ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9, 59, 60, 85, 86, 88, 89, 90, 91, 92, 94, 1027, 1033, 1036, 1037, 1039, 1042, 1043, 1045, 1048, 1051, 1054, 1060, 1065, 1066, 1068, and 1074

[EPA–HQ–OAR–2019–0307; FRL–10018–52–OAR]

RIN 2060–AU62

Improvements for Heavy-Duty Engine and Vehicle Test Procedures, and Other Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending the test procedures for heavy-duty engines and vehicles to improve accuracy and reduce testing burden. EPA is also making other regulatory amendments concerning light-duty vehicles, heavy-duty vehicles, highway motorcycles, locomotives, marine engines, other nonroad engines and vehicles, and stationary engines. These amendments affect the certification procedures for exhaust emission standards and related requirements. EPA is finalizing similar amendments for evaporative emission standards for nonroad equipment and portable fuel containers. The amendments increase compliance flexibility, harmonize with other requirements, add clarity, correct errors, and streamline the regulations. Given the nature of the amendments, they will have neither significant environmental impacts nor significant economic impacts for any sector.

DATES: This final rule is effective on July 29, 2021. The incorporation by reference of certain publications listed in this regulation is approved by the Director of the Federal Register as of July 29, 2021.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2019–0307. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at Air and Radiation Docket and Information Center, EPA Docket Center, EPA/DC, EPA WJC West Building, 1301 Constitution Ave. NW, Room 3334, Washington, DC. Note that the EPA Docket Center and Reading Room were closed to public visitors on March 31, 2020, to reduce the risk of transmitting COVID–19. The Docket Center staff will continue to provide remote customer service via email, phone, and webform. 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 on EPA Docket Center services and the current status, go to *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Alan Stout, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214–4805; email address: *stout.alan@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. General Information

Does this action apply to me?

This action relates to companies that manufacture, sell, or import into the United States new heavy-duty engines or Class 2b through 8 trucks, including combination tractors, vocational vehicles, and all types of buses.[1] Vocational vehicles include municipal, commercial, and recreational vehicles. Additional amendments apply for different manufacturers of light-duty vehicles, light-duty trucks, highway motorcycles, stationary engines, and various types of nonroad engines, vehicles, and equipment.[2] Regulated categories and entities include the following:

NAICS codes[a]	NAICS titles	Examples of potentially regulated entities
333618, 336111, 336112, 336120, 336211, 336212, 336611, 336999.	Other Engine Equipment Manufacturing, Automobile Manufacturing, Light Truck and Utility Vehicle Manufacturing, Heavy Duty Truck Manufacturing, Motor Vehicle Body Manufacturing, Truck Trailer Manufacturing, Ship Building and Repairing, All Other Transportation Equipment Manufacturing.	Motor vehicle manufacturers and engine manufacturers.
811111, 811112, 811198, 423110	General Automotive Repair, Automotive Exhaust System Repair, All Other Automotive Repair and Maintenance, Automobile and Other Motor Vehicle Merchant Wholesalers.	Commercial importers of vehicles and vehicle components.
335312, 811198	Motor and Generator Manufacturing, All Other Automotive Repair and Maintenance.	Alternative fuel vehicle converters.

[1] "Heavy-duty engine" and "heavy-duty vehicle," are defined in 40 CFR 1037.801.

[2] "Light-duty vehicle" and "light-duty truck" are defined in 40 CFR 86.1803–01.

NAICS codes [a]	NAICS titles	Examples of potentially regulated entities
326199, 332431	All Other Plastics Product Manufacturing, Metal Can Manufacturing.	Portable fuel container manufacturers.

[a] North American Industry Classification System (NAICS).

This list is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

What action is the Agency taking?

This action amends the regulations that implement our air pollutant emission standards for engines, vehicles and mobile equipment. The amendments include corrections, clarifications, and flexibilities for multiple types of vehicles, engines and equipment.

The majority of these amendments modify existing test procedures for heavy-duty highway engines and vehicles. These test procedure changes improve accuracy, and in some cases, reduce test burden. They mainly apply for measurement of greenhouse gas (GHG) pollutants (primarily CO2), though some apply for criteria pollutants (such as NO_x), as well. See Section II.A.

Additional heavy-duty highway amendments update EPA regulations to enhance implementation of existing emission standards. For example, some changes reduce the likelihood that manufacturers would need to duplicate certification efforts to comply with EPA, Canadian, and Californian standards. Some amendments make it easier for manufacturers to more fully account for the emission benefits of advanced emission control technology, which could provide them the opportunity to generate additional emission credits. These heavy-duty highway amendments are described in Section II.B.

This rule includes other amendments that are generally administrative or technical in nature and include amendments for nonroad engines and vehicles, stationary engines, and portable fuel containers. These amendments are described in Section III. Perhaps the most visible administrative amendment is the elimination of hundreds of pages of obsolete regulations, which is described in Section III.B.

EPA published a proposed rule on May 12, 2020 (85 FR 28140). This final rule follows from that proposal, with several adjustments that reflect EPA's consideration of comments received. Most of the proposed revisions from that document are addressed in this final rule. EPA is also issuing a new notice of proposed rulemaking to supplement the earlier proposed rule, published in the Proposed Rules section of this issue of the **Federal Register**, titled "Improvements for Heavy-Duty Engine and Vehicle Test Procedures," docket number EPA–HQ–OAR–2019–0307; FRL–10018–51–OAR. In the supplemental proposal, EPA proposes further amendments concerning only certain specific aspects of the Greenhouse gas Emissions Model (GEM) (see Section II of the preamble to the supplemental proposal).

