa.gov/cdx*).

The requirement to submit performance test data electronically to the EPA will not create any additional performance testing and will apply only to those performance tests conducted using test methods that are supported by the ERT. A listing of the pollutants and test methods supported by the ERT is available at the ERT Web site. The EPA believes, through this approach, industry will save time in the performance test submittal process. Additionally, this rulemaking benefits industry by reducing recordkeeping costs as the performance test reports that are submitted to the EPA using CEDRI will no longer be required to be kept in hard copy.

State, local and tribal agencies may benefit from more streamlined and accurate review of performance test data that will become available to the public through WebFIRE. Having such data publicly available enhances transparency and accountability. For a more thorough discussion of electronic reporting of performance tests using direct computer-to-computer electronic transfer and using EPA-provided software, see the discussion in the preamble to the proposal.

In summary, in addition to supporting regulation development, control strategy development and other air pollution control activities, having an electronic database populated with performance test data will save industry, state, local, tribal agencies and the EPA significant time, money and effort while improving the quality of emission inventories and air quality regulations and providing greater transparency to the public.

ii. Routine Maintenance

The OSWRO NESHAP at 40 CFR 63.693(b)(3)(i) allows a facility to bypass control devices for up to 240 hours per year to perform planned routine maintenance of the closed-vent system or control device in situations when the routine maintenance cannot be performed during periods that the control device is shut down.

The routine maintenance provision was originally established in the HON (see 40 CFR 63.119(e)(3)–(4); 57 FR 62710, December 31, 1992 (proposed); 59 FR 19402, April 22, 1994 (final)) for facilities that elected to use a closed vent system and control device to comply with the emission limitation requirements for tanks. We included the routine maintenance provision in the HON for tanks routing emissions to control devices because the estimated HAP emissions to degas the tank would be greater than the emissions that would result if the tank emitted directly to the atmosphere for a short period of time during routine maintenance of the control device.

We intended for the OSWRO NESHAP to track the HON maintenance provisions, and, therefore, those provisions should have been limited to tanks. We did not identify a basis for applying the routine maintenance provisions in the OSWRO NESHAP to emission points other than tanks, and, therefore, proposed to limit the provision to tanks routing emissions to a control device, consistent with the rationale provided in the HON.

iii. Open-Ended Valves and Lines

The OSWRO NESHAP at 40 CFR 63.691(b) requires an owner or operator to control emissions from equipment leaks according to the requirements of either 40 CFR part 61, subpart V or 40 CFR part 63, subpart H.[8] For OELs, both subpart V in 40 CFR 61.242–6(a) and subpart H in 40 CFR 63.167(a) require that the open end be equipped with a cap, blind flange, plug or second valve that shall "seal the open end." However, "seal" is not defined in either subpart, leading to uncertainty for the owner or operator as to whether compliance is being achieved. Inspections under the EPA's Air Toxics LDAR initiative have provided evidence that while certain OELs may be equipped with a cap, blind flange, plug or second valve, they are not operating in a "sealed" manner as the EPA interprets that term.

In response to this uncertainty, we proposed to amend 40 CFR 63.691(b) to clarify what "seal the open end" means for OELs. The proposed clarification explains that, for the purpose of complying with the requirements of 40 CFR 61.242–6(a)(2) of subpart V or 40 CFR 63.167(a)(2) of subpart H, as applicable, OELs are "sealed" by the cap, blind flange, plug or second valve when instrument monitoring of the OELs conducted according to Method 21 of 40 CFR part 60, appendix A indicates no readings of 500 ppm or greater.

In addition, 40 CFR 63.167(d) of subpart H and 40 CFR 61.242–6(d) of subpart V exempt OELs that are in an

[8] As discussed in sections III.A, III.B, IV.A and IV.B of this preamble, we are removing the option from subpart DD to comply with 40 CFR part 61, subpart V for equipment leaks and are requiring compliance with 40 CFR part 63, subpart H. The compliance date for existing sources is 1 year from the effective date of the final amendments, and new sources must comply immediately upon the effective date of the final amendments, or upon startup, whichever is later.

emergency shutdown system, and which are designed to open automatically, from the requirements to be equipped with a cap, blind flange, plug or second valve that seals the open end. We proposed that these OELs be equipped with either a flow indicator or a seal or locking device. We also proposed recordkeeping and reporting requirements for these OELs.

iv. Safety Devices, Pressure Tanks, Bypasses and PRDs

To ensure the OSWRO MACT standards are consistent with the *Sierra Club* decision, we proposed to remove the SSM exemption from the rule. In addition, in order for our treatment of malfunction-caused releases to the atmosphere to conform with the reasoning of the Court's ruling, we proposed to add a provision that releases of HAP listed in Table 1 of 40 CFR part 63, subpart DD directly to the atmosphere from PRDs and closure devices on pressure tanks in off-site material service are prohibited. We also proposed to prohibit bypasses that divert a process vent or closed vent system stream to the atmosphere such that it does not first pass through an emission control device, except to perform planned routine maintenance of the closed-vent system or emission control device for tanks, as discussed in section IV.D.3 of this preamble. We further proposed to require owners or operators to keep records and report any bypass and the amount of HAP released to the atmosphere with the next periodic report. In addition, to add clarity to these provisions, we proposed to add definitions for "bypass," "pressure release," "pressure relief device or valve," "in gas/vapor service," "in light liquid service," "in heavy liquid service" and "in liquid service" to 40 CFR part 63, subpart DD. We also proposed to remove the definition of "safety device" and the provisions related to safety devices from 40 CFR part 63, subpart DD, which would overlap with and be redundant of parts of the proposed definition of "pressure relief device or valve" and the provisions related to these devices.

To ensure compliance with these provisions, we also proposed that facilities subject to the OSWRO NESHAP monitor PRDs in off-site material service that release to the atmosphere by using a device or system that is capable of identifying and recording the time and duration of each pressure release and notifying operators immediately that a pressure release is occurring. Owners or operators would be required to keep records and report any pressure release and the amount of organic HAP released to the atmosphere with the next periodic report. As with the prohibition, this proposed monitoring requirement would not apply to PRDs for which HAP releases are captured and routed to a drain system, process or control device.

For purposes of estimating the costs of the proposed requirement to monitor HAP releases to the atmosphere from PRDs, we assumed that operators would install electronic indicators on each PRD in off-site material service that vents to the atmosphere (rather than to a control device, process or drain system) to identify and record the time and duration of each pressure release. However, the proposed requirements allowed owners or operators to use a range of methods to satisfy these requirements, including the use of a parametric monitoring system (that may already be in use at facilities) on the process system or piping that is sufficient to notify operators immediately that a release is occurring, as well as recording the time and duration of the pressure release. Based on our conservative cost assumptions that the most expensive approach would be used, the nationwide capital cost of installing these monitors was estimated to be $1.75 million, and the total annualized cost of installing and operating these monitors is $250,000 per year for the OSWRO source category.

v. Performance Test Method Clarifications and Alternative Methods

The OSWRO NESHAP at 40 CFR 63.694 specifies test methods and procedures to be used in determining compliance with the requirements of subpart DD. We proposed several minor changes to these provisions to correct errors and to provide consistency, clarification and flexibility. These proposed changes included:

- Requiring that test runs last "at least 1 hour," rather than stating that tests last "1 hour" in § 63.694(f)(1) and (i)(1);
- Specifying that a minimum of three test runs are required in § 63.694(l)(3)(i) and (l)(4)(i), consistent with the Part 63 General Provisions and standard testing practices;
- Specifying in § 63.694(m)(2) that in the determination of process vent stream flow rate and total HAP concentration, the sample site selected must be at the center of the vent for vents smaller than 0.10 meter in diameter, which is the point most likely to provide a representative sample of the gas stream;
- Clarifying in § 63.694(j)(3) that results from direct measurement must be used as the maximum HAP vapor pressure for off-site material in a tank if the Administrator and the owner or operator disagree on a determination of the maximum HAP vapor pressure for an off-site material stream using knowledge;
- Correcting a citation in § 63.694(k)(3) to the appropriate section of EPA Method 21 for instrument response factors;
- Allowing the use of either EPA Method 25A or Method 18 in § 63.694(l)(3) for determining compliance with the control device percent reduction requirement and in § 63.694(l)(4) for determining compliance with the enclosed combustion device concentration limit and clarifying that Method 25A must be used when measuring total organic compounds, while Method 18 must be used for measuring the total HAP compounds included in Table 1 to the OSWRO NESHAP;
- Including the use of EPA Method 3A as an alternative to EPA Method 3B in § 63.694(l)(4)(iii)(A) for determining the oxygen concentration to use in oxygen correction equations; and
- Including the use of EPA Methods 2F and 2G as options for flow rate measurement in § 63.694(l)(2) and (m)(3), which are newer velocity measurement methods that were published after the original OSWRO rule.

vi. Other Clarifications and Corrections

We proposed several miscellaneous minor changes to improve the clarity of the OSWRO NESHAP requirements. These proposed changes included:

- Updating the list of combustion devices in § 63.684(b)(5) that may be used to destroy the HAP contained in an off-site material stream. This revision would include incinerators, boilers or industrial furnaces for which the owner or operator complies with the requirements of 40 CFR part 63, subpart EEE, which had not been promulgated when the OSWRO MACT standards were developed. We also proposed conforming changes to the boiler and process heater control device requirements to clarify that combustion units complying with the requirements of subpart EEE may be used for the purposes of compliance with the OSWRO NESHAP.
- To clarify the requirements for tanks of all sizes and tank content vapor pressures, we proposed to revise the tank control level tables to include tanks less than 75 m^3 in capacity with a vapor pressure less than 76.6 kPa along with the requirements for tanks of other sizes and vapor pressures, and we proposed

to remove the requirements for these tanks from the text of § 63.685(b)(4).

• Clarifying that where § 63.691 requires the owner or operator to control the HAP emitted from equipment leaks in accordance with either 40 CFR part 61, subpart V or 40 CFR part 63, subpart H, the definitions in 40 CFR 61.241 and 40 CFR 63.161 apply, with the differences listed, for the purposes of the OSWRO NESHAP.

• Revising the clerical errors to insert ppm values in the requirements where they were omitted. These revisions included clarifying in § 63.683(c)(1)(ii) that the average volatile organic HAP (VOHAP) concentration of the off-site material must be less than 500 parts per million by weight (ppmw) at the point-of-delivery and clarifying the requirements of § 63.693(f)(1)(i)(B) and § 63.693(f)(1)(ii)(B) are to achieve a total incinerator outlet concentration of less than or equal to 20 500 parts per million by volume (ppmv) on a dry basis corrected to 3-percent oxygen.

• Clarifying in §§ 63.684(h), 63.693(b)(8) and 63.694(b)(3)(iv) that the Administrator may require a performance test, revisions to a control device design analysis, or that direct measurement be used in the determination of a VOHAP concentration, rather than that the Administrator may only request such actions.

• Revising several references to the Part 63 General Provisions in Table 2 to correct errors, including errors where the entries in Table 2 conflict with the regulatory text in subpart DD and where references to specific sections of the General Provisions do not exist or are reserved.

2. How did the provisions regarding these other proposed changes to the OSWRO NESHAP change since proposal?

We have not made any changes to the proposed provisions for electronic reporting, routine maintenance, OELs, the proposed performance test method clarifications and alternative methods or the other proposed clarifications and corrections.

For PRDs, in the PRD monitoring requirements at 40 CFR 63.691(c)(3)(i), we are including examples of parametric monitoring systems, in addition to the direct monitoring device examples listed at proposal. We are also clarifying that tank conservation vents are not PRDs in 40 CFR 63.685(c)(2)(iii)(B), and we are adding fuel gas systems to the list of equipment a PRD may be routed to in 40 CFR 63.691(c)(4) to be exempt from the PRD monitoring requirements and pressure release prohibition. In addition to these revisions, we are making the following revisions, clarifications and corrections in the final rule:

• Revisions

○ We are revising the language in 40 CFR 63.680(b)(2)(v) to indicate that facilities complying with the wastewater provisions under any other part 63 regulation, not just the HON, are not required to also comply with the OSWRO NESHAP provisions for that waste.

○ We are revising the requirements for boilers and process heaters and also for incinerators in 40 CFR 63.693(f)(2)(iii) and 63.693(g)(2)(i)(C) to exclude such equipment that has been issued a final or interim status RCRA permit from the OSWRO NESHAP performance test requirements, since the performance tests required under RCRA to obtain a permit satisfy the performance test requirements of the OSWRO NESHAP.

○ We are revising three additional references to the Part 63 General Provisions in Table 2 to correct errors where the entries in Table 2 conflict with the regulatory text in subpart DD regarding notification of performance tests. The specific changes were to revise the entries for 63.7(b), 63.7(c) and 63.9(e) from a ''no'' to a ''yes'' in column 2 of Table 2.

• Clarifications

○ We are revising the definitions of ''in gas/vapor service'' and ''in light liquid service'' in 40 CFR 63.681 to clarify our intent that equipment in off-site material service that ''contains or contacts'' a gas or vapor is ''in gas/vapor service.'' For consistency, we are also revising the definition of ''in light liquid service'' to include equipment that ''contains or contacts'' liquid.

○ To improve clarity we are revising the wording of the proposed tank provisions in 40 CFR 63.685(g)(2) to remove a repeated phrase.

○ We have rephrased the proposed requirements in 40 CFR 63.694(l) to more simply state that performance tests must be conducted under representative performance (*i.e.,* performance based on normal operating conditions).

○ We have added language in 40 CFR 63.691(b)(2)(v) to clarify which requirements apply to PRDs in liquid service and to clarify when the PRD provisions of 40 CFR 63.691(c) apply rather than the PRD provisions of 40 CFR part 63, subpart H or 40 CFR part 61, subpart V.

• Corrections

○ We are revising 40 CFR 63.680(e)(1)(i) through (iii) and 63.680(e)(2) to reference 63.691(b)(2) rather than 63.691(b) to indicate that compliance with 40 CFR part 63, subpart H is required after a specified date. Consistent with our intention discussed in the preamble to the proposed rule, this correction will allow compliance with 40 CFR part 61, subpart V only until the date at which compliance with 40 CFR part 63, subpart H is required.

○ We are including the correct VOHAP concentration of 500 ppmw in 40 CFR 63.683(c)(1)(ii).

○ We are correcting an erroneous reference to 40 CFR part 67 in 40 CFR 63.685(c)(2)(iii)(B) to properly reference 40 CFR part 63.

○ We are adding a reference in the semiannual reporting requirements of 40 CFR 63.697(b)(4) to 40 CFR 63.683(f), which includes additional deviations that must be reported.

○ We are correcting three entries in the General Provisions Applicability table

3. What key comments did we receive on the other changes to the OSWRO NESHAP, and what are our responses?

Several comments were received regarding the proposed revisions to the ERT, OELs, PRDs and other provisions for the OSWRO source category. The following is a summary of several of these comments and our response to those comments. Other comments received and our responses to those comments can be found in the Comment Summary and Response document available in the docket for this action (EPA–HQ–OAR–2012–0360).

i. Electronic Reporting

Comment: One commenter notes that requiring electronic reporting to the EPA does not increase the ease and efficiency of data submittal for the regulated community because state agencies also want the reports submitted to them in their own standard format. The commenter requests that the EPA work with air agencies to provide a one-stop location for submittal of air emissions testing results.

Response: The EPA continues to work with air agencies as well as stack testing companies (who typically prepare test reports) to develop the ERT. E-Enterprise is an EPA-state initiative to improve environmental performance and enhance services to the regulated community, environmental agencies and the public. We currently have active E-Enterprise projects related to electronic reporting that involve several states, and we are actively seeking input from all states willing to participate in such projects with EPA. The current ERT was designed to accept data and information that is typically collected

during a performance test. Some air agencies have begun accepting the ERT as their reporting mechanism, and with experience, we believe acceptance by other air agencies will increase. CEDRI, the portal through which this data is submitted to CDX, includes the ability for states to interact with submitted ERT files directly, immediately after electronic submission. During the first phase in the development of CEDRI, we initiated a multi-disciplinary, cross-functional Integrated Project Team (IPT) consisting of EPA personnel from various offices and representatives from air agencies. The objectives of the CEDRI IPT were to gain insight and ideas regarding the data flow process within the CEDRI. States have the ability to access files in CEDRI as soon as they are submitted and can review these documents from anywhere that has Internet access. While in some instances air agencies may still want a hard copy of a test report, the ERT can generate a printed test report or export the report to a word processor for reformatting. This report can be generated by an air agency with an ERT they have opened, or generated by a regulated entity and submitted to the air agency as an emissions test report.