The proposed rule included requests for comment on a wide range of issues, including some broad areas where we were interested only in gathering information for potential future rulemaking(s). This preamble does not include a discussion of those comment areas where we are not taking any action in this final rule. The "Improvements for Heavy-Duty Engine and Vehicle Test Procedures, and other Technical Amendments Response to Comments" document ("Response to Comments") in the docket for this rulemaking includes a summary of the input received from commenters and EPA's responses.[3]

In addition, we have prepared a docket memo with redline text to highlight all the changes to the regulations in the proposed rule.[4] This is especially helpful for reviewing provisions that we are removing from the Code of Federal Regulations. For obsolete provisions we are removing, see especially 40 CFR 1027.105, 1033.150, 1042.145, 1045.145, 1048.145, 1051.145, 1054.145, and 1054.625. We prepared additional docket memos to show regulatory changes after the proposed rule.[5]

[3] EPA, "Improvements for Heavy-Duty Engine and Vehicle Test Procedures, and other Technical Amendments Response to Comments," December 2020, Docket EPA–HQ–OAR–2019–0307, Publication Number: EPA–420–R–20–026.

[4] "Redline Document Showing Proposed Changes to Regulatory Text in the Heavy-Duty Greenhouse Gas Amendments", EPA memorandum from Alan Stout to Docket EPA–HQ–OAR–2019–0307, March 2020.

[5] "Redline Version of EPA's Final Regulatory Amendments for Heavy-Duty Greenhouse Gas Standards and other Programs", EPA memorandum from Alan Stout to Docket EPA–HQ–OAR–2019–0307, December 9, 2020.

What are the incremental costs and benefits of this action?

This action is limited in scope and does not include amendments that have significant economic or environmental impacts. EPA has therefore not estimated the potential costs or benefits of this final rule (and we did not for the proposal).

II. Heavy-Duty Highway Amendments

A. Test Procedures and Compliance Model Changes

Since the promulgation of the Phase 2 regulations, manufacturers have been revising their internal test procedures to ensure they will be able to comply with the new requirements that begin in model year 2021. In doing so, they have identified several areas in which the test procedure regulations could be improved (in terms of overall accuracy, repeatability and clarity) without changing the effective stringency of the standards.

EPA is making numerous changes to the test procedure regulations to address manufacturers' concerns and other issues we have identified. These changes are described below. The list includes numerous editorial changes that simply correct typographical/formatting errors or revise the text to improve clarity. Although these amendments are being made primarily in the context of heavy-duty engines and vehicles, the amendments to part 1065 will also apply to nonroad engines, and the amendments to part 1066 will also apply to light-duty vehicles. Since these amendments are mostly editorial or adding flexibility, they will not adversely impact these other sectors.

1. 40 CFR Part 1036 Test Procedures

EPA proposed several updates to the testing and measurement provisions of part 1036, subpart F, and appendices of part 1036 related to how to measure emissions from heavy-duty engines and requested comment on general improvements to the engine test procedures and compliance provisions (85 FR 28141). This section presents the changes we are adopting to engine test procedures after consideration of comments received. Additional details on some of these and other engine testing and measurement amendments or clarifications requested by

Subpart F—Control of Evaporative Emissions From New and In-Use Portable Fuel Containers

■ 4. Amend § 59.626 by revising paragraph (e) to read as follows:

§ 59.626 What emission testing must I perform for my application for a certificate of conformity?

* * * * *

(e) We may require you to test units of the same or different configuration in addition to the units tested under paragraph (b) of this section.

* * * * *

■ 5. Amend § 59.628 by revising paragraph (b) to read as follows:

§ 59.628 What records must I keep and what reports must I send to EPA?

* * * * *

(b) Keep required data from emission tests and all other information specified in this subpart for five years after we issue the associated certificate of conformity. If you use the same emission data or other information for a later production period, the five-year period restarts with each new production period if you continue to rely on the information.

* * * * *

■ 6. Amend § 59.650 by revising paragraph (c) to read as follows:

§ 59.650 General testing provisions.

* * * * *

(c) The specification for gasoline to be used for testing is given in 40 CFR 1065.710(c). Use the grade of gasoline specified for general testing. Blend this grade of gasoline with reagent grade ethanol in a volumetric ratio of 90.0 percent gasoline to 10.0 percent ethanol to achieve a blended fuel that has 10.0 ±1.0 percent ethanol by volume. You may use ethanol that is less pure if you can demonstrate that it will not affect your ability to demonstrate compliance with the applicable emission standards.

* * * * *

■ 7. Amend § 59.653 by revising paragraphs (a)(1) and (3) and (a)(4)(ii)(C) to read as follows:

§ 59.653 How do I test portable fuel containers?

* * * * *

(a) * * *

(1) *Pressure cycling.* Perform a pressure test by sealing the container and cycling it between +13.8 and −3.4 kPa (+2.0 and −0.5 psig) for 10,000 cycles at a rate of 60 seconds per cycle. For this test, the spout may be removed, and the pressure applied through the opening where the spout attaches. The purpose of this test is to represent environmental wall stresses caused by pressure changes and other factors (such as vibration or thermal expansion). If your container cannot be tested using the pressure cycles specified by this paragraph (a)(1), you may ask to use special test procedures under § 59.652(c).

* * * * *

(3) *Slosh testing.* Perform a slosh test by filling the portable fuel container to 40 percent of its capacity with the fuel specified in paragraph (e) of this section and rocking it at a rate of 15 cycles per minute until you reach one million total cycles. Use an angle deviation of +15° to −15° from level. Take steps to ensure that the fuel remains at 40 percent of its capacity throughout the test run.

(4) * * *

(ii) * * *

(C) Actuate the spout by fully opening and closing without dispensing fuel. The spout must return to the closed position without the aid of the operator (*e.g.*, pushing or pulling the spout closed). Repeat for a total of 10 actuations. If at any point the spout fails to return to the closed position, the container fails the diurnal test.

* * * * *

■ 8. Amend § 59.660 by revising paragraph (b) to read as follows:

§ 59.660 Exemption from the standards.

* * * * *

(b) Manufacturers and other persons subject to the prohibitions in § 59.602 may ask us to exempt portable fuel containers to purchase, sell, or distribute them for the sole purpose of testing them.

* * * * *

■ 9. Amend § 59.664 by revising paragraph (c) to read as follows:

§ 59.664 What are the requirements for importing portable fuel containers into the United States?

* * * * *

(c) You may meet the bond requirements of this section by obtaining a bond from a third-party surety that is cited in the U.S. Department of Treasury Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" (*https://www.fiscal.treasury.gov/surety-bonds/circular-570.html*).