The EPA believes that electronic reporting is a more efficient way to collect test data and has set up a retrieval system such that air agencies can access files that have been submitted using the ERT. As more air agencies adopt electronic reporting, we believe that the need for paper reports will diminish. The EPA is also developing a web-based ERT and has plans to release an extensible markup language (XML) schema that could be used by third parties to develop customized reporting software that meets the EPA's reporting requirements. The EPA expects these additional reporting options will provide a more robust and user friendly reporting process in the future.

ii. Open-Ended Valves and Lines

Comment: One commenter states that the OEL provisions are "equipment standards," and compliance is determined by whether a cap, blind flange, plug or second valve is physically installed, and the term "sealed" historically has meant one of these devices is present.

Response: The EPA disagrees with the commenter. The EPA's intent has always been that caps, blind flanges, plugs or second valves that are installed on OELs provide a seal, *i.e.,* no detectable emissions. This is further supported by examples of compliance audits conducted by the EPA's Office of Enforcement and Compliance Assurance (OECA) and EPA Regional enforcement personnel in which companies were cited for OELs not being sealed. We have placed these audits in the docket for this action.

Comment: Two commenters believe the EPA must show that imposing a new emissions limit for OELs is justified according to the criteria of CAA section 112(d)(6), including the technical feasibility, potential emission reductions and cost effectiveness. The commenters state that the EPA failed to provide new data or rationale showing that the definition of "seal" is needed for compliance assurance or to relieve regulatory uncertainty, relying only on enforcement inspections referenced in the 2007 40 CFR part 61, subpart VV rulemaking in which monitoring OELs was determined to not be cost effective and was not the best demonstrated technology (BDT). Another commenter states that the EPA did not provide any data specific to the OSWRO source category for OELs, and the data that were provided did not include the concentration detected, whether the measurements were for HAP or VOCs, or what standardization chemicals were used. One commenter states that the existence of leaks from OELs is low and notes that while the EPA did not request information to support monitoring of OELs, the commenter referred to a monitoring study its member performed for OELs showing that less than 1 percent of OELs were leaking at rates of 500 ppm or greater. Another commenter states that the EPA's proposed definition for a "seal" is actually a new loophole that would exempt leaks from OELs below 500 ppm from the standards. The commenter contends this definition is another type of exemption similar to the SSM exemption the United States Court of Appeals for the District of Columbia Circuit found unlawful, and the EPA should not finalize the definition as proposed.

Response: The EPA disagrees with the commenters that we are imposing a new emissions limit for OELs. As discussed in the preamble for the proposed rule and summarized above, the existing OSWRO NESHAP already requires the open end of OELs to be equipped with a cap, blind flange, plug or second valve that shall "seal the open end." In response to compliance uncertainty for owners and operators, we are amending 40 CFR 63.691(b) to clarify that, for the purpose of complying with the requirements of subpart H or subpart V, as applicable,[9] OELs are "sealed" by the cap, blind flange, plug or second valve when instrument monitoring of the OEL conducted according to Method 21 of 40 CFR part 60, appendix A indicates no readings of 500 ppm or greater. This is consistent with how we have interpreted the term "seal" during inspections and, contrary to the commenters' assertions, is not a new requirement. As demonstrated by the data provided in the docket and the commenter's data showing that about 1 percent of all OELs are leaking, OELs are not uniformly operating in a "sealed" manner by keeping emissions below the 500 ppm threshold. The commenters have not identified a reason to conclude that the OEL data provided in the docket are not representative of the OSWRO source category. With this clarification, the EPA is removing any ambiguity regarding what constitutes a "sealed" OEL.

The EPA also disagrees with the commenter that clarifying the meaning of "seal" creates a new loophole for OELs. As discussed in the preamble to the proposed rule and elsewhere in this document, we are clarifying an existing requirement that OELs be sealed.

iii. PRDs

Comment: Several commenters state or suggest that PRDs are safety devices, and these requirements will ask plant operators to choose between safety and committing a violation. Two of these commenters claim that this position is in direct contrast to the General Duty provisions, which state that, "at all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions . . ." Two other commenters state that the proposed rule would require that PRD emissions be vented to a control device, which could reduce the effectiveness of PRD by not allowing over-pressure from the tank or process unit to vent quickly enough to prevent damage. One commenter asserts that an OSHA Process Safety Management Review would indicate that venting a PRD to a control device would create an unacceptable risk. Further, one commenter argues that the requirements will assign the same level

[9] As discussed in sections III.A, III.B, IV.A and IV.B of this preamble, we are removing the option from subpart DD to comply with 40 CFR part 61, subpart V for equipment leaks and are requiring compliance with 40 CFR part 63, subpart H. The compliance date for existing sources is 1 year from the effective date of the final amendments, and new sources must comply immediately upon the effective date of the final amendments, or upon startup, whichever is later.

of importance to minor releases as to significant releases that require immediate attention, which will divert resources from critical safety tasks.

One commenter states that the proposed PRD monitoring requirements will predetermine the imposition of systems that safety experts may deem unnecessary, and the placement of such systems, including monitoring, should rather be determined during a process hazards analysis, which is specific to each situation and is implemented for the explicit purpose of protecting life and property. Another commenter also argues that process safety professionals should make risk-based decisions, and asserts that the proposed requirements do not recognize the variations that exist between different types of systems and that choices must be made for each individual system considering site conditions. The commenter asserts that the management requirements for PRDs should have a wide variety of options depending on the character of the discharge. The commenter states that the industry's success in preventing accidents has lead the EPA to wrongly assume that it is easy to anticipate and prevent all circumstances that may cause an over-pressurization event.

Response: The EPA disagrees with the commenters that we are forcing plant operators to choose between safety and committing a violation. We recognize that industry has stated that they believe releases from PRDs sometimes occur in order to protect systems from failures that could endanger worker safety and the systems that the PRDs are designed to protect. The PRD requirements were established with the recognition that emission releases to the atmosphere from these devices occur only in the event of unplanned and unpredictable events. When PRD releases are due to malfunctions, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. This approach is consistent with the General Duty provisions and is designed to minimize emissions while recognizing that these events may be unavoidable even in a well-designed and maintained system.

We disagree with the comment that minor releases will divert attention and resources away from critical safety tasks. These releases are associated with malfunction events that would require immediate corrective action and have the potential to emit large quantities of HAP. In addition, while the owner or operator must follow the PRD recordkeeping and reporting requirements for each release to the atmosphere, these tasks can be completed after the release has occurred and should not interfere with any actions needed to ensure process and system safety. Further, we note that the rule does not require PRDs to be vented to control devices, as suggested by a commenter; however, a facility owner or operator may choose to vent PRDs to control devices. We also note that the commenters did not provide data or information in support of their speculation that venting a PRD to a control device would reduce the effectiveness of the PRD or that a safety hazard would be created.

Regarding the comments that the PRD monitoring requirements will dictate the types of systems used at facilities, we note that, as discussed elsewhere in this preamble, the requirements for PRD monitoring provide a wide latitude in the type of monitoring system used, which may be chosen by the facility owner or operator, providing that the basic requirements for the system are met.

Comment: Several commenters state that the EPA added the PRD requirements without regard to the CAA section 112 MACT development process and without providing the legal justification, adequate record basis or technical justification. Two of these commenters add that they do not believe that the EPA has a legal obligation nor the discretion to promulgate the proposed PRD provisions because the PRD monitoring and reporting requirements were not derived from the technology reviews, in response to any residual risks detected, or the United States Court of Appeals for the District of Columbia Circuit's invalidation of the SSM provisions in the 40 CFR part 63 General Provisions. Two commenters suggest that these revisions should be evaluated as part of the technology review, and the EPA should analyze the technical feasibility, potential emissions reductions and cost effectiveness of the revisions.

Several commenters argue that the EPA provided no data to support the claim that a large number of releases occur and may emit large quantities of HAP, or to support the contention that releases are not being identified. One commenter asserts that PRD releases are rare, and that the EPA's data from PRD episodes at California South Coast refineries, which resulted in large emissions, does not apply to chemical operations. Another commenter notes that at its facility, PRD releases are infrequent events that last for 1 or 2 seconds and states that the proposed PRD provisions are not warranted. One commenter states that the industry already quantifies and reports releases through the use of pressure monitoring and other types of process controls that are also implemented to maintain stable operation. The commenter asserts that the EPA is establishing a numeric standard of zero that is based on the premise that most relief devices do not release, which fails to acknowledge the differences between systems.

Response: Under CAA section 112(d)(2), the EPA must promulgate technology-based standards that reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts), and such standards must contain compliance assurance provisions to make sure that they are practicably enforceable. Nothing in the CAA or its legislative history suggests that the EPA is prohibited from reviewing and revising MACT standards and their compliance assurance provisions, except as part of the CAA section 112(d)(6) or CAA section 112(f) reviews or an action taken in response to a ruling by a Court. The amendments being finalized for PRD releases do not impose new emission standards for which a MACT analysis is required by the CAA. Instead, they prohibit releases to the atmosphere from PRDs in off-site material service that are not appropriate for exemption from emission standards following the 2008 *Sierra Club* v. *EPA* ruling, and impose additional monitoring requirements to address potential releases.

In light of, and consistent with, the *Sierra Club* v. *EPA* ruling, the EPA is eliminating the SSM exemption in the OSWRO MACT standards and requiring that the standards apply at all times, including during periods of SSM. In addition, in order for our treatment of malfunction-caused pressure releases to the atmosphere to conform with the reasoning of the Court's ruling, the final rule adds a provision stating that releases of HAP listed in Table 1 of subpart DD directly to the atmosphere from PRDs in off-site material service are prohibited. To prohibit these malfunction-caused releases, it is not necessary for us to set an emission standard that is based on a MACT floor or beyond-the-floor analysis; indeed, the EPA has consistently explained that we are not required to take malfunctions into account in setting standards or to devise standards that apply specifically to malfunction-caused emissions, such as PRD releases that cause HAP emissions only during malfunctions. The final rule requires that sources

monitor PRDs using a system that is capable of detecting and recording the time and duration of each pressure release, and the final rule provides owners and operators flexibility to either install a monitor on the PRD or to use equipment and operations they already have in place if they are sufficient to detect and indicate pressure releases to the atmosphere. The rule also establishes requirements that these release indicators be capable of immediately notifying operators that a release is occurring, so that HAP emissions from these releases can be mitigated as soon as possible. Additionally, the final rule requires reporting of PRD releases to the atmosphere to ensure that these releases will be reported nationally.

Contrary to some commenters' assertions that the EPA did not provide data to support the claim that a large number of PRD releases occur and may emit large quantities of HAP, a report by the South Coast Air Quality Management District (SCAQMD) containing such data was referenced and made available with the proposed rule in the memorandum, *Cost Impacts of Pressure Relief Device Monitoring for the Off-site Waste and Recovery Operations Source Category,* available in the docket for this action. The referenced report shows that releases from PRDs occur randomly and the emissions can only be approximated, but that large quantities of emissions may be released. Based on the SCAQMD analysis of refinery PRD reports of PRD releases from nine facilities in its district, there were eight PRD releases from 2003 to 2006 that were estimated to release greater than 2,000 lbs of emissions to the atmosphere, and eight PRD releases from 2003 to 2006 that were estimated to release between 500 and 2,000 lbs of emissions to the atmosphere. The SCAQMD analysis focuses on VOC emissions (which would include organic HAP emissions) from refineries and marine terminals, and information provided by the commenter also suggests the SCAQMD analysis results are similar to results from another analysis for PRDs at chemical production facilities.[10]

Additionally, the Texas Commission on Environmental Quality Emission Event Reporting Database is populated with Emission Event Reports from both the refinery and chemical sectors where the reason for the report was due to a PRD release. This database also shows that PRD releases do occur and that the quantity of emissions varies and can be large. While there may be differences in PRD systems and emissions, we continue to believe the requirements proposed and being finalized for the OSWRO NESHAP in this action are necessary to address the otherwise unregulated HAP emissions releases from PRDs.

Comment: Several commenters suggest certain types of PRDs should be excluded from the PRD requirements because they have a low potential to emit large quantities of HAP. These commenters specifically state that PRDs in liquid service should be excluded from these requirements. For PRDs with little potential for loss to the atmosphere, the commenters suggest that the EPA set a reporting threshold value equal to the reportable quantity (RQ) values in Emergency Planning and Community Right-To-Know Act (EPCRA) and/or Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). One commenter asserts that the PRD provisions should exclude PRDs in less than 5-percent VOHAP service. The commenter also suggests that the OSWRO MACT should refer to Table 9 of subpart G (VOHAPs) instead of Table 1 of subpart DD, should exclude ethylene glycol from Table 1 of subpart DD, or should exclude heavy liquids from the definition of a PRD.

This commenter states that the exclusion for PRDs discharged to a drain system that meets the requirements of 40 CFR 63.689 is not useful, and states that the EPA provides no cost justification or assessment of potential emission reductions of this alternative requirement. The commenter asserts that hard-piping discharge to a closed sewer system is neither feasible nor safe in many situations, and suggests that the EPA require only that liquids be sent for on-site or off-site treatment, which would be consistent with the Chemical Manufacturing Area Source standard (40 CFR part 63, subpart VVVVVV). This commenter and another commenter state that, to be consistent with the HON, PRDs that are routed to a fuel gas system should be exempted in 40 CFR 63.691(c)(4).

Response: We generally do not agree with the commenters' suggestions to add an exclusion from the PRD requirements for PRDs that emit smaller amounts of HAP. Regarding PRDs in liquid service, equipment is in liquid service when it contains or contacts off-site material that is liquid at operating conditions, and for processes that are under pressure, the liquid may escape as a gas or vapor when released to the atmosphere. For these reasons, we continue to believe PRDs in liquid service, as well as those in gas/vapor service, should be subject to the PRD requirements. We note that the OSWRO NESHAP provides that only PRDs that contain or contact off-site material having a total HAP concentration equal to or greater than 10 percent by weight and that are intended to operate for 300 hours or more during a calendar year in off-site material service are subject to these requirements (see 40 CFR 63.680(c)(3)). We also disagree with the suggestion that the OSWRO MACT refer to Table 9 of subpart G rather than Table 1 of subpart DD for HAPs regulated by the PRD provisions. All of the provisions of the OSWRO NESHAP apply to the chemicals listed in Table 1 of subpart DD, and we do not find that an exception should be made for PRDs to exclude any chemicals with relatively lower volatility from these requirements.

We disagree with the commenter that the provisions that exclude PRDs that are routed to a drain system meeting the requirements of 40 CFR 63.689 from the PRD release and monitoring requirements is an alternate requirement. This provision acknowledges that such equipment would not have uncontrolled HAP emission releases directly to the atmosphere, and therefore the PRD release management and monitoring provisions should not apply, but it does not require that any equipment be routed to such a drain system. We also note that the chemical manufacturing area source standard does not have pressure release management or monitoring requirements, and the standards in that rule are not applicable to the OSWRO NESHAP. The EPA agrees with commenters' suggestion to exclude PRDs that release to a fuel gas system from the PRD monitoring provisions, and we have revised the final rule to reflect this change.

Comment: One commenter requests that the EPA clarify the meaning of PRDs in light liquid versus gas/vapor service. The commenter notes that most facilities subject to the OSWRO MACT operate fixed roof storage tanks that must be operated with a void space at

[10] The commenter stated that "DuPont experience is that PRD releases are rare; DuPont has provided data through ACC to EPA." ACC's comments referred to a study submitted with its comments for another rulemaking. We located and reviewed this study, available at Docket ID No. EPA–HQ–OAR–2011–0435–0041, in which the data provided by DuPont is summarized with other data supplied by ACC member companies. Both the data provided by ACC and the SCAQMD showed just over 1 percent of the PRDs had a release. The data provided by ACC showed over 20 percent of PRD releases were over 500 pounds and the SCAQMD data showed that approximately 38 percent of the PRD releases were over 500 pounds.

the top that consists of vapors from the tank and may also include a nitrogen blanket. The commenter asserts that the determination of the service type should be based on the contents of the tank (*i.e.,* liquid) and not the location where the PRD is installed, which will always be at the top of the tank in contact with vapors in the void space. The commenter asserts that if these types of tanks are considered to be in gas/vapor service, then there can be no PRDs on fixed roof tanks that operate in liquid service.