* * * * *

■ 10. Amend § 59.680 by revising the definition of "Portable fuel container" to read as follows:

§ 59.680 What definitions apply to this subpart?

* * * * *

Portable fuel container means a reusable container of any color that is designed and marketed or otherwise intended for use by consumers for receiving, transporting, storing, and dispensing gasoline, diesel fuel, or kerosene. For the purposes of this subpart, all utility jugs that are red, yellow, or blue in color are deemed to be portable fuel containers, regardless of how they are labeled or marketed.

* * * * *

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

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

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

■ 12. Amend § 60.4200 by revising paragraph (d) to read as follows:

§ 60.4200 Am I subject to this subpart?

* * * * *

(d) Stationary CI ICE may be eligible for exemption from the requirements of this subpart as described in 40 CFR part 1068, subpart C, except that owners and operators, as well as manufacturers, may be eligible to request an exemption for national security.

* * * * *

■ 13. Amend § 60.4201 by revising paragraphs (a), (d) introductory text, (f) introductory text, and (h) to read as follows:

§ 60.4201 What emission standards must I meet for non-emergency engines if I am a stationary CI internal combustion engine manufacturer?

(a) Stationary CI internal combustion engine manufacturers must certify their 2007 model year and later non-emergency stationary CI ICE with a maximum engine power less than or equal to 2,237 kilowatt (KW) (3,000 horsepower (HP)) and a displacement of less than 10 liters per cylinder to the certification emission standards for new nonroad CI engines in 40 CFR 1039.101, 1039.102, 1039.104, 1039.105, 1039.107, and 1039.115 and 40 CFR part 1039, appendix I, as applicable, for all pollutants, for the same model year and maximum engine power.

* * * * *

(d) Stationary CI internal combustion engine manufacturers must certify the following non-emergency stationary CI ICE to the appropriate Tier 2 emission standards for new marine CI engines as described in 40 CFR part 1042, appendix I, for all pollutants, for the same displacement and rated power:

* * * * *

(f) Notwithstanding the requirements in paragraphs (a) through (c) of this section, stationary non-emergency CI ICE identified in paragraphs (a) and (c) of this section may be certified to the provisions of 40 CFR part 1042 for commercial engines that are applicable for the engine's model year, displacement, power density, and maximum engine power if the engines will be used solely in either or both of the following locations:

* * * * *

(h) Stationary CI ICE certified to the standards in 40 CFR part 1039 and equipped with auxiliary emission control devices (AECDs) as specified in 40 CFR 1039.665 must meet the Tier 1 certification emission standards for new nonroad CI engines in 40 CFR part 1039, appendix I, while the AECD is activated during a qualified emergency situation. A qualified emergency situation is defined in 40 CFR 1039.665. When the qualified emergency situation has ended and the AECD is deactivated, the engine must resume meeting the otherwise applicable emission standard specified in this section.

■ 14. Amend § 60.4202 by revising paragraphs (a)(1)(i), (a)(2), (b)(2), (e) introductory text, and (g) introductory text to read as follows:

§ 60.4202 What emission standards must I meet for emergency engines if I am a stationary CI internal combustion engine manufacturer?

(a) * * *

(1) * * *

(i) The Tier 2 emission standards for new nonroad CI engines for the appropriate rated power as described in 40 CFR part 1039, appendix I, for all pollutants and the smoke standards as specified in 40 CFR 1039.105 for model year 2007 engines; and

* * * * *

(2) For engines with a rated power greater than or equal to 37 KW (50 HP), the Tier 2 or Tier 3 emission standards for new nonroad CI engines for the same rated power as described in 40 CFR part 1039, appendix I, for all pollutants and the smoke standards as specified in 40 CFR 1039.105 beginning in model year 2007.

(b) * * *

(2) For 2011 model year and later, the Tier 2 emission standards as described in 40 CFR part 1039, appendix I, for all pollutants and the smoke standards as specified in 40 CFR 1039.105.

* * * * *

(e) Stationary CI internal combustion engine manufacturers must certify the following emergency stationary CI ICE that are not fire pump engines to the appropriate Tier 2 emission standards for new marine CI engines as described in 40 CFR part 1042, appendix I, for all pollutants, for the same displacement and rated power:

* * * * *

(g) Notwithstanding the requirements in paragraphs (a) through (d) of this section, stationary emergency CI ICE identified in paragraphs (a) and (c) of this section may be certified to the provisions of 40 CFR part 1042 for commercial engines that are applicable for the engine's model year, displacement, power density, and maximum engine power if the engines will be used solely in either or both of the locations identified in paragraphs (g)(1) and (2) of this section. Engines that would be subject to the Tier 4 standards in 40 CFR part 1042 that are used solely in either or both of the locations identified in paragraphs (g)(1) and (2) of this section may instead continue to be certified to the appropriate Tier 3 standards in 40 CFR part 1042.

* * * * *

■ 15. Amend § 60.4204 by revising paragraphs (a) and (f) to read as follows:

§ 60.4204 What emission standards must I meet for non-emergency engines if I am an owner or operator of a stationary CI internal combustion engine?

(a) Owners and operators of pre-2007 model year non-emergency stationary CI ICE with a displacement of less than 10 liters per cylinder must comply with the emission standards in table 1 to this subpart. Owners and operators of pre-2007 model year non-emergency stationary CI ICE with a displacement of greater than or equal to 10 liters per cylinder and less than 30 liters per cylinder must comply with the Tier 1 emission standards in 40 CFR part 1042, appendix I.

* * * * *

(f) Owners and operators of stationary CI ICE certified to the standards in 40 CFR part 1039 and equipped with AECDs as specified in 40 CFR 1039.665 must meet the Tier 1 certification emission standards for new nonroad CI engines in 40 CFR part 1039, appendix I, while the AECD is activated during a qualified emergency situation. A qualified emergency situation is defined in 40 CFR 1039.665. When the qualified emergency situation has ended and the AECD is deactivated, the engine must resume meeting the otherwise applicable emission standard specified in this section.

■ 16. Amend § 60.4205 by revising paragraph (a) to read as follows:

§ 60.4205 What emission standards must I meet for emergency engines if I am an owner or operator of a stationary CI internal combustion engine?