Response: The OSWRO NESHAP directs facility owners/operators to comply with the equipment leak requirements of the HON, which contains different requirements for various components depending upon the type of fluid (whether gas or liquid) that flows through (*e.g.,* contains or contacts) the components. The basis for these different requirements is data collected from petroleum refineries, which indicate that emission rates of equipment leak sources decrease as the vapor pressure (volatility) of the process fluid decreases. For the HON, three classes of volatility were established based on the petroleum refinery data and the potential for emissions through equipment leaks; these include gas/vapor service, light-liquid service and heavy-liquid service. The proposed OSWRO definition stated that in gas/vapor service means that a piece of equipment in off-site material service contains a gas or vapor at operating conditions. To clarify our intent and avoid any confusion as to whether PRDs with a flow of gas or vapor through the device are ''in gas/vapor service,'' we are revising the definition to state that in gas/vapor service means that a piece of equipment in off-site material service contains or contacts a gas or vapor at operating conditions. With this revision, it should be clear that a PRD in off-site material service on the roof of a tank containing liquid, but which only contacts gas/vapor itself and does not contact liquid, would be in gas/vapor service. For consistency, we also are revising the definition of ''in light liquid service'' to include equipment that contains or contacts liquid.

Comment: One commenter states that the EPA revised the Tank Level 1 control requirements in 40 CFR 63.685(c)(2)(i) and (iii)(B) to preclude routine venting of PRD by excluding 40 CFR 63.902(c)(2) and (3); however, the commenter notes that this revision would also preclude the operation of conservation vents on Level 1 tanks. The commenter suggests that the EPA remove the exclusion or amend the provision to allow for the operation of conservation vents.

Response: We agree that conservation vents should be allowed to operate on Level 1 tanks, and, while we do not believe these would meet the definition of a PRD, we have revised the text of the final rule at 40 CFR 63.684(c)(2)(iii)(B)(1) to clarify that the use of these devices is permitted.

iv. Other Comments

Comment: One commenter states that the EPA should provide an exemption in 40 CFR 63.693(b)(9) to the performance testing or design evaluation requirements for combustion devices if a unit has been issued a final or interim status RCRA permit, since performance tests are required to obtain such a permit.

Response: The EPA agrees with the commenter that the combustion units required to obtain a RCRA permit would have conducted performance tests under those provisions which satisfy the performance test requirements of the OSWRO NESHAP and that separate or additional performance testing would not be necessary. We have therefore added a provision to the final rule that excludes combustion devices that have been issued a RCRA permit from the OSWRO NESHAP performance test requirements.

Comment: One commenter states that the OSWRO provisions should more clearly indicate that facilities subject to onsite wastewater provisions under other CAA MACT regulations should not also be required to comply with the OSWRO NESHAP. The commenter references the applicability provisions that exclude certain types of waste subject to other MACT rules in 40 CFR 63.680(b)(2)(v), and states that the exclusion is limited to SOCMI. The commenter suggests removing paragraphs 40 CFR 63.680(b)(2)(v)(A) and (B) to broaden the exclusion to wastewater sources subject to any other subpart in 40 CFR part 63.

Response: The EPA agrees with the commenter that the exclusion of certain types of waste in 40 CFR 63.680(b)(2)(v) should not be limited to SOCMI and has revised the regulatory text to exempt waste that is transferred from a facility at which management of the waste has complied with the air emission control standards for process wastewater specified by another subpart in 40 CFR part 63.

4. What is the rationale for our final decisions regarding these other changes to the OSWRO NESHAP?

For the reasons provided above and in the preamble for the proposed rule, we are finalizing the proposed provisions regarding electronic reporting; routine maintenance; OELs; safety devices, pressure tanks, bypasses and PRDs; performance test method clarifications and alternative methods; and other clarifications and corrections.

For the reasons provided above, we are making the revisions, clarifications and corrections noted in section IV.D.2 in the final rule.

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

A. What are the affected sources?

We estimate that there are 56 major source OSWRO facilities. Based on available permit information, seven facilities are known to be exempt from most of the rule requirements due to the low HAP content of the off-site waste they receive or because they comply instead with 40 CFR part 61, subpart FF, as allowed by the OSWRO NESHAP, and they are not expected to be affected by the final rule revisions. These facilities are only required to document that the total annual quantity of the HAP contained in the off-site material received at the plant site is less than 1 megagram per year, and they are not subject to any other emissions limits or monitoring, reporting or recordkeeping requirements. We are not aware of any new OSWRO facilities that are expected to be constructed in the foreseeable future.

B. What are the air quality impacts?

For equipment leaks, we are eliminating the option of complying with 40 CFR part 61, subpart V, and requiring facilities in the OSWRO source category to comply with 40 CFR part 63, subpart H, including connector monitoring. Our revised estimate of the HAP emission reduction for this change is approximately 185 tpy.

For tanks, we are finalizing requirements for tanks of certain sizes and containing materials above certain vapor pressures to use Level 2 controls. Our revised estimate of the HAP emission reduction for this change is approximately 26 tpy.

We do not anticipate any HAP emission reduction from our clarification of the rule provision ''seal the open end'' (in the context of OELs), clarification of the scope of the routine maintenance provisions, or requirement to electronically report the results of emissions testing.

For the revisions to the MACT standards regarding SSM, including monitoring of PRDs in off-site material service, we were not able to quantify the

possible emission reductions, so none are included in our assessment of air quality impacts.

Therefore, the estimated total HAP emission reductions for the final standards for the OSWRO source category are estimated to be 211 tpy.

C. What are the cost impacts?

For equipment leaks, we are eliminating the option of complying with 40 CFR part 61, subpart V, and requiring facilities in the OSWRO source category to comply with 40 CFR part 63, subpart H (including connector monitoring). We estimate the nationwide capital costs to be $2.1 million and the annualized costs to be $664,000.

For tanks, we are requiring tanks of certain sizes and containing materials above certain vapor pressures to use Level 2 controls. We estimate the nationwide capital costs to be $139,000 and the annualized costs to be $192,000.

We do not anticipate any quantifiable capital or annualized costs for our definition of ''seal'' (in the context of OELs), clarification of the scope of the routine maintenance provisions and requirement to electronically report the results of emissions testing.

For the requirement to install and operate monitors on PRDs, we estimate the nationwide capital costs to be $1.9 million and the annualized costs to be $270,000. Therefore, the total capital costs for the final amendments for the OSWRO source category are approximately $4.1 million and the total annualized costs are approximately $1.1 million.

D. What are the economic impacts?

Both the magnitude of control costs needed to comply with a regulation and the distribution of these costs among affected facilities can have a role in determining how the market will change in response to that regulation. Total annualized costs for the final amendments are estimated to be about $1.1 million. The average annualized cost per facility is estimated to be about $23,000. Without detailed industry data, it is not possible to conduct a complete quantitative analysis of economic impacts. However, prior analyses suggest the impacts of these final amendments will be minimal. The Economic Impact Analysis for the final OSWRO NESHAP [11] found that demand for off-site waste services was highly inelastic. This means that suppliers are predominantly able to pass along cost increases to consumers through higher prices with little, if any, decrease in the quantity of service demanded. While we do not have specific information on prices charged or the quantity of services provided, company revenues are a function of both these factors. The cost-to-sales ratio is less than 1 quarter of 1 percent for all of the 27 firms included in this analysis, suggesting any increase in price will be minimal.

[11] EPA. June 1996.

E. What are the benefits?

We have estimated that this action will achieve HAP emissions reduction of 211 tpy. The final standards will result in significant reductions in the actual and MACT-allowable emissions of HAP and will reduce the actual and potential cancer risks and non-cancer health effects due to emissions of HAP from this source category, as discussed in the proposal preamble (79 FR 37869–37870). We have not quantified the monetary benefits associated with these reductions; however, these avoided emissions will result in improvements in air quality and reduced negative health effects associate with exposure to air pollution of these emissions.

F. What analysis of environmental justice did we conduct?

The EPA is making environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations in the United States. The EPA has established policies regarding the integration of environmental justice into the agency's rulemaking efforts, including recommendations for the consideration and conduct of analyses to evaluate potential environmental justice concerns during the development of a rule.

Following these recommendations, to gain a better understanding of the source category and near source populations, the EPA conducted a proximity analysis for OSWRO facilities prior to proposal to identify any overrepresentation of minority, low income or indigenous populations. This analysis gives an indication of the prevalence of sub-populations that may be exposed to air pollution from the sources. We have revised this analysis to include four additional OSWRO facilities that the EPA learned about after proposal.

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority, low income or indigenous populations. Additionally, the final changes to the NESHAP increase the level of environmental protection for all affected populations by reducing emissions from equipment leaks and tanks and do not cause any disproportionately high and adverse human health or environmental effects on any population, including any minority, low income or indigenous populations. Further details concerning this analysis are presented in the memorandum titled, *Updated Environmental Justice Review: Off-Site Waste and Recovery Operations RTR,* a copy of which is available in the docket for this action.

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

As part of the health and risk assessments, as well as the proximity analysis conducted for this action, risks to infants and children were assessed. These analyses are documented in the *Residual Risk Assessment for the Off-Site Waste and Recovery Operations Source Category in Support of the February 2015 Risk and Technology Review Final Rule* and the Updated *Environmental Justice Review: Off-Site Waste and Recovery Operations RTR* documents and are available in the docket for this action.

The results of the proximity analysis show that the average percentage of children 17 years and younger in close proximity to OSWRO is similar to the percentage of the national population in this age group. The difference in the absolute number of percentage points of the population 17 years old and younger from the national average indicates a 7-percent over-representation near OSWRO facilities. Consistent with the EPA's Policy on Evaluating Health Risks to Children, we conducted inhalation and multipathway risk assessments for the OSWRO source category considering risk to infants and children.[12] Children are exposed to chemicals emitted to the atmosphere via two primary routes: Either directly via inhalation, or indirectly via ingestion or dermal contact with various media that have been contaminated with the emitted chemicals. The EPA considers the possibility that children might be more sensitive than adults to toxic chemicals, including chemical carcinogens.

For our inhalation risk assessment, several carcinogens emitted by facilities in this source category have a mutagenic mode of action. For these compounds,

[12] Policy on Evaluating Health Risks to Children, U.S. Environmental Protection Agency, Washington, DC. May 2014. Available at *http://www2.epa.gov/sites/production/files/2014-05/documents/1995_childrens_health_policy_statement.pdf.*

we applied the age-dependent adjustment factors (ADAF) described in the EPA's Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens.[13] This adjustment has the effect of increasing the estimated lifetime risks for these pollutants by a factor of 1.6. For one group of these chemicals with a mutagenic mode of action, POM, only a small fraction of the total emissions were reported as individual compounds. The EPA expresses carcinogenic potency of POM relative to the carcinogenic potency of benzo[a]pyrene, based on evidence that carcinogenic POM have the same mutagenic mode of action as does benzo[a]pyrene. The EPA's Science Policy Council recommends applying the ADAF to all carcinogenic compounds for which risk estimates are based on potency relative to benzo[a]pyrene. Accordingly, we have applied the ADAF to the benzo[a]pyrene-equivalent mass portion of all POM mixtures.

For our multipathway screening assessment (*i.e.,* ingestion), we assessed risks for adults and various age groups of children. Childrens' exposures are expected to differ from exposures of adults due to differences in body weights, ingestion rates, dietary preferences and other factors. It is important, therefore, to evaluate the contribution of exposures during childhood to total lifetime risk using appropriate exposure factor values, applying ADAF as appropriate. The EPA developed a health protective exposure scenario whereby the receptor, at various lifestages, receives ingestion exposure via both the farm food chain and the fish ingestion pathways. The analysis revealed that fish ingestion is the dominant exposure pathway across all age groups for several pollutants, including POM. For POM, the farm-food-chain also is a major route of exposure, with beef and dairy contributing significantly to the lifetime average daily dose. Preliminary calculations of estimated dermal exposure and risk from these pollutants showed that the dermal exposure route is not a significant risk pathway relative to ingestion exposures.

Based on the analyses described above, the EPA has determined that the changes to this rule, which will reduce emissions of HAP by over 200 tpy, will lead to reduced risk to children and infants.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

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

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

B. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to the OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 1717.11. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The information requirements in this rulemaking are based on the notification, recordkeeping and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These notifications, reports and records are essential in determining compliance, and are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to agency policies set forth in 40 CFR part 2, subpart B.

Respondents/affected entities: OSWRO facilities that store, treat, recycle, reprocess, or dispose of wastes containing organic chemical compounds.

Respondent's obligation to respond: Mandatory (42 U.S.C. 7414).

Estimated number of respondents: 49.

Frequency of response: Semiannual.

Total estimated burden: 49,118 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $4.1 million (per year), includes $1.2 million annualized capital or operation & maintenance costs.

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

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are businesses that can be classified as small firms using the SBA size standards for their respective industries. The agency has determined that of the 27 firms that own the 49 facilities in the OSWRO source category, four firms, or 15 percent, can be classified as small firms. Based on the sales test screening methodology, all four firms will experience minimal impact, or a cost-to-sales ratio of 1 percent or less. Details of this analysis are presented in the memo, *Economic Impact Analysis for Risk and Technology Review: Off-site Waste and Recovery Operations Source Category,* which is available in the docket for this action.

D. Unfunded Mandates Reform Act (UMRA)

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

E. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175. There are no OSWRO facilities that are owned or operated by tribal governments. Thus, Executive Order 13175 does not apply to this action.

[13] Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens. Risk Assessment Forum, U.S. Environmental Protection Agency, Washington, DC. EPA/630/R–03/003F. March 2005. Available at *http://www.epa.gov/raf/publications/pdfs/childrens_supplement_final.pdf.*

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in the: *Residual Risk Assessment for the Off-Site Waste and Recovery Operations Source Category in Support of the February 2015 Risk and Technology Review Final Rule* document, which is available in the docket for this action, and are discussed in section V.G of this preamble.

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

This action involves technical standards. The EPA has decided to add EPA Methods 2F and 2G to the list of methods allowed to determine process vent stream gas volumetric flow rate. No applicable voluntary consensus standards (VCS) were identified for these methods. In addition, the EPA is finalizing provisions to allow EPA Method 3A as an alternative to EPA Method 3B for determining the oxygen concentration to use in oxygen correction equations. While the EPA identified several candidate VCS for this method (ANSI/ASME PTC 19–10–1981 Part 10, ASME B133.9–1994 (2001), ISO 10396:1993 (2007), ISO 12039:2001, ASTM D5835–95 (2013), ASTM D6522–00 (2011), and CAN/CSA Z223.2–M86 (1999)) as being potentially applicable, the agency decided not to use them. The use of these VCS would not be practical due to lack of equivalency, documentation, validation data and other important technical and policy considerations. The EPA also is finalizing requirements to use EPA Method 25A to determine compliance with the control device percent reduction requirement, if the owner or operator chooses to measure total organic content. While the EPA identified two candidate VCS (ISO 14965:2000(E), EN 12619 (1999)) as being potentially applicable, we are not including either standard in this final rule. The use of these VCS would not be practical due to the limited measurement ranges of these methods. (For more detail, see the document titled, *Voluntary Consensus Standard Results for NESHAP: Off-Site Waste and Recovery Operations 40 CFR part 63, subpart DD* in the docket for this final rule.) The EPA solicited comments on VCS and invited the public to identify potentially-applicable VCS, but no comments were received regarding this aspect of the rule.

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

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations because it increases the level of protection provided to human health or the environment. The results of this evaluation are contained in the memorandum titled, Updated *Environmental Justice Review: Off-Site Waste and Recovery Operations RTR,* which is available in the docket for this action, and are discussed in section V.F of this preamble.

K. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 63

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

Dated: February 26, 2015.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency (EPA) is amending title 40, chapter I, of the Code of Federal Regulations (CFR) as follows:

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

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

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

Subpart DD—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FROM OFF-SITE WASTE AND RECOVERY OPERATIONS

■ 2. Section 63.680 is amended by:

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

■ b. Adding paragraph (g).

The revisions and addition read as follows:

§ 63.680 Applicability and designation of affected sources.

* * * * *

(b) * * *

(2) * * *

(v) Waste that is transferred from a chemical manufacturing plant or other facility for which the owner or operator of the facility from which the waste is transferred has complied with the provisions of the air emission control standards for process wastewater specified by another subpart of this part. This exemption does not apply to a source which complies with another subpart of this part by transferring its wastewater off-site for control.

* * * * *

(e) * * * (1) *Existing sources.* The owner or operator of an affected source that commenced construction or reconstruction before October 13, 1994, must achieve compliance with the provisions of this subpart on or before the date specified in paragraphs (e)(1)(i), (ii), or (iii) of this section as applicable to the affected source.

(i) For an affected source that commenced construction or reconstruction before October 13, 1994 and receives off-site material for the first time before February 1, 2000, the owner or operator of this affected source must achieve compliance with the provisions of the subpart (except §§ 63.685(b)(1)(ii), 63.691(b)(2), and 63.691(c)(3)(i) and (ii)) on or before February 1, 2000 unless an extension has been granted by the Administrator as provided in § 63.6(i). These existing affected sources shall be in compliance with the tank requirements of § 63.685(b)(1)(ii) 2 years after the publication date of the final amendments on March 18, 2015, the equipment leak requirements of § 63.691(b)(2) 1 year after the publication date of the final amendments on March 18, 2015, and the pressure relief device monitoring requirements of § 63.691(c)(3)(i) and (ii) 3 years after the publication date of the final amendments on March 18, 2015.

(ii) For an affected source that commenced construction or reconstruction before October 13, 1994, but receives off-site material for the first

time on or after February 1, 2000, but before March 18, 2015, the owner or operator of the affected source must achieve compliance with the provisions of this subpart (except §§ 63.685(b)(1)(ii), 63.691(b)(2), and 63.691(c)(3)(i) and (ii)) upon the first date that the affected source begins to manage off-site material. These existing affected sources shall be in compliance with the tank requirements of § 63.685(b)(1)(ii) 2 years after the publication date of the final amendments on March 18, 2015, the equipment leak requirements of § 63.691(b)(2) 1 year after the publication date of the final amendments on March 18, 2015, and the pressure relief device monitoring requirements of § 63.691(c)(3)(i) and (ii) 3 years after the publication date of the final amendments on March 18, 2015.

(iii) For an affected source that commenced construction or reconstruction before October 13, 1994, but receives off-site material for the first time on or after March 18, 2015, the owner or operator of the affected source must achieve compliance with the provisions of this subpart (except §§ 63.685 (b)(1)(ii), 63.691(b)(2), and 63.691(c)(3)(i) and (ii)) upon the first date that the affected source begins to manage off-site material. These existing affected sources shall be in compliance with the tank requirements of § 63.685(b)(1)(ii) 2 years after the publication date of the final amendments on March 18, 2015, the equipment leak requirements of § 63.691(b)(2) 1 year after the publication date of the final amendments on March 18, 2015, and the pressure relief device monitoring requirements of § 63.691(c)(3)(i) and (ii) 3 years after the publication date of the final amendments on March 18, 2015.

(2) *New sources.* The owner or operator of an affected source for which construction or reconstruction commences on or after October 13, 1994, must achieve compliance with the provisions of this subpart (except §§ 63.685(b)(2), 63.691(b)(2), and 63.691(c)(3)(i) and (ii)) on or before July 1, 1996, or upon initial startup of operations, whichever date is later as provided in 40 CFR 63.6(b). New affected sources that commenced construction or reconstruction after October 13, 1994, but on or before July 2, 2014, shall be in compliance with the tank requirements of § 63.685(b)(2) 2 years after the publication date of the final amendments, the equipment leak requirements of § 63.691(b)(2) 1 year after the publication date of the final amendments, and the pressure relief device monitoring requirements of § 63.691(c)(3)(i) and (ii) 3 years after the effective date of the final amendments. New affected sources that commence construction or reconstruction after July 2, 2014, shall be in compliance with the tank requirements of § 63.685(b)(2), the equipment leak requirements of § 63.691(b)(2), and the pressure relief device monitoring requirements of § 63.691(c)(3)(i) and (ii) upon initial startup or by the effective date of the final amendments, whichever is later.

* * * * *

(g) *Applicability of this subpart.* (1) The emission limitations set forth in this subpart and the emission limitations referred to in this subpart shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies.

(2) The owner or operator shall not shut down items of equipment that are required or utilized for compliance with this subpart during times when emissions are being routed to such items of equipment, if the shutdown would contravene requirements of this subpart applicable to such items of equipment.

■ 3. Section 63.681 is amended by:

■ a. Adding, in alphabetical order, definitions for "Bypass", "In gas/vapor service", "In heavy liquid service", "In light liquid service", "In liquid service", "Pressure release", and "Pressure relief device or valve";

■ b. Revising the definitions of "Point-of-treatment" and "Process vent"; and

■ c. Removing the definition of "Safety device".

The additions and revisions read as follows:

§ 63.681 Definitions.

* * * * *

Bypass means diverting a process vent or closed vent system stream to the atmosphere such that it does not first pass through an emission control device.

* * * * *

In gas/vapor service means that a piece of equipment in off-site material service contains or contacts a gas or vapor at operating conditions.

In heavy liquid service means that a piece of equipment in off-site material service is not in gas/vapor service or in light liquid service.

In light liquid service means that a piece of equipment in off-site material service contains or contacts a liquid that meets the following conditions:

(1) The vapor pressure of one or more of the organic compounds is greater than 0.3 kilopascals at 20 °C;

(2) The total concentration of the pure organic compounds constituents having a vapor pressure greater than 0.3 kilopascals at 20 °C is equal to or greater than 20 percent by weight of the total process stream; and

(3) The fluid is a liquid at operating conditions. Note to *In light liquid service:* Vapor pressures may be determined by the methods described in 40 CFR 60.485(e)(1). *In liquid service* means that a piece of equipment in off-site material service is not in gas/vapor service.

* * * * *

Point-of-treatment means a point after the treated material exits the treatment process but before the first point downstream of the treatment process exit where the organic constituents in the treated material have the potential to volatilize and be released to the atmosphere. For the purpose of applying this definition to this subpart, the first point downstream of the treatment process exit is not a fugitive emission point due to an equipment leak from any of the following equipment components: Pumps, compressors, valves, connectors, instrumentation systems, or pressure relief devices.

Pressure release means the emission of materials resulting from the system pressure being greater than the set pressure of the pressure relief device. This release can be one release or a series of releases over a short time period.

Pressure relief device or valve means a safety device used to prevent operating pressures from exceeding the maximum allowable working pressure of the process equipment. A common pressure relief device is a spring-loaded pressure relief valve. Devices that are actuated either by a pressure of less than or equal to 2.5 pounds per square inch gauge or by a vacuum are not pressure relief devices.

* * * * *

Process vent means an open-ended pipe, stack, or duct through which a gas stream containing HAP is continuously or intermittently discharged to the atmosphere from any of the processes listed in § 63.680(c)(2)(i) through (vi). For the purpose of this subpart, a process vent is none of the following: a pressure relief device; an open-ended line or other vent that is subject to the equipment leak control requirements under § 63.691; or a stack or other vent that is used to exhaust combustion products from a boiler, furnace, process heater, incinerator, or other combustion device.

* * * * *

■ 4. Section 63.683 is amended by:

■ a. Revising the first sentence of paragraph (c)(1)(ii); and
■ b. Adding paragraphs (e) and (f).

The revision and addition read as follows:

§ 63.683 Standards: General.

* * * * *

(c) * * *

(1) * * *

(ii) The owner or operator determines before placing off-site material in the process equipment associated with the process vent that the average VOHAP concentration of the off-site material is less than 500 ppmw at the point-of-delivery. * * *

* * * * *

(e) *General duty.* At all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator, which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(f) In addition to the cases listed in § 63.695(e)(4), deviation means any of the cases listed in paragraphs (f)(1) through (6) of this section.

(1) Any instance in which an affected source subject to this subpart, or an owner or operator of such a source, 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) When a performance test indicates that emissions of a pollutant in Table 1 to this subpart are exceeding the emission standard for the pollutant specified in Table 1 to this subpart.

(3) When the average value of a monitored operating parameter, based on the data averaging period for compliance specified in § 63.695, does not meet the operating limit specified in § 63.693.

(4) When an affected source discharges directly into the atmosphere from any of the sources specified in paragraphs (f)(4)(i) and (ii) of this section.

(i) A pressure relief device, as defined in § 63.681.

(ii) A bypass, as defined in § 63.681.

(5) Any instance in which the affected source subject to this subpart, or an owner or operator of such a source, fails to meet any term or condition specified in paragraph (f)(5)(i) or (ii) of this section.

(i) Any term or condition that is adopted to implement an applicable requirement in this subpart.

(ii) Any term or condition relating to compliance with this subpart that is included in the operating permit for an affected source to obtain such a permit.

(6) Any failure to collect required data, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments).

■ 5. Section 63.684 is amended by:
■ a. Revising paragraph (b)(5) introductory text;
■ b. Adding paragraph (b)(5)(v); and
■ c. Revising paragraph (h).

The revisions and addition read as follows:

§ 63.684 Standards: Off-site material treatment.

* * * * *

(b) * * *

(5) *Incineration.* The treatment process must destroy the HAP contained in the off-site material stream using one of the combustion devices specified in paragraphs (b)(5)(i) through (v) of this section.

* * * * *

(v) An incinerator, boiler, or industrial furnace for which the owner or operator has submitted a Notification of Compliance under §§ 63.1207(j) and 63.1210(d) and complies with the requirements of subpart EEE of this part at all times (including times when non-hazardous waste is being burned).

* * * * *

(h) The Administrator may at any time conduct or require that the owner or operator conduct testing necessary to demonstrate that a treatment process is achieving the applicable performance requirements of this section. The testing shall be conducted in accordance with the applicable requirements of this section. The Administrator may elect to have an authorized representative observe testing conducted by the owner or operator.

■ 6. Section 63.685 is amended by:
■ a. Revising paragraphs (b) introductory text, (b)(1), and (2);
■ b. Removing paragraph (b)(4);
■ c. Revising paragraphs (c)(1), (c)(2)(i) and (iii)(B), (g)(2), (h)(3), (i) introductory text; and
■ d. Removing paragraph (i)(3) and redesignating paragraph (i)(4) as paragraph (i)(3).

The revisions read as follows:

§ 63.685 Standards: Tanks.

* * * * *

(b) According to the date an affected source commenced construction or reconstruction and the date an affected source receives off-site material for the first time as established in § 63.680(e)(i) through (iii), the owner or operator shall control air emissions from each tank subject to this section in accordance with either paragraph (b)(1)(i) or (ii) of this section.

(1)(i) For a tank that is part of an existing affected source but the tank is not used for a waste stabilization process as defined in § 63.681, the owner or operator shall determine whether the tank is required to use either Tank Level 1 controls or Tank Level 2 controls as specified for the tank by Table 3 of this subpart based on the off-site material maximum HAP vapor pressure and the tank's design capacity. The owner or operator shall control air emissions from a tank required by Table 3 to use Tank Level 1 controls in accordance with the requirements of paragraph (c) of this section. The owner or operator shall control air emissions from a tank required by Table 3 to use Tank Level 2 controls in accordance with the requirements of paragraph (d) of this section.

(ii) For a tank that is part of an existing affected source but the tank is not used for a waste stabilization process as defined in § 63.681, the owner or operator shall determine whether the tank is required to use either Tank Level 1 controls or Tank Level 2 controls as specified for the tank by Table 4 of this subpart based on the off-site material maximum HAP vapor pressure and the tank's design capacity. The owner or operator shall control air emissions from a tank required by Table 4 to use Tank Level 1 controls in accordance with the requirements of paragraph (c) of this section. The owner or operator shall control air emissions from a tank required by Table 4 to use Tank Level 2 controls in accordance with the requirements of paragraph (d) of this section.

(2) For a tank that is part of a new affected source but the tank is not used for a waste stabilization process as defined in § 63.681, the owner or operator shall determine whether the tank is required to use either Tank Level

1 controls or Tank Level 2 controls as specified for the tank by Table 5 of this subpart based on the off-site material maximum HAP vapor pressure and the tank's design capacity. The owner or operator shall control air emissions from a tank required by Table 5 to use Tank Level 1 controls in accordance with the requirements of paragraph (c) of this section. The owner or operator shall control air emissions from a tank required by Table 5 to use Tank Level 2 controls in accordance with the requirements of paragraph (d) of this section.

* * * * *

(c) * * *

(1) The owner or operator shall determine the maximum HAP vapor pressure for an off-site material to be managed in the tank using Tank Level 1 controls before the first time the off-site material is placed in the tank. The maximum HAP vapor pressure shall be determined using the procedures specified in § 63.694(j). Thereafter, the owner or operator shall perform a new determination whenever changes to the off-site material managed in the tank could potentially cause the maximum HAP vapor pressure to increase to a level that is equal to or greater than the maximum HAP vapor pressure limit for the tank design capacity category specified in Table 3, Table 4, or Table 5 of this subpart, as applicable to the tank.

(2) * * *

(i) The owner or operator controls air emissions from the tank in accordance with the provisions specified in subpart OO of this part—National Emission Standards for Tanks—Level 1, except that § 63.902(c)(2) and (3) shall not apply for the purposes of this subpart.

* * * * *

(iii) * * *

(B) At all other times, air emissions from the tank must be controlled in accordance with the provisions specified in subpart OO of this part—National Emission Standards for Tanks—Level 1, with the exceptions specified in paragraphs (c)(2)(iii)(B)(*1*) and (*2*) of this section.

(*1*) Where § 63.902(c)(2) provides an exception for a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device which vents to the atmosphere, only a conservation vent shall be eligible for the exception for the purposes of this subpart.

(*2*) Section 63.902(c)(3) shall not apply for the purposes of this subpart.

* * * * *

(g) * * *

(2) Whenever an off-site material is in the tank, the fixed roof shall be installed with each closure device secured in the closed position and the vapor headspace underneath the fixed roof vented to the control device except that venting to the control device is not required, and opening of closure devices or removal of the fixed roof is allowed at the following times:

(i) To provide access to the tank for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a port to sample liquid in the tank, or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity, the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the tank.

(ii) To remove accumulated sludge or other residues from the bottom of the tank.

* * * * *

(h) * * *

(3) Whenever an off-site material is in the tank, the tank shall be operated as a closed system that does not vent to the atmosphere except at those times when purging of inerts from the tank is required and the purge stream is routed to a closed-vent system and control device designed and operated in accordance with the requirements of § 63.693.

(i) The owner or operator who elects to control air emissions by using an enclosure vented through a closed-vent system to an enclosed combustion control device shall meet the requirements specified in paragraphs (i)(1) through (3) of this section.

* * * * *

■ 7. Section 63.686 is amended by revising paragraphs (b)(1) through (3) to read as follows:

§ 63.686 Standards: Oil-water and organic water separators.

* * * * *

(b) * * *

(1) A floating roof in accordance with all applicable provisions specified in subpart VV of this part—National Emission Standards for Oil-Water Separators and Organic-Water Separators, except that §§ 63.1043(c)(2), 63.1044(c)(2), and 63.1045(b)(3)(i) shall not apply for the purposes of this subpart. For portions of the separator where it is infeasible to install and operate a floating roof, such as over a weir mechanism, the owner or operator shall comply with the requirements specified in paragraph (b)(2) of this section.

(2) A fixed-roof that is vented through a closed-vent system to a control device in accordance with all applicable provisions specified in subpart VV of this part—National Emission Standards for Oil-Water Separators and Organic-Water Separators, except that §§ 63.1043(c)(2), 63.1044(c)(2), and 63.1045(b)(3)(i) shall not apply for the purposes of this subpart.

(3) A pressurized separator that operates as a closed system in accordance with all applicable provisions specified in subpart VV of this part—National Emission Standards for Oil-Water Separators and Organic-Water Separators, except that §§ 63.1043(c)(2), 63.1044(c)(2), and 63.1045(b)(3)(i) shall not apply for the purposes of this subpart.

■ 8. Section 63.687 is amended by revising paragraphs (b)(1) and (2) to read as follows:

§ 63.687 Standards: Surface impoundments.

* * * * *

(b) * * *

(1) A floating membrane cover in accordance with the applicable provisions specified in subpart QQ of this part—National Emission Standards for Surface Impoundments, except that §§ 63.942(c)(2) and (3) and 63.943(c)(2) shall not apply for the purposes of this subpart; or

(2) A cover that is vented through a closed-vent system to a control device in accordance with all applicable provisions specified in subpart QQ of this part—National Emission Standards for Surface Impoundments, except that §§ 63.942(c)(2) and (3) and 63.943(c)(2) shall not apply for the purposes of this subpart.

■ 9. Section 63.688 is amended by revising paragraphs (b)(1)(i), (ii), and (3)(i) to read as follows:

§ 63.688 Standards: Containers.