(a) Owners and operators of pre-2007 model year emergency stationary CI ICE with a displacement of less than 10 liters per cylinder that are not fire pump engines must comply with the emission standards in Table 1 to this subpart. Owners and operators of pre-2007 model year emergency stationary CI ICE with a displacement of greater than or equal to 10 liters per cylinder and less than 30 liters per cylinder that are not fire pump engines must comply with the Tier 1 emission standards in 40 CFR part 1042, appendix I.

* * * * *

■ 17. Amend § 60.4210 by revising paragraphs (a) and (b), (c) introductory text, (c)(3), (d), (i), and (j) and adding paragraph (k) to read as follows:

§ 60.4210 What are my compliance requirements if I am a stationary CI internal combustion engine manufacturer?

(a) Stationary CI internal combustion engine manufacturers must certify their stationary CI ICE with a displacement of less than 10 liters per cylinder to the emission standards specified in §§ 60.4201(a) through (c) and 60.4202(a), (b), and (d) using the certification procedures required in 40 CFR part 1039, subpart C, and must test their engines as specified in 40 CFR part 1039. For the purposes of this subpart, engines certified to the standards in Table 1 to this subpart shall be subject to the same certification procedures required for engines certified to the Tier 1 standards in 40 CFR part 1039, appendix I. For the purposes of this subpart, engines certified to the standards in Table 4 to this subpart shall be subject to the same certification procedures required for engines certified to the Tier 1 standards in 40 CFR part 1039, appendix I, except that engines with NFPA nameplate power of less than 37 KW (50 HP) certified to model year 2011 or later standards shall be subject to the same requirements as engines certified to the standards in 40 CFR part 1039.

(b) Stationary CI internal combustion engine manufacturers must certify their stationary CI ICE with a displacement of greater than or equal to 10 liters per cylinder and less than 30 liters per cylinder to the emission standards specified in §§ 60.4201(d) and (e) and 60.4202(e) and (f) using the certification procedures required in 40 CFR part 1042, subpart C, and must test their engines as specified in 40 CFR part 1042.

(c) Stationary CI internal combustion engine manufacturers must meet the requirements of 40 CFR 1039.120, 1039.125, 1039.130, and 1039.135 and 40 CFR part 1068 for engines that are certified to the emission standards in 40 CFR part 1039. Stationary CI internal combustion engine manufacturers must meet the corresponding provisions of 40 CFR part 1042 for engines that would be covered by that part if they were nonroad (including marine) engines. Labels on such engines must refer to stationary engines, rather than or in addition to nonroad or marine engines, as appropriate. Stationary CI internal combustion engine manufacturers must label their engines according to paragraphs (c)(1) through (3) of this section.

* * * * *

(3) Stationary CI internal combustion engines manufactured after January 1, 2007 (for fire pump engines, after January 1 of the year listed in table 3 to this subpart, as applicable) must be labeled according to paragraphs (c)(3)(i) through (iii) of this section.

(i) Stationary CI internal combustion engines that meet the requirements of this subpart and the corresponding requirements for nonroad (including marine) engines of the same model year and HP must be labeled according to the provisions in 40 CFR part 1039 or 1042, as appropriate.

(ii) Stationary CI internal combustion engines that meet the requirements of this subpart, but are not certified to the standards applicable to nonroad (including marine) engines of the same model year and HP must be labeled according to the provisions in 40 CFR part 1039 or 1042, as appropriate, but the words "stationary" must be included instead of "nonroad" or "marine" on the label. In addition, such engines must be labeled according to 40 CFR 1039.20.

(iii) Stationary CI internal combustion engines that do not meet the requirements of this subpart must be labeled according to 40 CFR 1068.230 and must be exported under the provisions of 40 CFR 1068.230.

(d) An engine manufacturer certifying an engine family or families to standards under this subpart that are identical to standards applicable under 40 CFR part 1039 or 1042 for that model year may certify any such family that contains both nonroad (including marine) and stationary engines as a single engine family and/or may include any such family containing stationary engines in the averaging, banking, and trading provisions applicable for such engines under those parts.

* * * * *

(i) The replacement engine provisions of 40 CFR 1068.240 are applicable to stationary CI engines replacing existing equipment that is less than 15 years old.

(j) Stationary CI ICE manufacturers may equip their stationary CI internal combustion engines certified to the emission standards in 40 CFR part 1039 with AECDs for qualified emergency situations according to the requirements of 40 CFR 1039.665. Manufacturers of stationary CI ICE equipped with AECDs as allowed by 40 CFR 1039.665 must meet all the requirements in 40 CFR 1039.665 that apply to manufacturers. Manufacturers must document that the engine complies with the Tier 1 standard in 40 CFR part 1039, appendix I, when the AECD is activated. Manufacturers must provide any relevant testing, engineering analysis, or other information in sufficient detail to support such statement when applying for certification (including amending an existing certificate) of an engine equipped with an AECD as allowed by 40 CFR 1039.665.

(k) Manufacturers of any size may certify their emergency stationary CI internal combustion engines under this section using assigned deterioration factors established by EPA, consistent with 40 CFR 1039.240 and 1042.240.

■ 18. Amend § 60.4211 by revising paragraphs (a)(3) and (b)(1) to read as follows:

§ 60.4211 What are my compliance requirements if I am an owner or operator of a stationary CI internal combustion engine?

(a) * * *

(3) Meet the requirements of 40 CFR part 1068, as they apply to you.

(b) * * *

(1) Purchasing an engine certified to emission standards for the same model year and maximum engine power as described in 40 CFR parts 1039 and 1042, as applicable. The engine must be installed and configured according to the manufacturer's specifications.

* * * * *

■ 19. Amend § 60.4212 by revising paragraphs (a) and (c) and removing the undesignated paragraph following the equation in paragraph (c) to read as follows:

§ 60.4212 What test methods and other procedures must I use if I am an owner or operator of a stationary CI internal combustion engine with a displacement of less than 30 liters per cylinder?