* * * * *

(b) * * *

(1) * * *

(i) The owner or operator controls air emissions from the container in accordance with the standards for Container Level 1 controls as specified in subpart PP of this part—National Emission Standards for Containers, except that §§ 63.922(d)(4) and (5) and 63.923(d)(4) and (5) shall not apply for the purposes of this subpart.

(ii) As an alternative to meeting the requirements in paragraph (b)(1)(i) of this section, an owner or operator may choose to control air emissions from the container in accordance with the standards for either Container Level 2 controls or Container Level 3 controls as specified in subpart PP of this part—National Emission Standards for

Containers, except that §§ 63.922(d)(4) and (5) and 63.923(d)(4) and (5) shall not apply for the purposes of this subpart.

* * * * *

(3) * * *

(i) The owner or operator controls air emissions from the container in accordance with the standards for Container Level 2 controls as specified in subpart PP of this part—National Emission Standards for Containers, except that §§ 63.922(d)(4) and (5) and 63.923(d)(4) and (5) shall not apply for the purposes of this subpart.

* * * * *

■ 10. Section 63.689 is amended by revising paragraph (d)(5) to read as follows:

§ 63.689 Standards: Transfer systems.

* * * * *

(d) * * *

(5) Whenever an off-site material is in the transfer system, the cover shall be installed with each closure device secured in the closed position, except the opening of closure devices or removal of the cover is allowed to provide access to the transfer system for performing routine inspection, maintenance, repair, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a hatch or remove the cover to repair conveyance equipment mounted under the cover or to clear a blockage of material inside the system. Following completion of the activity, the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable.

* * * * *

■ 11. Section 63.691 is amended by:

■ a. Revising paragraph (b); and

■ b. Adding paragraph (c).

The revision and addition read as follows:

§ 63.691 Standards: Equipment leaks.

* * * * *

(b) According to the date an affected source commenced construction or reconstruction and the date an affected source receives off-site material for the first time, as established in § 63.680(e)(i) through (iii), the owner or operator shall control the HAP emitted from equipment leaks in accordance with the applicable provisions specified in either paragraph (b)(1) or (2) of this section.

(1)(i) The owner or operator controls the HAP emitted from equipment leaks in accordance with §§ 61.241 through 61.247 in 40 CFR part 61, subpart V—National Emission Standards for Equipment Leaks, with the difference noted in paragraphs (b)(1)(iii) and (iv) of this section for the purposes of this subpart; or

(ii) The owner or operator controls the HAP emitted from equipment leaks in accordance with §§ 63.161 through 63.182 in subpart H of this part—National Emission Standards for Organic Hazardous Air Pollutants from Equipment Leaks, with the differences noted in paragraphs (b)(2)(i) through (iv) of this section for the purposes of this subpart.

(iii) On or after March 18, 2015, for the purpose of complying with the requirements of 40 CFR 61.242–6(a)(2) or the requirements of § 63.167(a)(2), the open end is sealed when instrument monitoring of the open-ended valve or line conducted according to Method 21 of 40 CFR part 60, appendix A indicates no readings of 500 ppm or greater.

(iv) On or after March 18, 2015, for the purpose of complying with the requirements of 40 CFR 61.242–6(d) or the requirements of § 63.167(d), open-ended valves or lines in an emergency shutdown system which are designed to open automatically in the event of a process upset and that are exempt from the requirements in 40 CFR 61.242–6(a), (b), and (c) or § 63.167(a), (b), and (c) must comply with the requirements in § 63.693(c)(2).

(2) The owner or operator controls the HAP emitted from equipment leaks in accordance with §§ 63.161 through 63.183 in subpart H of this part—National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks, with the differences noted in paragraphs (b)(2)(i) through (v) of this section for the purposes of this subpart.

(i) For each valve in gas/vapor or in light liquid service, as defined in § 63.681, that is part of an affected source under this subpart, an instrument reading that defines a leak is 500 ppm or greater as detected by Method 21 of 40 CFR part 60, appendix A.

(ii) For each pump in light liquid service, as defined in § 63.681, that is part of an affected source under this subpart, an instrument reading that defines a leak is 1,000 ppm or greater as detected by Method 21 of 40 CFR part 60, appendix A. Repair is not required unless an instrument reading of 2,000 ppm or greater is detected.

(iii) On or after March 18, 2015, for the purpose of complying with the requirements of § 63.167(a)(2), the open end is sealed when instrument monitoring of the open-ended valve or line conducted according to Method 21 of 40 CFR part 60, appendix A indicates no readings of 500 ppm or greater.

(iv) On or after March 18, 2015, for the purpose of complying with the requirements of § 63.167(d), open-ended valves or lines in an emergency shutdown system which are designed to open automatically in the event of a process upset and that are exempt from the requirements in § 63.167(a), (b), and (c) must comply with the requirements in § 63.693(c)(2).

(v) For the purposes of this subpart, the pressure relief device requirements of § 63.691(c) of this subpart rather than those of § 63.165 or of 40 CFR 61.242–4, as applicable, shall apply. The pressure relief device requirements of § 63.691(c)(3) and (4) apply in addition to the requirements of § 63.169 or of 40 CFR 61.242–8, as applicable, for pressure relief devices in liquid service.

(c) *Requirements for pressure relief devices.* Except as provided in paragraph (c)(4) of this section, the owner or operator must comply with the requirements specified in paragraphs (c)(1) through (3) of this section for pressure relief devices in off-site material service.

(1) *Operating requirements.* Except during a pressure release event, operate each pressure relief device in gas/vapor service with an instrument reading of less than 500 ppm above background as detected by Method 21 of 40 CFR part 60, appendix A.

(2) *Pressure release requirements.* For pressure relief devices in gas/vapor service, the owner or operator must comply with either paragraph (c)(2)(i) or (ii) of this section following a pressure release, as applicable.

(i) If the pressure relief device does not consist of or include a rupture disk, the pressure relief device shall be returned to a condition indicated by an instrument reading of less than 500 ppm above background, as detected by Method 21 of 40 CFR part 60, appendix A, no later than 5 calendar days after the pressure release device returns to off-site material service following a pressure release, except as provided in § 63.171.

(ii) If the pressure relief device consists of or includes a rupture disk, except as provided in § 63.171, install a replacement disk as soon as practicable but no later than 5 calendar days after the pressure release.

(3) *Pressure release management.* Except as provided in paragraph (c)(4) of this section, emissions of HAP listed in Table 1 of this subpart may not be discharged directly to the atmosphere from pressure relief devices in off-site material service, and according to the date an affected source commenced construction or reconstruction and the date an affected source receives off-site

material for the first time, as established in § 63.680(e)(1)(i) through (iii), the owner or operator must comply with the requirements specified in paragraphs (c)(3)(i) and (ii) of this section for all pressure relief devices in off-site material service.

(i) The owner or operator must equip each pressure relief device in off-site material service with a device(s) or use a monitoring system. The device or monitoring system may be either specific to the pressure release device itself or may be associated with the process system or piping, sufficient to indicate a pressure release to the atmosphere. Examples of these types of devices or monitoring systems include, but are not limited to, a rupture disk indicator, magnetic sensor, motion detector on the pressure relief valve stem, flow monitor, pressure monitor, or parametric monitoring system. The devices or monitoring systems must be capable of meeting the requirements specified in paragraphs (c)(3)(i)(A) through (C) of this section.

(A) Identifying the pressure release;

(B) Recording the time and duration of each pressure release; and

(C) Notifying operators immediately that a pressure release is occurring.

(ii) If any pressure relief device in off-site material service releases directly to the atmosphere as a result of a pressure release event, the owner or operator must calculate the quantity of HAP listed in Table 1 of this subpart released during each pressure release event and report this quantity as required in § 63.697(b)(5). Calculations may be based on data from the pressure relief device monitoring alone or in combination with process parameter monitoring data and process knowledge.

(4) *Pressure relief devices routed to a drain system, fuel gas system, process or control device.* If a pressure relief device in off-site material service is designed and operated to route all pressure releases through a closed vent system to a drain system, fuel gas system, process or control device, paragraphs (c)(1), (2), and (3) of this section do not apply. The fuel gas system or closed vent system and the process or control device (if applicable) must meet the requirements of § 63.693. The drain system (if applicable) must meet the requirements of § 63.689.

■ 12. Section 63.693 is amended by:

■ a. Revising paragraphs (b)(3) and (8), (c)(1)(ii), and (c)(2) introductory text;

■ b. Adding paragraph (c)(2)(iii); and

■ c. Revising paragraphs (f)(1)(i)(B), (f)(1)(ii)(B), and (f)(2) introductory text;

■ d. Adding paragraph (f)(2)(iii);

■ e. Revising paragraphs (g)(1)(v) and (g)(2)(i); and

■ f. Adding paragraph (g)(2)(i)(C).

The revisions and additions read as follows:

§ 63.693 Standards: Closed-vent systems and control devices.

* * * * *

(b) * * *

(3) Whenever gases or vapors containing HAP are routed from a tank through a closed-vent system connected to a control device used to comply with the requirements of § 63.685(b)(1), (2), or (3), the control device must be operating except as provided for in paragraphs (b)(3)(i) and (ii) of this section.

(i) The control device may only be bypassed for the purpose of performing planned routine maintenance of the closed-vent system or control device in situations when the routine maintenance cannot be performed during periods that tank emissions are vented to the control device.

(ii) On an annual basis, the total time that the closed-vent system or control device is bypassed to perform routine maintenance shall not exceed 240 hours per each calendar year.

* * * * *

(8) In the case when an owner or operator chooses to use a design analysis to demonstrate compliance of a control device with the applicable performance requirements specified in this section as provided for in paragraphs (d) through (g) of this section, the Administrator may require that the design analysis be revised or amended by the owner or operator to correct any deficiencies identified by the Administrator. If the owner or operator and the Administrator do not agree on the acceptability of using the design analysis (including any changes required by the Administrator) to demonstrate that the control device achieves the applicable performance requirements, then the disagreement must be resolved using the results of a performance test conducted by the owner or operator in accordance with the requirements of § 63.694(l). The Administrator may choose to have an authorized representative observe the performance test conducted by the owner or operator. Should the results of this performance test not agree with the determination of control device performance based on the design analysis, then the results of the performance test will be used to establish compliance with this subpart.

* * * * *

(c) * * *

(1) * * *

(ii) A closed-vent system that is designed to operate at a pressure below atmospheric pressure. The system shall be equipped with at least one pressure gauge or other pressure measurement device that can be read from a readily accessible location to verify that negative pressure is being maintained in the closed-vent system when the control device is operating.

(2) In situations when the closed-vent system includes bypass devices that could be used to divert a vent stream from the closed-vent system to the atmosphere at a point upstream of the control device inlet, each bypass device must be equipped with either a flow indicator as specified in paragraph (c)(2)(i) of this section or a seal or locking device as specified in paragraph (c)(2)(ii) of this section, except as provided for in paragraph (c)(2)(iii) of this section:

* * * * *

(iii) Equipment needed for safety reasons, including low leg drains, open-ended valves and lines not in emergency shutdown systems, and pressure relief devices subject to the requirements of § 63.691(c) are not subject to the requirements of paragraphs (c)(2)(i) and (ii) of this section.

* * * * *

(f) * * *

(1) * * *

(i) * * *

(B) To achieve a total incinerator outlet concentration for the TOC, less methane and ethane, of less than or equal to 20 ppmv on a dry basis corrected to 3 percent oxygen.

(ii) * * *

(B) To achieve a total incinerator outlet concentration for the HAP, listed in Table 1 of this subpart, of less than or equal to 20 ppmv on a dry basis corrected to 3 percent oxygen.

* * * * *

(2) The owner or operator must demonstrate that the vapor incinerator achieves the performance requirements in paragraph (f)(1) of this section by conducting either a performance test as specified in paragraph (f)(2)(i) of this section or a design analysis as specified in paragraph (f)(2)(ii) of this section, except as provided for in paragraph (f)(2)(iii) of this section.

* * * * *

(iii) An owner or operator is not required to conduct a performance test or design analysis if the incinerator has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 264, subpart O, or has certified compliance with the interim status requirements of 40 CFR part 265, subpart O.

(g) * * *

(1) * * *

(v) Introduce the vent stream to a boiler or process heater for which the owner or operator either has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 266, subpart H; or has certified compliance with the interim status requirements of 40 CFR part 266, subpart H; or has submitted a Notification of Compliance under §§ 63.1207(j) and 63.1210(d) and complies with the requirements of subpart EEE of this part at all times (including times when non-hazardous waste is being burned).

(2) * * *

(i) If an owner or operator chooses to comply with the performance specifications in either paragraph (g)(1)(i), (ii), or (iii) of this section, the owner or operator must demonstrate compliance with the applicable performance specifications by conducting either a performance test as specified in paragraph (g)(2)(i)(A) of this section or a design analysis as specified in paragraph (g)(2)(i)(B) of this section, except as provided for in paragraph (g)(2)(i)(C) of this section.

* * * * *

(C) An owner or operator is not required to conduct a performance test or design analysis if 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 has certified compliance with the interim status requirements of 40 CFR part 266, subpart H.

* * * * *

■ 13. Section 63.694 is amended by revising paragraphs (b)(3)(iv), (f)(1), (i)(1), (j)(3), (k)(3), (l) introductory text, (l)(2), (l)(3) introductory text, (l)(3)(i), (l)(3)(ii)(B), (l)(4) introductory text, (l)(4)(i), (l)(4)(ii)(A) and (B), (l)(4)(iii)(A), and (m)(2) and (3) to read as follows:

§ 63.694 Testing methods and procedures.

* * * * *

(b) * * *

(3) * * *

(iv) In the event that the Administrator and the owner or operator disagree on a determination of the average VOHAP concentration for an off-site material stream using knowledge, then the results from a determination of VOHAP concentration using direct measurement as specified in paragraph (b)(2) of this section shall be used to establish compliance with the applicable requirements of this subpart. The Administrator may perform or require that the owner or operator perform this determination using direct measurement.

* * * * *

(f) * * *

(1) The actual HAP mass removal rate (MR) shall be determined based on results for a minimum of three consecutive runs. The sampling time for each run shall be at least 1 hour.

* * * * *

(i) * * *

(1) The actual HAP mass removal rate (MR_{bio}) shall be determined based on results for a minimum of three consecutive runs. The sampling time for each run shall be at least 1 hour.

* * * * *

(j) * * *

(3) *Use of knowledge to determine the maximum HAP vapor pressure of the off-site material.* Documentation shall be prepared and recorded that presents the information used as the basis for the owner's or operator's knowledge that the maximum HAP vapor pressure of the off-site material is less than the maximum vapor pressure limit listed in Table 3, Table 4, or Table 5 of this subpart for the applicable tank design capacity category. Examples of information that may be used include: the off-site material is generated by a process for which at other locations it previously has been determined by direct measurement that the off-site material maximum HAP vapor pressure is less than the maximum vapor pressure limit for the appropriate tank design capacity category. In the event that the Administrator and the owner or operator disagree on a determination of the maximum HAP vapor pressure for an off-site material stream using knowledge, then the results from a determination of HAP vapor pressure using direct measurement as specified in paragraph (j)(2) of this section shall be used to establish compliance with the applicable requirements of this subpart. The Administrator may perform or require that the owner or operator perform this determination using direct measurement.

(k) * * *

(3) 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 8.1.1 of Method 21 shall be for the weighted average composition of the organic constituents in the material placed in the unit at the time of monitoring, not for each individual organic constituent.

* * * * *

(l) *Control device performance test procedures.* Performance tests shall be based on representative performance (*i.e.,* performance based on normal operating conditions) and shall exclude periods of startup and shutdown unless specified by the Administrator. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

(2) The gas volumetric flow rate shall be determined using Method 2, 2A, 2C, or 2D, 2F, or 2G of 40 CFR part 60, appendix A, as appropriate.

(3) To determine compliance with the control device percent reduction requirement, the owner or operator shall use Method 18 of 40 CFR part 60, appendix A to measure the HAP in Table 1 of this subpart or Method 25A of 40 CFR part 60, appendix A to measure TOC. Method 18 may be used to measure methane and ethane, and the measured concentration may be subtracted from the Method 25A measurement. Alternatively, any other method or data that has been validated according to the applicable procedures in Method 301 in appendix A of this part may be used. The following procedures shall be used to calculate percent reduction efficiency:

(i) A minimum of three sample runs must be performed. The minimum sampling time for each run shall be 1 hour. For Method 18, either an integrated sample or a minimum of four grab samples shall be taken. If grab sampling is used, then the samples shall be taken at approximately equal intervals in time such as 15 minute intervals during the run.