* * * * *

(a) The performance test must be conducted according to the in-use testing procedures in 40 CFR part 1039, subpart F, for stationary CI ICE with a displacement of less than 10 liters per cylinder, and according to 40 CFR part 1042, subpart F, for stationary CI ICE with a displacement of greater than or equal to 10 liters per cylinder and less than 30 liters per cylinder. Alternatively, stationary CI ICE that are complying with Tier 2 or Tier 3 emission standards as described in 40 CFR part 1039, appendix I, or with Tier 2 emission standards as described in 40 CFR part 1042, appendix I, may follow the testing procedures specified in § 60.4213, as appropriate.

* * * * *

(c) Exhaust emissions from stationary CI ICE subject to Tier 2 or Tier 3 emission standards as described in 40 CFR part 1039, appendix I, or Tier 2 emission standards as described in 40 CFR part 1042, appendix I, must not exceed the NTE numerical requirements, rounded to the same number of decimal places as the applicable standard, determined from the following equation:

$$\text{NTE requirement for each pollutant} = (1.25) \times (\text{STD}) \quad \text{(Eq. 1)}$$

Where:

STD = The standard specified for that pollutant in 40 CFR part 1039 or 1042, as applicable.

* * * * *

■ 20. Amend § 60.4216 by revising paragraphs (b) and (c) to read as follows:

§ 60.4216 What requirements must I meet for engines used in Alaska?

* * * * *

(b) Except as indicated in paragraph (c) of this section, manufacturers, owners and operators of stationary CI ICE with a displacement of less than 10 liters per cylinder located in remote areas of Alaska may meet the requirements of this subpart by manufacturing and installing engines meeting the Tier 2 or Tier 3 emission standards described in 40 CFR part 1042 for the same model year, displacement, and maximum engine power, as appropriate, rather than the otherwise

applicable requirements of 40 CFR part 1039, as indicated in §§ 60.4201(f) and 60.4202(g).

(c) Manufacturers, owners, and operators of stationary CI ICE that are located in remote areas of Alaska may choose to meet the applicable emission standards for emergency engines in §§ 60.4202 and 60.4205, and not those for non-emergency engines in §§ 60.4201 and 60.4204, except that for 2014 model year and later nonemergency CI ICE, the owner or operator of any such engine must have that engine certified as meeting at least the Tier 3 PM standards identified in appendix I of 40 CFR part 1039 or in 40 CFR 1042.101.

* * * * *

■ 21. Amend § 60.4219 by revising the definition for "Certified emissions life" to read as follows:

§ 60.4219 What definitions apply to this subpart?

* * * * *

Certified emissions life means the period during which the engine is designed to properly function in terms of reliability and fuel consumption, without being remanufactured, specified as a number of hours of operation or calendar years, whichever comes first. The values for certified emissions life for stationary CI ICE with a displacement of less than 10 liters per cylinder are given in 40 CFR 1039.101(g). The values for certified emissions life for stationary CI ICE with a displacement of greater than or equal to 10 liters per cylinder and less than 30 liters per cylinder are given in 40 CFR 1042.101(e).

* * * * *

■ 22. Amend § 60.4230 by revising paragraph (e) to read as follows:

§ 60.4230 Am I subject to this subpart?

* * * * *

(e) Stationary SI ICE may be eligible for exemption from the requirements of this subpart as described in 40 CFR part 1068, subpart C (or the exemptions described in 40 CFR parts 1048 and 1054, for engines that would need to be certified to standards in those parts), except that owners and operators, as well as manufacturers, may be eligible to request an exemption for national security.

* * * * *

■ 23. Amend § 60.4231 by revising paragraphs (a) through (d) to read as follows:

§ 60.4231 What emission standards must I meet if I am a manufacturer of stationary SI internal combustion engines or equipment containing such engines?

(a) Stationary SI internal combustion engine manufacturers must certify their stationary SI ICE with a maximum engine power less than or equal to 19 KW (25 HP) manufactured on or after July 1, 2008 to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 1054, as follows:

If engine displacement is . . .	and manufacturing dates are . . .	the engine must meet the following non-handheld emission standards identified in 40 CFR part 1054 and related requirements:
(1) Below 225 cc	July 1, 2008 to December 31, 2011	Phase 2.
(2) Below 225 cc	January 1, 2012 or later	Phase 3.
(3) At or above 225 cc	July 1, 2008 to December 31, 2010	Phase 2.
(4) At or above 225 cc	January 1, 2011 or later	Phase 3.

(b) Stationary SI internal combustion engine manufacturers must certify their stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) (except emergency stationary ICE with a maximum engine power greater than 25 HP and less than 130 HP) that use gasoline and that are manufactured on or after the applicable date in § 60.4230(a)(2), or manufactured on or after the applicable date in § 60.4230(a)(4) for emergency stationary ICE with a maximum engine power greater than or equal to 130 HP, to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 1048. Stationary SI internal combustion engine manufacturers must certify their emergency stationary SI ICE with a maximum engine power greater than 25 HP and less than 130 HP that use gasoline and that are manufactured on or after the applicable date in § 60.4230(a)(4) to the Phase 1 emission standards in 40 CFR part 1054, appendix I, applicable to class II engines, and other requirements for new nonroad SI engines in 40 CFR part 1054. Stationary SI internal combustion engine manufacturers may certify their stationary SI ICE with a maximum engine power less than or equal to 30 KW (40 HP) with a total displacement less than or equal to 1,000 cubic centimeters (cc) that use gasoline to the certification emission standards and other requirements as appropriate for new nonroad SI engines in 40 CFR part 1054.

(c) Stationary SI internal combustion engine manufacturers must certify their stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) (except emergency stationary ICE with a maximum engine power greater than 25 HP and less than 130 HP) that are rich burn engines that use LPG and that are manufactured on or after the applicable date in § 60.4230(a)(2), or manufactured on or after the applicable date in § 60.4230(a)(4) for emergency stationary ICE with a maximum engine power greater than or equal to 130 HP, to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 1048. Stationary SI internal combustion engine manufacturers must certify their emergency stationary SI ICE greater than 25 HP and less than 130 HP that are rich burn engines that use LPG and that are manufactured on or after the applicable date in § 60.4230(a)(4) to the Phase 1 emission standards in 40 CFR part 1054, appendix I, applicable to class II engines, and other requirements for new nonroad SI engines in 40 CFR part 1054. Stationary SI internal combustion engine manufacturers may certify their stationary SI ICE with a maximum engine power less than or equal to 30 KW (40 HP) with a total displacement less than or equal to 1,000 cc that are rich burn engines that use LPG to the certification emission standards and other requirements as appropriate for new nonroad SI engines in 40 CFR part 1054.

(d) Stationary SI internal combustion engine manufacturers who choose to certify their stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) and less than 75 KW (100 HP) (except gasoline and rich burn engines that use LPG and emergency stationary ICE with a maximum engine power greater than 25 HP and less than 130 HP) under the voluntary manufacturer certification program described in this subpart must certify those engines to the certification emission standards for new nonroad SI engines in 40 CFR part 1048. Stationary SI internal combustion engine manufacturers who choose to certify

their emergency stationary SI ICE greater than 25 HP and less than 130 HP (except gasoline and rich burn engines that use LPG), must certify those engines to the Phase 1 emission standards in 40 CFR part 1054, appendix I, applicable to class II engines, for new nonroad SI engines in 40 CFR part 1054. Stationary SI internal combustion engine manufacturers may certify their stationary SI ICE with a maximum engine power less than or equal to 30 KW (40 HP) with a total displacement less than or equal to 1,000 cc (except gasoline and rich burn engines that use LPG) to the certification emission standards and other requirements as appropriate for new nonroad SI engines in 40 CFR part 1054. For stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) and less than 75 KW (100 HP) (except gasoline and rich burn engines that use LPG and emergency stationary ICE with a maximum engine power greater than 25 HP and less than 130 HP) manufactured prior to January 1, 2011, manufacturers may choose to certify these engines to the standards in Table 1 to this subpart applicable to engines with a maximum engine power greater than or equal to 100 HP and less than 500 HP.

* * * * *

■ 24. Revise § 60.4238 to read as follows:

§ 60.4238 What are my compliance requirements if I am a manufacturer of stationary SI internal combustion engines ≤19 KW (25 HP) or a manufacturer of equipment containing such engines?

Stationary SI internal combustion engine manufacturers who are subject to the emission standards specified in § 60.4231(a) must certify their stationary SI ICE using the certification and testing procedures required in 40 CFR part 1054, subparts C and F. Manufacturers of equipment containing stationary SI internal combustion engines meeting the provisions of 40 CFR part 1054 must meet the provisions of 40 CFR part 1060, subpart C, to the extent they apply to equipment manufacturers.

■ 25. Revise § 60.4239 to read as follows:

§ 60.4239 What are my compliance requirements if I am a manufacturer of stationary SI internal combustion engines >19 KW (25 HP) that use gasoline or a manufacturer of equipment containing such engines?

Stationary SI internal combustion engine manufacturers who are subject to the emission standards specified in § 60.4231(b) must certify their stationary SI ICE using the certification procedures required in 40 CFR part 1048, subpart C, and must test their engines as specified in that part. Stationary SI internal combustion engine manufacturers who certify their stationary SI ICE with a maximum engine power less than or equal to 30 KW (40 HP) with a total displacement less than or equal to 1,000 cc to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 1054, and manufacturers of stationary SI emergency engines that are greater than 25 HP and less than 130 HP who meet the Phase 1 emission standards in 40 CFR part 1054, appendix I, applicable to class II engines, must certify their stationary SI ICE using the certification and testing procedures required in 40 CFR part 1054, subparts C and F. Manufacturers of equipment containing stationary SI internal combustion engines meeting the provisions of 40 CFR part 1054 must meet the provisions of 40 CFR part 1060, subpart C, to the extent they apply to equipment manufacturers.

■ 26. Revise § 60.4240 to read as follows:

§ 60.4240 What are my compliance requirements if I am a manufacturer of stationary SI internal combustion engines >19 KW (25 HP) that are rich burn engines that use LPG or a manufacturer of equipment containing such engines?

Stationary SI internal combustion engine manufacturers who are subject to the emission standards specified in § 60.4231(c) must certify their stationary SI ICE using the certification procedures required in 40 CFR part 1048, subpart C, and must test their engines as specified in that part. Stationary SI internal combustion engine manufacturers who certify their stationary SI ICE with a maximum engine power less than or equal to 30 KW (40 HP) with a total displacement less than or equal to 1,000 cc to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 1054, and manufacturers of stationary SI emergency engines that are greater than 25 HP and less than 130 HP who meet the Phase 1 emission standards in 40 CFR part 1054, appendix I, applicable to class II engines, must certify their stationary SI ICE using the certification and testing procedures required in 40 CFR part 1054, subparts C and F. Manufacturers of equipment containing stationary SI internal combustion engines meeting the provisions of 40 CFR part 1054 must meet the provisions of 40 CFR part 1060, subpart C, to the extent they apply to equipment manufacturers.

■ 27. Amend § 60.4241 by revising paragraphs (a), (b), and (i) to read as follows:

§ 60.4241 What are my compliance requirements if I am a manufacturer of stationary SI internal combustion engines participating in the voluntary certification program or a manufacturer of equipment containing such engines?

(a) Manufacturers of stationary SI internal combustion engines with a maximum engine power greater than 19 KW (25 HP) that do not use gasoline and are not rich burn engines that use LPG can choose to certify their engines to the emission standards in § 60.4231(d) or (e), as applicable, under the voluntary certification program described in this subpart. Manufacturers who certify their engines under the voluntary certification program must meet the requirements as specified in paragraphs (b) through (g) of this section. In addition, manufacturers of stationary SI internal combustion engines who choose to certify their engines under the voluntary certification program, must also meet the requirements as specified in § 60.4247. Manufacturers of stationary SI internal combustion engines who choose not to certify their engines under this section must notify the ultimate purchaser that testing requirements apply as described in § 60.4243(b)(2); manufacturers must keep a copy of this notification for five years after shipping each engine and make those documents available to EPA upon request.