(ii) * * *

(B) When the TOC mass rate is calculated, the average concentration reading (minus methane and ethane) measured by Method 25A of 40 CFR part 60, appendix A shall be used in the equation in paragraph (l)(3)(ii)(A) of this section.

* * * * *

(4) To determine compliance with the enclosed combustion device total HAP concentration limit of this subpart, the owner or operator shall use Method 18 of 40 CFR part 60, appendix A to measure the total HAP in Table 1 of this subpart or Method 25A of 40 CFR part 60, appendix A to measure TOC. Method 18 may be used to measure

methane and ethane and the measured concentration may be subtracted from the Method 25A measurement. Alternatively, any other method or data that has been validated according to Method 301 in appendix A of this part, may be used. The following procedures shall be used to calculate parts per million by volume concentration, corrected to 3 percent oxygen:

(i) A minimum of three sample runs must be performed. The minimum sampling time for each run shall be 1 hour. For Method 18, either an integrated sample or a minimum of four grab samples shall be taken. If grab sampling is used, then the samples shall be taken at approximately equal intervals in time, such as 15 minute intervals during the run.

(ii) * * *

(A) The TOC concentration (C_{TOC}) is the average concentration readings provided by Method 25 A of 40 CFR part 60, appendix A, minus the concentration of methane and ethane.

(B) The total HAP concentration (C_{HAP}) shall be computed according to the following equation:

$$C_{HAP} = \sum_{i=1}^{x} \frac{\sum_{j=1}^{n} C_{ji}}{x}$$

where:

C_{HAP} = Total concentration of HAP compounds listed in Table 1 of this subpart, dry basis, parts per million by volume.

C_{ij} = Concentration of sample components j of sample i, dry basis, parts per million by volume.

n = Number of components in the sample.

x = Number of samples in the sample run.

(iii) * * *

(A) The emission rate correction factor or excess air, integrated sampling and analysis procedures of Method 3B of 40 CFR part 60, appendix A shall be used to determine the oxygen concentration ($\%O_{2dry}$). Alternatively, the owner or operator may use Method 3A of 40 CFR part 60, appendix A to determine the oxygen concentration. The samples shall be collected during the same time that the samples are collected for determining TOC concentration or total HAP concentration.

* * * * *

(m) * * *

(2) No traverse site selection method is needed for vents smaller than 0.10 meter in diameter. For vents smaller than 0.10 meter in diameter, sample at the center of the vent.

(3) Process vent stream gas volumetric flow rate must be determined using Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A, as appropriate.

* * * * *

■ 14. Section 63.695 is amended by:

■ a. Revising paragraph (a) introductory text;

■ b. Adding paragraph (a)(5);

■ c. Revising paragraphs (e) introductory text and (e)(4) and (5); and

■ d. Removing paragraphs (e)(6) and (7).

The revisions and addition read as follows:

§ 63.695 Inspection and monitoring requirements.

(a) The owner or operator must install, calibrate, maintain, and operate all monitoring system components according to §§ 63.8, 63.684(e), 63.693(d)(3), (e)(3), (f)(3), (g)(3), and (h)(3), and paragraph (a)(5) of this section and perform the inspection and monitoring procedures specified in paragraphs (a)(1) through (4) of this section.

* * * * *

(5)(i) Except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments), the owner or operator must operate the continuous monitoring system at all times the affected source is operating. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. The owner or operator is required to complete monitoring system repairs in response to monitoring system malfunctions and to return the monitoring system to operation as expeditiously as practicable.

(ii) The owner or operator may not use data recorded during monitoring system malfunctions, repairs associated with monitoring system malfunctions, or required monitoring system quality assurance or control activities in calculations used to report emissions or operating levels. The owner or operator must use all the data collected during all other required data collection periods in assessing the operation of the control device and associated control system. The owner or operator must report any periods for which the monitoring system failed to collect required data.

* * * * *

(e) *Control device monitoring requirements.* For each control device required under § 63.693 to be monitored in accordance with the provisions of this paragraph (e), the owner or operator must ensure that each control device operates properly by monitoring the control device in accordance with the requirements specified in paragraphs (e)(1) through (5) of this section.

* * * * *

(4) A deviation for a given control device is determined to have occurred when the monitoring data or lack of monitoring data result in any one of the criteria specified in paragraphs (e)(4)(i) through (iii) of this section being met. When multiple operating parameters are monitored for the same control device and during the same operating day more than one of these operating parameters meets a deviation criterion specified in paragraphs (e)(4)(i) through (iii) of this section, then a single deviation is determined to have occurred for the control device for that operating day.

(i) A deviation occurs when the daily average value of a monitored operating parameter is less than the minimum operating parameter limit (or, if applicable, greater than the maximum operating parameter limit) established for the operating parameter in accordance with the requirements of paragraph (e)(3) of this section.

(ii) A deviation occurs when the period of control device operation is 4 hours or greater in an operating day and the monitoring data are insufficient to constitute a valid hour of data for at least 75 percent of the operating hours. Monitoring data are insufficient to constitute a valid hour of data if measured values are unavailable for any of the 15-minute periods within the hour.

(iii) A deviation occurs when the period of control device operation is less than 4 hours in an operating day and more than 1 of the hours during the period does not constitute a valid hour of data due to insufficient monitoring data. Monitoring data are insufficient to constitute a valid hour of data if measured values are unavailable for any of the 15-minute periods within the hour.

(5) For each deviation, except when the deviation occurs during periods of non-operation of the unit or the process that is vented to the control device (resulting in cessation of HAP emissions to which the monitoring applies), the owner or operator shall be deemed to have failed to have applied control in a manner that achieves the required operating parameter limits. Failure to achieve the required operating

parameter limits is a violation of this standard.

* * * * *

■ 15. Section 63.696 is amended by revising paragraph (h) and adding paragraphs (i) and (j) to read as follows:

§ 63.696 Recordkeeping requirements.

* * * * *

(h) An owner or operator shall record the malfunction information specified in paragraphs (h)(1) through (3) of this section.

(1) In the event that an affected unit fails to meet an applicable standard, record the number of failures. For each failure, record the date, time and duration of the failure.

(2) For each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the volume of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

(3) Record actions taken to minimize emissions in accordance with § 63.683(e) and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(i) For pressure relief devices in off-site material service, keep records of the information specified in paragraphs (i)(1) through (5) of this section, as applicable.

(1) A list of identification numbers for pressure relief devices that the owner or operator elects to route emissions through a closed-vent system to a control device, process or drain system under the provisions in § 63.691(c)(4).

(2) A list of identification numbers for pressure relief devices that do not consist of or include a rupture disk, subject to the provisions in § 63.691(c)(2)(i).

(3) A list of identification numbers for pressure relief devices equipped with rupture disks, subject to the provisions in § 63.691(c)(2)(ii).

(4) The dates and results of the Method 21 of 40 CFR part 60, appendix A, monitoring following a pressure release for each pressure relief device subject to the provisions in § 63.691(c)(2)(i). The results of each monitoring event shall include:

(i) The measured background level.

(ii) The maximum instrument reading measured at each pressure relief device.

(5) For pressure relief devices in off-site material service subject to § 63.691(c)(3), keep records of each pressure release to the atmosphere, including the following information:

(i) The source, nature, and cause of the pressure release.

(ii) The date, time, and duration of the pressure release.

(iii) An estimate of the quantity of HAP listed in Table 1 of this subpart emitted during the pressure release and the calculations used for determining this quantity.

(iv) The actions taken to prevent this pressure release.

(v) The measures adopted to prevent future such pressure releases.

(j) (1) For pressure tank closure devices, as specified in § 63.685(h)(2), keep records of each release to the atmosphere, including the information specified in paragraphs (j)(3) though (7) of this section.

(2) For each closed vent system that includes bypass devices that could divert a stream away from the control device and into the atmosphere, as specified in § 63.693(c)(2), and each open-ended valve or line in an emergency shutdown system which is designed to open automatically in the event of a process upset, as specified in § 63.167(d) or 40 CFR 61.242–6(d), keep records of each release to the atmosphere, including the information specified in paragraphs (j)(3) though (9) of this section.

(3) The source, nature, and cause of the release.

(4) The date, time, and duration of the release.

(5) An estimate of the quantity of HAP listed in Table 1 of this subpart emitted during the release and the calculations used for determining this quantity.

(6) The actions taken to prevent this release.

(7) The measures adopted to prevent future such release.

(8) Hourly records of whether the bypass flow indicator specified under § 63.693(c)(2) was operating and whether a diversion was detected at any time during the hour, as well as records of the times of all periods when the vent stream is diverted from the control device or the flow indicator is not operating.

(9) Where a seal mechanism is used to comply with § 63.693(c)(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 mechanism has been done, and shall record the duration of all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type lock has been checked out, and records of any car-seal that has broken.

■ 16. Section 63.697 is amended by:

■ a. Revising paragraph (a) introductory text;

■ b. Adding paragraphs (a)(1)(i) and (ii) and (a)(3);

■ c. Revising paragraph (b)(3) and (4); and

■ d. Adding paragraphs (b)(5) and (6).

The revisions and additions read as follows:

§ 63.697 Reporting requirements.

(a) Each owner or operator of an affected source subject to this subpart must comply with the notification requirements specified in paragraph (a)(1) of this section and the reporting requirements specified in paragraphs (a)(2) and (3) of this section.

(1) * * *

(i) For pressure relief devices in off-site material service subject to the requirements of § 63.691(c), the owner or operator must submit the information listed in paragraph (a)(1)(ii) of this section in the notification of compliance status required under § 63.9(h) within 150 days after the first applicable compliance date for pressure relief device monitoring.

(ii) For pressure relief devices in off-site material service, a description of the device or monitoring system to be implemented, including the pressure relief devices and process parameters to be monitored (if applicable), a description of the alarms or other methods by which operators will be notified of a pressure release, and a description of how the owner or operator will determine the information to be recorded under § 63.696(i)(5)(ii) through (iii) (*i.e.,* the duration of the pressure release and the methodology and calculations for determining the quantity of HAP listed in Table 1 of this subpart emitted during the pressure release).

* * * * *

(3) *Electronic reporting.* Within 60 days after the date of completing each performance test (as defined in § 63.2) required by this subpart, the owner or operator must submit the results of the performance test according to the manner specified by either paragraph (a)(3)(i) or (ii) of this section.

(i) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*), the owner or operator must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI) accessed through the EPA's Central Data Exchange (CDX) (*http://cdx.epa.gov/epa_home.asp*). Performance test data must be submitted in a file format generated through the use of the EPA's ERT. Owners or operators who claim that some of the performance test information being submitted is confidential business information (CBI) must submit a

complete file generated through the use of the EPA's ERT, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Road, Durham, NC 27703. The same ERT file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph (a)(3)(i).

(ii) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site, the owner or operator must submit the results of the performance test to the Administrator at the appropriate address listed in 40 CFR 60.4.

(b) * * *

(3) *Reports of malfunctions.* If a source fails to meet an applicable standard, report such events in the Periodic Report. Report the number of failures to meet an applicable standard. For each instance, report the date, time and duration of each failure. For each failure the report must include a list of the affected sources or equipment, an estimate of the volume of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(4) A summary report specified in § 63.10(e)(3) shall be submitted on a semiannual basis (*i.e.,* once every 6-month period). The summary report must include a description of all deviations as defined in §§ 63.683(f) and 63.695(e) that have occurred during the 6-month reporting period. For each deviation caused when the daily average value of a monitored operating parameter is less than the minimum operating parameter limit (or, if applicable, greater than the maximum operating parameter limit), the report must include the daily average values of the monitored parameter, the applicable operating parameter limit, and the date and duration of the period that the deviation occurred. For each deviation caused by lack of monitoring data, the report must include the date and duration of period when the monitoring data were not collected and the reason why the data were not collected.

(5) For pressure relief devices in off-site material service subject to § 63.691(c), Periodic Reports must include the information specified in paragraphs (b)(5)(i) through (iii) of this section.

(i) For pressure relief devices in off-site material service subject to § 63.691(c), report the results of all monitoring conducted within the reporting period.

(ii) For pressure relief devices in gas/vapor service subject to § 63.691(c)(2)(i), report any instrument reading of 500 ppm above background or greater, if detected more than 5 days after the pressure release.

(iii) For pressure relief devices in off-site material service subject to § 63.691(c)(3), report each pressure release to the atmosphere, including the following information:

(A) The source, nature, and cause of the pressure release.

(B) The date, time, and duration of the pressure release.

(C) An estimate of the quantity of HAP listed in Table 1 of this subpart emitted during the pressure release and the method used for determining this quantity.

(D) The actions taken to prevent this pressure release.

(E) The measures adopted to prevent future such pressure releases.

(6) *Pressure tank closure device or bypass deviation report.* The owner or operator must submit to the Administrator the information specified in paragraph (b)(6)(iv) of this section when any of the conditions in paragraphs (b)(6)(i) through (iii) of this section are met.

(i) Any pressure tank closure device, as specified in § 63.685(h)(2), has released to the atmosphere.

(ii) Any closed vent system that includes bypass devices that could divert a vent a stream away from the control device and into the atmosphere, as specified in § 63.693(c)(2), has released directly to the atmosphere.

(iii) Any open-ended valve or line in an emergency shutdown system which is designed to open automatically in the event of a process upset, as specified in § 63.167(d) or 40 CFR 61.242–6(d), has released directly to the atmosphere.

(iv) The pressure tank closure device or bypass deviation report must include the information specified in paragraphs (b)(6)(iv)(A) through (E) of this section.

(A) The source, nature and cause of the release.

(B) The date, time and duration of the discharge.

(C) An estimate of the quantity of HAP listed in Table 1 of this subpart emitted during the release and the method used for determining this quantity.

(D) The actions taken to prevent this release.

(E) The measures adopted to prevent future such releases.

* * * * *

■ 17. Section 63.698 is amended by revising paragraph (c) introductory text and adding paragraph (c)(5) to read as follows:

§ 63.698 Implementation and enforcement.

* * * * *

(c) The authorities that cannot be delegated to State, local, or Tribal agencies are as specified in paragraphs (c)(1) through (5) of this section.

* * * * *

(5) Approval of alternatives to the electronic reporting requirements in § 63.697(a)(3).

■ 18. Table 2 to subpart DD of part 63 is amended by:

■ a. Removing entries 63.1(a)(13) and 63.1(a)(14);

■ b. Revising entries 63.1(b)(2), 63.1(c)(3), and 63.1(c)(4);

■ c. Removing entry 63.4(a)(1)–63.4(a)(3);

■ d. Adding entries 63.4(a)(1)–63.4(a)(2) and 63.4(a)(3);

■ e. Revising entries 63.4(a)(5), 63.5(a)(1), 63.5(b)(5), 63.6(b)(3), and 63.6(b)(4);

■ f. Removing entry 63.6(e);

■ g. Adding entries 63.6(e)(1)(i), 63.6(e)(1)(ii), 63.6(e)(1)(iii), 63.6(e)(2), and 63.6(e)(3);

■ h. Revising entry 63.6(f)(1);

■ i. Adding entry 63.7(a)(4);

■ j. Revising entries 63.7(b), 63.7(c), 63.7(e)(1), 63.7(f), 63.8(c)(1)(iii), 63.9(e), 63.9(g), 63.10(b)(2)(i), 63.10(b)(2)(ii), 63.10(b)(2)(iii), 63.10(b)(2)(iv), and 63.10(b)(2)(v);

■ k. Removing entry 63.10(c);

■ l. Adding entries 63.10(c)(1)–(6), 63.10(c)(7)–(8), and 63.10(c)(9)–(15);

■ m. Removing entries 63.10(d)(5)(i) and 63.10(d)(5)(ii);

■ n. Adding entry 63.10(d)(5);

■ o. Removing entry 63.10(e);

■ p. Adding entries 63.10(e)(1)–63.10(e)(2), 63.10(e)(3), and 63.10(e)(4); and

■ q. Adding entry 63.16.