(b) Manufacturers of engines other than those certified to standards in 40 CFR part 1054 must certify their stationary SI ICE using the certification procedures required in 40 CFR part 1048, subpart C, and must follow the same test procedures that apply to Large SI nonroad engines under 40 CFR part 1048, but must use the D–1 cycle of International Organization for Standardization 8178–4: 1996(E) (incorporated by reference, see § 60.17) or the test cycle requirements specified in Table 3 to 40 CFR 1048.505, except that Table 3 of 40 CFR 1048.505 applies to high load engines only. Manufacturers of any size may certify their stationary emergency engines at or above 130 hp using assigned deterioration factors established by EPA, consistent with 40 CFR 1048.240. Stationary SI internal combustion engine manufacturers who certify their stationary SI ICE with a maximum engine power less than or equal to 30 KW (40 HP) with a total displacement less than or equal to 1,000 cc to the certification emission standards and other requirements for new nonroad SI

engines in 40 CFR part 1054, and manufacturers of emergency engines that are greater than 25 HP and less than 130 HP who meet the Phase 1 standards in 40 CFR part 1054, appendix I, applicable to class II engines, must certify their stationary SI ICE using the certification and testing procedures required in 40 CFR part 1054, subparts C and F. Manufacturers of equipment containing stationary SI internal combustion engines meeting the provisions of 40 CFR part 1054 must meet the provisions of 40 CFR part 1060, subpart C, to the extent they apply to equipment manufacturers.

* * * * *

(i) For engines being certified to the voluntary certification standards in Table 1 of this subpart, the VOC measurement shall be made by following the procedures in 40 CFR part 1065, subpart C, to determine the total NMHC emissions. As an alternative, manufacturers may measure ethane, as well as methane, for excluding such levels from the total VOC measurement.

■ 28. Revise § 60.4242 to read as follows:

§ 60.4242 What other requirements must I meet if I am a manufacturer of stationary SI internal combustion engines or equipment containing stationary SI internal combustion engines or a manufacturer of equipment containing such engines?

(a) Stationary SI internal combustion engine manufacturers must meet the provisions of 40 CFR parts 1048, 1054, and 1068, as applicable, except that engines certified pursuant to the voluntary certification procedures in § 60.4241 are subject only to the provisions indicated in § 60.4247 and are permitted to provide instructions to owners and operators allowing for deviations from certified configurations, if such deviations are consistent with the provisions of § 60.4241(c) through (f). Manufacturers of equipment containing stationary SI internal combustion engines meeting the provisions of 40 CFR part 1054 must meet the provisions of 40 CFR part 1060, as applicable. Labels on engines certified to 40 CFR part 1048 must refer to stationary engines, rather than or in addition to nonroad engines, as appropriate.

(b) An engine manufacturer certifying an engine family or families to standards under this subpart that are identical to standards identified in 40 CFR part 1048 or 1054 for that model year may certify any such family that contains both nonroad and stationary engines as a single engine family and/or may include any such family containing stationary engines in the averaging, banking and trading provisions applicable for such engines under those parts. This paragraph (b) also applies to equipment or component manufacturers certifying to standards under 40 CFR part 1060.

(c) Manufacturers of engine families certified to 40 CFR part 1048 may meet the labeling requirements referred to in paragraph (a) of this section for stationary SI ICE by either adding a separate label containing the information required in paragraph (a) of this section or by adding the words "and stationary" after the word "nonroad" to the label.

(d) For all engines manufactured on or after January 1, 2011, and for all engines with a maximum engine power greater than 25 HP and less than 130 HP manufactured on or after July 1, 2008, a stationary SI engine manufacturer that certifies an engine family solely to the standards applicable to emergency engines must add a permanent label stating that the engines in that family are for emergency use only. The label must be added according to the labeling requirements specified in 40 CFR 1048.135(b).

(e) All stationary SI engines subject to mandatory certification that do not meet the requirements of this subpart must be labeled and exported according to 40 CFR 1068.230. Manufacturers of stationary engines with a maximum engine power greater than 25 HP that are not certified to standards and other requirements under 40 CFR part 1048 are subject to the labeling provisions of 40 CFR 1048.20 pertaining to excluded stationary engines.

(f) For manufacturers of gaseous-fueled stationary engines required to meet the warranty provisions in 40 CFR 1054.120, we may establish an hour-based warranty period equal to at least the certified emissions life of the engines (in engine operating hours) if we determine that these engines are likely to operate for a number of hours greater than the applicable useful life within 24 months. We will not approve an alternate warranty under this paragraph (f) for nonroad engines. An alternate warranty period approved under this paragraph (f) will be the specified number of engine operating hours or two years, whichever comes first. The engine manufacturer shall request this alternate warranty period in its application for certification or in an earlier submission. We may approve an alternate warranty period for an engine family subject to the following conditions:

(1) The engines must be equipped with non-resettable hour meters.

(2) The engines must be designed to operate for a number of hours substantially greater than the applicable certified emissions life.

(3) The emission-related warranty for the engines may not be shorter than any published warranty offered by the manufacturer without charge for the engines. Similarly, the emission-related warranty for any component shall not be shorter than any published warranty offered by the manufacturer without charge for that component.

■ 29. Amend § 60.4243 by revising paragraph (f) to read as follows:

§ 60.4243 What are my compliance requirements if I am an owner or operator of a stationary SI internal combustion engine?

* * * * *

(f) If you are an owner or operator of a stationary SI internal combustion engine that is less than or equal to 500 HP and you purchase a non-certified engine or you do not operate and maintain your certified stationary SI internal combustion engine and control device according to the manufacturer's written emission-related instructions, you are required to perform initial performance testing as indicated in this section, but you are not required to conduct subsequent performance testing unless the stationary engine undergoes rebuild, major repair or maintenance. Engine rebuilding means to overhaul an engine or to otherwise perform extensive service on the engine (or on a portion of the engine or engine system). For the purpose of this paragraph (f), perform extensive service means to disassemble the engine (or portion of the engine or engine system), inspect and/or replace many of the parts, and reassemble the engine (or portion of the engine or engine system) in such a manner that significantly increases the service life of the resultant engine.

* * * * *

■ 30. Amend § 60.4245 by revising paragraph (a)(3) to read as follows:

§ 60.4245 What are my notification, reporting, and recordkeeping requirements if I am an owner or operator of a stationary SI internal combustion engine?