The revisions and additions read as follows:

TABLE 2 TO SUBPART DD OF PART 63—APPLICABILITY OF PARAGRAPHS IN SUBPART A OF THIS PART 63—GENERAL PROVISIONS TO SUBPART DD

Subpart A reference	Applies to Subpart DD	Explanation
* * * * * * *		
63.1(b)(2)	No	Reserved.
* * * * * * *		
63.1(c)(3)	No	Reserved.
63.1(c)(4)	No	Reserved.
* * * * * * *		
63.4(a)(1)–63.4(a)(2)	Yes	
63.4(a)(3)	No	Reserved.
* * * * * * *		
63.4(a)(5)	No	Reserved.
* * * * * * *		
63.5(a)(1)	Yes	
* * * * * * *		
63.5(b)(5)	No	Reserved.
* * * * * * *		
63.6(b)(3)	No	
63.6(b)(4)	No	
* * * * * * *		
63.6(e)(1)(i)	No	See § 63.683(e) for general duty requirement.
63.6(e)(1)(ii)	No	
63.6(e)(1)(iii)	Yes	
63.6(e)(2)	No	Reserved.
63.6(e)(3)	No	
63.6(f)(1)	No	
* * * * * * *		
63.7(a)(4)	Yes	
63.7(b)	Yes	
63.7(c)	Yes	
* * * * * * *		
63.7(e)(1)	No	See § 63.694(l).
* * * * * * *		
63.7(f)	Yes	
* * * * * * *		
63.8(c)(1)(iii)	No	

TABLE 2 TO SUBPART DD OF PART 63—APPLICABILITY OF PARAGRAPHS IN SUBPART A OF THIS PART 63—GENERAL PROVISIONS TO SUBPART DD—Continued

Subpart A reference	Applies to Subpart DD	Explanation
* * *	* * *	* * *
63.9(e)	Yes	
* * *	* * *	* * *
63.9(g)	Yes	
* * *	* * *	* * *
63.10(b)(2)(i)	No	
63.10(b)(2)(ii)	No	See § 63.696(h) for recordkeeping of (1) date, time and duration; (2) listing of affected source or equipment, and an estimate of the volume of each regulated pollutant emitted over the standard; and (3) actions to minimize emissions and correct the failure.
63.10(b)(2)(iii)	Yes	
63.10(b)(2)(iv)	No	
63.10(b)(2)(v)	No	
* * *	* * *	* * *
63.10(c)(1)–(6)	No	
63.10(c)(7)–(8)	Yes	
63.10(c)(9)–(15)	No	
* * *	* * *	* * *
63.10(d)(5)	No	See § 63.697(b)(3) for reporting of malfunctions.
63.10(e)(1)–63.10(e)(2)	No	
63.10(e)(3)	Yes	
63.10(e)(4)	No	
* * *	* * *	* * *
63.16	No	

* * * * *

■ 19. Table 3 to subpart DD of part 63 is revised to read as follows:

TABLE 3 TO SUBPART DD OF PART 63—TANK CONTROL LEVELS FOR TANKS AT EXISTING AFFECTED SOURCES AS REQUIRED BY 40 CFR 63.685(b)(1)(i)

Tank design capacity (cubic meters)	Maximum HAP vapor pressure of off-site material managed in tank (kilopascals)	Tank control level
Design capacity less than 75 m^3	Maximum HAP vapor pressure less than 76.6 kPa.	Level 1.
Design capacity less than 75 m^3	Maximum HAP vapor pressure equal to or greater than 76.6 kPa.	Level 2, except that fixed roof tanks equipped with an internal floating roof and tanks equipped with an external floating roof as provided for in § 63.685(d)(1) and (2) shall not be used.
Design capacity equal to or greater than 75 m^3 and less than 151 m^3.	Maximum HAP vapor pressure less than 27.6 kPa.	Level 1.
	Maximum HAP vapor pressure equal to or greater than 27.6 kPa.	Level 2.
Design capacity equal to or greater than 151 m^3.	Maximum HAP vapor pressure less than 5.2 kPa.	Level 1.
	Maximum HAP vapor pressure equal to or greater than 5.2 kPa.	Level 2.

■ 20. Table 4 to subpart DD of part 63 is revised to read as follows:

TABLE 4 TO SUBPART DD OF PART 63—TANK CONTROL LEVELS FOR TANKS AT EXISTING AFFECTED SOURCES AS REQUIRED BY 40 CFR 63.685(b)(1)(ii)

Tank design capacity (cubic meters)	Maximum HAP vapor pressure of off-site material managed in tank (kilopascals)	Tank control level
Design capacity less than 75 m^3	Maximum HAP vapor pressure less than 76.6 kPa.	Level 1.
Design capacity less than 75 m^3	Maximum HAP vapor pressure equal to or greater than 76.6 kPa.	Level 2, except that fixed roof tanks equipped with an internal floating roof and tanks equipped with an external floating roof as provided for in § 63.685(d)(1) and (2) shall not be used.
Design capacity equal to or greater than 75 m^3 and less than 151 m^3.	Maximum HAP vapor pressure less than 13.1 kPa.	Level 1.
	Maximum HAP vapor pressure equal to or greater than 13.1 kPa.	Level 2.
Design capacity equal to or greater than 151 m^3.	Maximum HAP vapor pressure less than 5.2 kPa.	Level 1.
	Maximum HAP vapor pressure equal to or greater than 5.2 kPa.	Level 2.

■ 21. Table 5 is added to subpart DD of part 63 to read as follows:

TABLE 5 TO SUBPART DD OF PART 63—TANK CONTROL LEVELS FOR TANKS AT NEW AFFECTED SOURCES AS REQUIRED BY 40 CFR 63.685(b)(2)

Tank design capacity (cubic meters)	Maximum HAP vapor pressure of off-site material managed in tank (kilopascals)	Tank control level
Design capacity less than 38 m^3	Maximum HAP vapor pressure less than 76.6 kPa.	Level 1.
Design capacity less than 38 m^3	Maximum HAP vapor pressure equal to or greater than 76.6 kPa.	Level 2, except that fixed roof tanks equipped with an internal floating roof and tanks equipped with an external floating roof as provided for in § 63.685(d)(1) and (2) shall not be used.
Design capacity equal to or greater than 38 m^3 and less than 151 m^3.	Maximum HAP vapor pressure less than 13.1 kPa.	Level 1.
	Maximum HAP vapor pressure equal to or greater than 13.1 kPa.	Level 2.
Design capacity equal to or greater than 151 m^3.	Maximum HAP vapor pressure less than 0.7 kPa.	Level 1.
	Maximum HAP vapor pressure equal to or greater than 0.7 kPa.	Level 2.

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merchants (FCMs) are subject. The revision to this rule, known as the ''residual-interest requirement'', clarified that one customer's funds could not be used by an FCM to cover another customer's margin deficit, but phased in a deadline for stricter compliance with this clarified standard. The change was designed to reduce risks to those customer funds placed in the care of FCMs, and were among a host of regulatory enhancements adopted by the Commission after two failures of large, registered FCMs in 2011 and 2012—MF Global and Peregrine Financial.

I supported those regulatory enhancements—including the revision to rule 1.22—because of the importance of the matter addressed in each: The safekeeping of customer money, which is the most sacrosanct duty that any financial institution owes to its customers. Today, the overall framework of regulatory requirements that registered FCMs must comply with is substantially different today than in 2011. For example, FCMs are no longer permitted to use customer funds for in-house lending through repurchase agreements; they are subject to restrictions on the types of securities that customer funds can be invested in; they must pass on customer initial margin on a gross basis to the clearinghouse; through LSOC (legal segregation with operational comingling) they must legally segregate cleared swaps customer collateral on an individual basis; and they were required to significantly enhance their supervision of and accounting for customer funds. As a result, the risks posed to customers funds stewarded by FCMs have been significantly reduced.

The recent customer protection rulemakings all were well intentioned, but indisputably carried some additional costs and burdens for both FCMs and their customers. The analysis was made at the time, however, that those burdens and costs were outweighed by the benefits to FCM customers, especially against the very recent backdrop of hundreds of millions of dollars of customer funds having been stolen, or tied up in a bankruptcy proceeding, for at least a period of time.

The release before us essentially re-weighs the cost or burden on one hand, and the benefit on the other, and comes up with a slightly different, but well supported, conclusion regarding the residual-interest requirement. The costs or burdens revisited in the release: (1) Uncertainty to the marketplace invited by a time-of-settlement compliance deadline that was subject to future review by the Commission staff, which suggested a change could come to the requirements, but might not; and (2) the anticipated costs to FCMs of having to finance the funding to top up their customers' margin deficits, or the cost to customers of pre-funding their margin accounts with FCMs. And the benefit at issue in the release: The value to an FCM customer of ensuring that its funds will never be borrowed by an FCM to cover another customer's deficit.

The inherent risk to this common practice by FCMs is that should an FCM become insolvent after it posts required margin to the clearinghouse, but before it collects margin deficits from all of its customers, the customers whose funds were used to cover a deficit might not see those funds again, or perhaps only after a protracted bankruptcy proceeding. This practice also is not technically compliant with how rule 1.22 is written, which prohibits FCMs from ''using, or permitting the use of, the futures customer funds of one futures customer to purchase, margin, or settle the trades, contracts, or commodity options of, or to secure or extend the credit of, any person other than such futures customer.''

This final rule keeps the residual-interest deadline at the close of business on the day following the margin-deficit calculation and eliminates the future deadline of the time of settlement on the day following the margin-deficit calculation. The Commission staff is still required to perform a feasibility study to determine whether future, more aggressive residual-interest deadlines would be desirable.

The comment file overwhelmingly supported the change in today's final rule—in other words, commenters took the view that the potential costs associated with the 2013 residual-interest rule appear to outweigh the risk that some of their funds could be lost in the event their FCM becomes insolvent after the time of settlement, but before an FCM collects margin deficits. Indeed, the risk that an FCM becomes insolvent during this precise timeframe without some prior notice to its customers of financial stress at the FCM is very low. Notably, many comments supporting this final rule were filed by FCM customers, the constituency rule 1.22 is designed to protect, and who appreciate the aforementioned risk. The Commission must respect the comment process and the FCM-customer viewpoint that today's rule better balances the cost and benefits of rule 1.22.

Another relevant factor that supports the change to rule 1.22 is the risk of concentration within the FCM community as a whole, and what that means for the costs to customers of trading in derivatives and its related impacts on liquidity in those markets. The number of registered FCMs has decreased in recent years, which may make it more difficult for customers to manage their risk by limiting their ability to access the markets, or by making it more difficult for them to allocate funds between multiple FCMs to minimize concentration risk.

The results of the public comment process, when considered in the context of the overall stronger regulatory framework for FCMs and the concentration in the FCM community described above, give me the comfort needed to support the changes to 1.22 contained in today's release.

On the other hand, without the five-year phase-in period, we might see a reluctance by the industry to move as swiftly to streamline margin-collection practices and to take advantage of any technological solutions that may be developed. Some recent technology advances hold the promise to reduce the very sorts of risks addressed by rule 1.22 by facilitating real-time margin collection and settlement. To be sure, those advances would have been more seriously and expeditiously tested and—if they demonstrate merit—embraced without the change to rule 1.22 we are releasing today. In other words, just as in 2013 when the existing rule was finalized, I continue to believe that the most costly solutions for complying with rule 1.22 that were anticipated by many commenters should not be the ones ultimately embraced by the marketplace. Moreover, given regulatory requirements imposed by other regulators, today members of the clearing ecosystem are exploring a variety of solutions to new compliance and capital burdens that also would ease and enable stricter compliance with rule 1.22, thus minimizing further the likelihood that pre-funding customer margin accounts with FCMs will become the preferred solution to compliance.

Finally, I note that a study and roundtable to review these advancements, and how they might lower risks and related costs, still are mandated by law, and I ask the Chairman to direct staff to move swiftly to comply with these regulatory requirements so that the Commission may act appropriately when and if it needs to. I look forward to continuing to collaborate with staff and market participants as we work towards enhancing the safety and efficiency of our markets.

Appendix 4—Statement of Commissioner J. Christopher Giancarlo

I support the Commission's action to change the residual interest deadline, if necessary or appropriate, only upon a Commission rulemaking following a public comment period. This approach will allow the Commission to better understand the market impacts and operational challenges of moving the residual interest deadline. This approach is especially important given the likely negative impacts on smaller futures commission merchants who provide our farmers, ranchers and rural producers with critical risk management services.

I call on the Commission to take the same deliberative approach to the *de minimis* exception to the swap dealer definition so that the *de minimis* level does not automatically adjust from $8 billion to $3 billion, absent a rulemaking with proper notice and comment. Like today's proposal, the Commission should only adjust the *de minimis* threshold if necessary or appropriate after it has considered the data and weighed public comments.

[FR Doc. 2015–06548 Filed 3–23–15; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2009–0234; FRL–9923–98–OAR]

RIN 2060–AS39

National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Steam Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On November 19, 2014, the Environmental Protection Agency (EPA) proposed amending certain reporting requirements in the National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Steam Generating Units (Mercury and Air Toxics Standards (MATS)) rule. This final rule amends the reporting requirements in the MATS rule by temporarily requiring owners or operators of affected sources to submit certain required emissions and compliance reports to the EPA through the Emissions Collection and Monitoring Plan System (ECMPS) Client Tool, and the rule temporarily suspends the requirement for owners or operators of affected sources to submit certain reports using the Compliance and Emissions Data Reporting Interface (CEDRI).

DATES: This final rule is effective on March 24, 2015.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA–HQ–OAR–2009–0234. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publically available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the EPA Docket Center (EPA/DC), EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Barrett Parker, Sector Policies and Programs Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–5635; fax number: (919) 541–3207; and email address: *parker.barrett@epa.gov.*

SUPPLEMENTARY INFORMATION:

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

I. Why is the EPA issuing a final rule?
II. Does this final rule apply to me?
III. What are the amendments made by this final rule?
IV. Public Comments and Responses
A. Support for the Proposed Approach
B. Opposition to the Proposed Approach
C. Other Comments
V. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Paperwork Reduction Act (PRA)
C. Regulatory Flexibility Act (RFA)
D. Unfunded Mandates Reform Act (UMRA)
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 (NTTAA)
J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act (CRA)

I. Why is the EPA issuing a final rule?

The EPA is finalizing its proposed rule with revisions, and this final rule replaces the existing requirements that became effective on January 5, 2015, pursuant to a direct final rule published on November 19, 2014. See 79 FR 68840 and 79 FR 68795. We also respond to comments in this final rule. See 79 FR 68796.

II. Does this final rule apply to me?

Categories and entities potentially regulated by this final rule include:

Category	NAICS Code[1]	Examples of Regulated Entities
Industry	221112	Fossil fuel-fired electric steam generating units.
Federal government[2]	221122	Fossil fuel-fired electric steam generating units owned by the federal government.
State/local/tribal government[2]	221122	Fossil fuel-fired electric steam generating units owned by states, tribes or municipalities.
	921150	Fossil fuel-fired electric utility steam generating units in Indian country.

[1] North American Industry Classification System.
[2] Federal, state or local government-owned and operated establishments are classified according to the activity in which they are engaged.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this final rule. To determine whether your facility would be regulated by this final rule, you should examine the applicability criteria in 40 CFR 63.9981. If you have any questions regarding the applicability of this action to a particular entity, consult either the air permitting authority for the entity or your EPA regional representative as listed in 40 CFR 63.13.

III. What are the amendments made by this final rule?

This final rule amends the reporting requirements in 40 CFR 63.10031(f) of the MATS rule at 40 CFR part 63, subpart UUUUU. The final MATS rule required affected sources to submit certain MATS emissions and compliance information electronically, using either the CEDRI or the ECMPS Client Tool. The EPA developed these two systems prior to the MATS rule for the electronic submittal of emissions data from many source categories. CEDRI is currently used by owners or operators of sources regulated under 40 CFR part 60 and 40 CFR part 63 to submit performance test reports and other air emissions reports. ECMPS is used to report emissions data under the Clean Air Act title IV Acid Rain Program and other programs that are required to continuously monitor and report emissions according to 40 CFR part 75. These two systems have enhanced the way source owners and operators report emissions data to the EPA by providing a streamlined and standardized electronic approach.

Subsequent to publication of the MATS rule, stakeholders commented that we could improve the reporting efficiency of the MATS rule by requiring

all data to be reported to one system instead of two. Stakeholders also commented that one system could benefit the EPA and the public in the review of data submitted by setting one consistent format for all data reported through MATS. Further, because the vast majority of sources covered under the MATS rule have been using the ECMPS Client Tool since 2009, the stakeholders have encouraged the EPA to consider consolidating the electronic reporting under ECMPS.

We agree that requiring reporting to one system will increase the efficiency of reporting and facilitate review of reported data. For these reasons, the agency is beginning the process of consolidating the submission of electronic reports required under the MATS rule to one system—the ECMPS Client Tool. This final rule is the first step in the process. The next step is for the EPA to create a detailed set of reporting instructions and design, develop, beta-test and implement the necessary modifications to the ECMPS Client Tool; however, the EPA cannot complete the second step prior to April 16, 2015, the compliance deadline for the MATS rule. Therefore, we are implementing a phased approach to completing the change in the electronic reporting requirements.

This final rulemaking completes the first step in the agency's plan by removing the requirement to submit MATS compliance reports to CEDRI and requiring source owners or operators to use the ECMPS Client Tool to submit Portable Document Format (PDF) versions of the reports that the current MATS rule requires to be submitted using CEDRI. As stated above, this interim step is necessary because the ECMPS Client Tool is not currently programmed to accept the reports that the MATS rule required sources to submit to CEDRI. The specific reports that must be submitted in PDF format include: Quarterly and annual performance stack test reports; 30- (or 90-) boiler operating day mercury (Hg) Low Emitting EGU (Electric Generating Unit) (LEE) test reports; Relative Accuracy Test Audits (RATA) reports for sulfur dioxide, hydrogen chloride, hydrogen fluoride, and Hg monitors; Relative Calibration Audit (RCA) and Relative Response Audit (RRA) reports for particulate matter (PM) continuous emissions monitoring system (CEMS); 30-boiler operating day rolling average reports for PM CEMS, PM continuous parameter monitoring system (CPMS), and approved hazardous air pollutants (HAP) metals CEMS; and semiannual compliance reports. Reports for the performance stack tests, Hg LEE tests, RATAs, RRAs and RCAs typically include a description of the source, the test date(s), a list of attendees, a test protocol, a summary of results, raw field data, and example calculations, and, depending on the method(s) used, may also include the results of sample analyses, quality-assurance information (*e.g.,* leak, bias and drift checks), and instrument calibrations and calibration gas certificates. This final rule does not alter the due dates for any report submittals contained in the final MATS rule. See 40 CFR part 63, subpart UUUUU.

The EPA recognized that submitting electronic PDF reports is not as desirable as reporting the data in extensible markup language (XML) format, because the information in a PDF report cannot easily be extracted and put in a database format. In view of this, we plan to promulgate an additional data reporting revision to the MATS rule in the second part of our phased approach. In this second part, we plan to develop another rulemaking that requires affected source owners or operators to submit the data elements required in the rule in a structured XML format using the ECMPS Client Tool, which is already in use. The second part of our phased approach will complete the process of conversion of the electronic reporting of data using the ECMPS Client Tool, and the MATS rule will be revised to specify all of the required XML data elements for each type of report. We also plan to develop a detailed set of reporting instructions for each report and to modify ECMPS accordingly, in order to be able to receive and process the data submitted.

In the event we are unable to finalize the rulemaking for the second part of our phased approach for electronic reporting conversion by April 16, 2017, the reporting requirements established in this final rule will revert automatically to the original requirements set forth in the final MATS rulemaking published on February 16, 2012 (77 FR 9303). This trigger is necessary to ensure that the data submitted in the future is consistent with the database accessibility that is associated with information reported in structured XML formats even if the second rulemaking cannot be finalized. Accordingly, this rulemaking includes a date of April 16, 2017, to complete the second part of our phased approach for electronic reporting conversion to the ECMPS Client Tool. The EPA intends to revoke this requirement once the final conversion to the ECMPS Client Tool is complete.

IV. Public Comments and Responses

The direct final and parallel proposed rules received comments from nine persons—two members of the public, one state government representative, four EGU owners or operators and two EGU industry representatives.

A. Support for the Proposed Approach

Most commenters expressed support for the planned two phased approach for merging the electronic reporting systems, as well as the revisions to allow temporary submission of MATS rule emissions and compliance reports through the ECMPS Client Tool and suspension of mandatory submission of certain reports using the CEDRI. Commenters recognized the benefits afforded by the proposed approach, noting that through the use of the transition period, the agency will be able to obtain the necessary information to assure compliance while simultaneously developing final reporting formats and infrastructure for XML reporting. Commenters agree that consolidating all reporting requirements through one system will streamline and simplify requirements, making reporting more efficient and user-friendly, improve the quality of reported emissions data and enable the agency to track compliance effectively. We reviewed and considered these comments and are finalizing the proposed rule, with minor revisions, to implement the first part of our phased approach to merge all MATS rule electronic reporting into the ECMPS Client Tool.

B. Opposition to the Proposed Approach

One commenter, a state government representative, opposed the provisions of the proposed rule on two grounds: (1) The commenter alleges the rule did not contain a requirement for EGU owners or operators to submit full stack test reports; and (2) the commenter indicates that it is improper to include a temporary suspension of the requirement to use the electronic reporting tool (ERT) in preparing and submitting stack test reports electronically.

With regard to the first item, the EPA maintains that the proposed rule did include a requirement to submit complete performance test reports during the interim period. In the proposed rule, the EPA stated that stack test reports were required to be submitted during the transition period: ". . . (t)he specific reports that must be submitted in PDF format include: Quarterly and annual performance stack test reports . . ." and ". . . (r)eports for

the performance stack tests . . . typically include a description of the source, the test date(s), a list of attendees, a test protocol, a summary of results, raw field data, and example calculations, and, depending on the method(s) used, may also include the results of sample analyses, quality-assurance information (*e.g.,* bias and drift checks), instrument calibrations, and calibration gas certificates . . .'' (79 FR 68797). Other commenters agreed with the EPA's view of the requirements while some believed that the requirement to submit the test reports was only triggered upon request by the permitting authority. To address any ambiguity on this issue, we are revising the proposed rule and expressly requiring submission of emissions test reports in the final rule.

With regard to the second item, we agree with the state representative who commented that ''. . . (s)ubmittal of stack test reports using ERT will allow (regulatory agencies) to independently verify emissions calculations without having to re-enter data into separate spreadsheets for re-calculation. ERT does the calculations and can include all raw field and laboratory data as attachments . . . .'' These are among the reasons we mandated use of the ERT in both the Information Collection Request and the MATS rule. Moreover, we agree with the state representative that the ''. . . ERT can generate a full PDF report that could be submitted to ECMPS with minimal effort . . . .'' Indeed, we maintain that using the ''one-touch'' ERT feature to create PDF versions of ERT-developed reports is the easiest way to meet the interim electronic reporting requirements. However, at the present time, the ERT does not support every MATS rule-related test method, quality assurance approach or performance specification (PS), *e.g.,* RCA or RRA for PM CEMS and PS–11 for PM CEMS. Moreover, despite the efficiency and ease of using the ''one-touch'' capability of the ERT for the majority of MATS rule related test methods, quality assurance approaches or PS, the ERT is not the sole means of developing PDF versions of required reports. We considered requiring EGU owners or operators to use the ERT's PDF creation feature for those reports that can be developed through the current version of the ERT, but decided against it for concerns that mandated use of two separate systems during the interim period could be inefficient. While we believe many EGU owners or operators will choose to use the ERT's cost-effective PDF creation approach when possible, the rule does not require its use.

C. Other Comments

Even though comments on the proposed rule were to be limited to issues directly associated with the electronic reporting changes covered in 40 CFR 63.10031, commenters provided other comments. One industry representative sought assurance that under the interim rule, EGU owners or operators could use self-generated forms that included relevant information per the aforementioned preamble language (79 CFR 68797), going on to assert that the only formatting specification is that the reports be submitted in PDF format. The industry representative expressed support for the proposed rule if those assertions were correct. Commenters are correct, provided the necessary information is included in a reasonable manner to allow review in the electronic PDF versions of the reports.

Industry commenters also opposed the proposed rule to the extent it required EGU owners or operators to use the ERT or CEDRI forms to create the reports that will be submitted in PDF format, believing that the rule revision would not provide any relief if their understanding were correct. While we disagree with the commenters' views that using the ERT or CEDRI to create PDF versions of reports or forms would not provide relief, the rule neither requires nor prohibits during the interim period preparation or submission of PDF reports or forms using the ERT or CEDRI. We also note that the current versions of the ERT or CEDRI do support notice of compliance (NOC) status reporting and the majority of MATS rule-related test methods, quality assurance approaches and PS, including all associated requisite calculations and validations. For this reason, the commenters' concerns are misplaced.

Industry commenters also commented that some in the regulated community might be confused over the reporting requirements and misinterpret the provisions such that only PDF versions of ERT or CEDRI generated reports or forms would be allowed for submission during the interim period. Both commenters suggested we provide guidance, or, if necessary, additional rule language after the first sentence of 40 CFR 63.10031(f)(6), to clarify the role of the ERT and CEDRI for data submittal during the interim reporting phase. We considered these comments and decided that such guidance or rule language is unnecessary, as the ERT is not required to be used during the interim period. With regard to reporting requirements during the transition period, as mentioned earlier, the use of the CEDRI to submit reports to our WebFIRE database will be suspended, the information that would have been reported through the CEDRI must be submitted to the ECMPS in PDF format and the deadline for submitting reports remains unchanged. We will make the necessary adjustments to the ECMPS to enable the PDF reports to be submitted. Note that submission of a PDF version of a test report during this interim period is sufficient, provided that the test report contains sufficient information to assess compliance and to determine whether the testing has been done properly.

One commenter expressed concern with using the ERT and CEDRI in the interim period because, in his view, those platforms are not capable of accepting certain MATS reports, such as NOC status reports and 30-boiler operating day averages from PM CEMS. Moreover, the commenter believes using the ERT would be inefficient because, in his view, it was not designed to handle MATS rule data, such as those from PS–11, RCAs and RRAs. Finally, the commenter believes the usefulness of ERT collected data is limited because, in his view, the ERT neither performs the requisite calculations for quality assurance tests nor validates test results in accordance with method acceptance criteria. As stated above, the rule neither requires nor prohibits during the interim period preparation or submission of PDF reports or forms using the ERT or CEDRI. We also note that the current versions of the ERT or CEDRI do support NOC status reporting and the majority of MATS rule related test methods, quality assurance approaches and PS, including all associated requisite calculations and validations. While not a part of this rulemaking, we soon expect the ERT will be able to handle all of the remaining MATS rule related test methods, quality assurance approaches and PS, which will be important if the agency does not complete the revisions to the ECMPS. In addition, we expect the ECMPS Client Tool to be revised to accept all MATS rule related electronic reporting during the second part of our phased approach such that the ECMPS will be the sole means for providing MATS reports electronically.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

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

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

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0567. The agency believes this action does not impose an information collection burden because it does not change the information collection requirements.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This amendment does not create any new requirements or burdens, and no costs are associated with this amendment. See 79 FR 68795 at 68798 (November 19, 2014).

D. Unfunded Mandates Reform Act (UMRA)

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

E. Executive Order 13132: Federalism

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

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

This action does not have tribal implications, as specified in Executive Order 13175. The final amendments impose no requirements on tribal governments. Thus, Executive Order 13175 does not apply to this action.

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

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

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve technical standards.

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

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. This action does not affect the level of protection provided to human health or the environment. The final amendments are either clarifications or alternate, temporary reporting instructions which will neither increase nor decrease environmental protection.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. 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, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 9, 2015.

Gina McCarthy,

Administrator.

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

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

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

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

Subpart UUUUU-National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Steam Generating Units

■ 2. Section 63.10031 is amended by:
■ a. Revising the first sentence in each of the following paragraphs: (f) introductory text, (f)(1), (2), and (4); and
■ b. Revising paragraphs (f)(5) and (6). The revisions read as follows:

§ 63.10031 What reports must I submit and when?

* * * * *

(f) On or after April 16, 2017, within 60 days after the date of completing each performance test, you must submit the performance test reports required by this subpart to EPA's WebFIRE database by using the Compliance and Emissions Data Reporting Interface (CEDRI) that is accessed through EPA's Central Data Exchange (CDX) (*www.epa.gov/cdx*).
* * *

(1) On or after April 16, 2017, within 60 days after the date of completing each CEMS (SO_2, PM, HCl, HF, and Hg) performance evaluation test, as defined in § 63.2 and required by this subpart, you must submit the relative accuracy test audit (RATA) data (or, for PM CEMS, RCA and RRA data) required by this subpart to EPA's WebFIRE database by using CEDRI that is accessed through EPA's CDX (*www.epa.gov/cdx*). * * *

(2) On or after April 16, 2017, for a PM CEMS, PM CPMS, or approved alternative monitoring using a HAP metals CEMS, within 60 days after the reporting periods ending on March 31st, June 30th, September 30th, and December 31st, you must submit quarterly reports to EPA's WebFIRE database by using the CEDRI that is accessed through EPA's CDX (*www.epa.gov/cdx*). * * *

* * * * *

(4) On or after April 16, 2017, submit the compliance reports required under paragraphs (c) and (d) of this section and the notification of compliance status required under § 63.10030(e) to EPA's WebFIRE database by using the CEDRI that is accessed through EPA's CDX (*www.epa.gov/cdx*). * * *

(5) All reports required by this subpart not subject to the requirements

in paragraphs (f) introductory text and (f)(1) through (4) of this section must be sent to the Administrator at the appropriate address listed in § 63.13. If acceptable to both the Administrator and the owner or operator of an EGU, these reports may be submitted on electronic media. The Administrator retains the right to require submittal of reports subject to paragraphs (f) introductory text and (f)(1) through (4) of this section in paper format.

(6) Prior to April 16, 2017, all reports subject to electronic submittal in paragraphs (f) introductory text, (f)(1), (2), and (4) shall be submitted to the EPA at the frequency specified in those paragraphs in electronic portable document format (PDF) using the ECMPS Client Tool. Each PDF version of a submitted report must include sufficient information to assess compliance and to demonstrate that the testing was done properly. The following data elements must be entered into the ECMPS Client Tool at the time of submission of each PDF file:

(i) The facility name, physical address, mailing address (if different from the physical address), and county;

(ii) The ORIS code (or equivalent ID number assigned by EPA's Clean Air Markets Division (CAMD)) and the Facility Registry System (FRS) ID;

(iii) The EGU (or EGUs) to which the report applies. Report the EGU IDs as they appear in the CAMD Business System;

(iv) If any of the EGUs in paragraph (f)(6)(iii) of this section share a common stack, indicate which EGUs share the stack. If emissions data are monitored and reported at the common stack according to part 75 of this chapter, report the ID number of the common stack as it is represented in the electronic monitoring plan required under § 75.53 of this chapter;

(v) If any of the EGUs described in paragraph (f)(6)(iii) of this section are in an averaging plan under § 63.10009, indicate which EGUs are in the plan and whether it is a 30- or 90-day averaging plan;

(vi) The identification of each emission point to which the report applies. An "emission point" is a point at which source effluent is released to the atmosphere, and is either a dedicated stack that serves one of the EGUs identified in paragraph (f)(6)(iii) of this section or a common stack that serves two or more of those EGUs. To identify an emission point, associate it with the EGU or stack ID in the CAMD Business system or the electronic monitoring plan (*e.g.,* "Unit 2 stack," "common stack CS001," or "multiple stack MS001");

(vii) The rule citation (*e.g.,* § 63.10031(f)(1), § 63.10031(f)(2), etc.) for which the report is showing compliance;

(viii) The pollutant(s) being addressed in the report;

(ix) The reporting period being covered by the report (if applicable);

(x) The relevant test method that was performed for a performance test (if applicable);

(xi) The date the performance test was conducted (if applicable); and

(xii) The responsible official's name, title, and phone number.

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[FR Doc. 2015–06152 Filed 3–23–15; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2014–0702; FRL–9924–09]

RIN 2070–AB27

Revocation of Significant New Uses of Metal Salts of Complex Inorganic Oxyacids

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking the significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for two chemical substances that were identified generically as metal salts of complex inorganic oxyacids, which were the subject of premanufacture notices (PMNs) P–89–576 and P–89–577. EPA issued a SNUR based on a TSCA section 5(e) consent order designating certain activities as significant new uses. EPA has received test data for the chemical substances and is revoking the SNUR.

DATES: This final rule is effective May 26, 2015.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2014–0702, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Jim Alwood, Chemical Control Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: 202 564–8974; email address: *alwood.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

You may be potentially affected by this action if you manufacture (including import), process, or use the chemical substances contained in this rule. Potentially affected entities may include, but are not limited to:

- Manufacturers or processors of the chemical substances (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in § 721.5. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to a SNUR must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. Importers