* * * * *

(a) * * *

(3) If the stationary SI internal combustion engine is a certified engine, documentation from the manufacturer that the engine is certified to meet the emission standards and information as required in 40 CFR parts 1048, 1054, and 1060, as applicable.

* * * * *

■ 31. Amend § 60.4247 by revising paragraph (a) to read as follows:

§ 60.4247 What parts of the mobile source provisions apply to me if I am a manufacturer of stationary SI internal combustion engines or a manufacturer of equipment containing such engines?

(a) Manufacturers certifying to emission standards in 40 CFR part 1054 must meet the provisions of 40 CFR part 1054. Note that 40 CFR part 1054, appendix I, describes various provisions that do not apply for engines meeting Phase 1 standards in 40 CFR part 1054. Manufacturers of equipment containing stationary SI internal combustion engines meeting the provisions of 40 CFR part 1054 must meet the provisions of 40 CFR part 1060 to the extent they apply to equipment manufacturers.

* * * * *

■ 32. Amend § 60.4248 by revising the definition for "Certified emissions life" and "Certified stationary internal combustion engine" to read as follows:

§ 60.4248 What definitions apply to this subpart?

* * * * *

Certified emissions life means the period during which the engine is designed to properly function in terms of reliability and fuel consumption, without being remanufactured, specified as a number of hours of operation or calendar years, whichever comes first. The values for certified emissions life for stationary SI ICE with a maximum engine power less than or equal to 19 KW (25 HP) are given in 40 CFR 1054.107 and 1060.101, as appropriate. The values for certified emissions life for stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) certified to 40 CFR part 1048 are given in 40 CFR 1048.101(g). The certified emissions life for stationary SI ICE with a maximum engine power greater than 75 KW (100 HP) certified under the voluntary manufacturer certification program of this subpart is 5,000 hours or 7 years, whichever comes first. You may request in your application for certification that we approve a shorter certified emissions life for an engine family. We may approve a shorter certified emissions life, in hours of engine operation but not in years, if we determine that these engines will rarely operate longer than the shorter certified emissions life. If engines identical to those in the engine family have already been produced and are in use, your demonstration must include documentation from such in-use engines. In other cases, your demonstration must include an engineering analysis of information equivalent to such in-use data, such as data from research engines or similar engine models that are already in production. Your demonstration must also include any overhaul interval that you recommend, any mechanical warranty that you offer for the engine or its components, and any relevant customer design specifications. Your demonstration may include any other relevant information. The certified emissions life value may not be shorter than any of the following:

(1) 1,000 hours of operation.

(2) Your recommended overhaul interval.

(3) Your mechanical warranty for the engine.

Certified stationary internal combustion engine means an engine that belongs to an engine family that has a certificate of conformity that complies with the emission standards and requirements in this part, or of 40 CFR part 1048 or 1054, as appropriate.

* * * * *

PART 85—CONTROL OF AIR POLLUTION FROM MOBILE SOURCES

■ 33. The authority citation for part 85 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart O—[Removed and Reserved]

■ 34. Remove and reserve subpart O, consisting of §§ 85.1401 through 85.1415.

■ 35. Amend § 85.1501 by revising paragraph (a) to read as follows:

§ 85.1501 Applicability.

(a) Except where otherwise indicated, this subpart is applicable to motor vehicles offered for importation or imported into the United States for which the Administrator has promulgated regulations under 40 CFR part 86, subpart D or S, prescribing emission standards, but which are not covered by certificates of conformity issued under section 206(a) of the Clean Air Act (*i.e.*, which are nonconforming vehicles as defined in § 85.1502), as amended, and part 86 at the time of conditional importation. Compliance with regulations under this subpart shall not relieve any person or entity from compliance with other applicable provisions of the Clean Air Act. This subpart no longer applies for heavy-duty engines certified under 40 CFR part 86, subpart A; references in this subpart to "engines" therefore apply only for replacement engines intended for installation in motor vehicles that are subject to this subpart.

* * * * *

■ 36. Amend § 85.1511 by adding introductory text and paragraph (b)(5) to read as follows:

§ 85.1511 Exemptions and exclusions.

The exemption provisions of 40 CFR part 1068, subpart D, apply instead of the provisions of this section for heavy-duty motor vehicles and heavy-duty motor vehicle engines regulated under 40 CFR part 86, subpart A, and 40 CFR parts 1036 and 1037. The following provisions apply for other motor vehicles and motor vehicle engines:

* * * * *

(b) * * *

(5) *Export exemption.* Vehicles may qualify for a temporary exemption under the provisions of 40 CFR 1068.325(d).

* * * * *

■ 37. Revise § 85.1514 to read as follows:

§ 85.1514 Treatment of confidential information.

The provisions of 40 CFR 1068.10 apply for information you consider confidential.

■ 38. Amend § 85.1701 by revising paragraph (a)(1) to read as follows:

§ 85.1701 General applicability.

(a) * * *

(1) Beginning January 1, 2014, the exemption provisions of 40 CFR part 1068, subpart C, apply instead of the provisions of this subpart for heavy-duty motor vehicle engines regulated under 40 CFR part 86, subpart A, except that the nonroad competition exemption of 40 CFR 1068.235 and the nonroad hardship exemption provisions of 40 CFR 1068.245, 1068.250, and 1068.255 do not apply for motor vehicle engines. Note that the provisions for emergency vehicle field modifications in § 85.1716 continue to apply for heavy-duty engines.

* * * * *

■ 39. Revise § 85.1712 to read as follows:

§ 85.1712 Treatment of confidential information.

The provisions of 40 CFR 1068.10 apply for information you consider confidential.

■ 40. Revise § 85.1801 to read as follows:

§ 85.1801 Applicability and definitions.

(a) The recall provisions of 40 CFR part 1068, subpart E, apply instead of the provisions of this subpart for heavy-duty motor vehicles and heavy-duty motor vehicle engines regulated under 40 CFR part 86, subpart A, and 40 CFR parts 1036 and 1037. The provisions of this subpart apply for other motor vehicles and motor vehicle engines.

(b) For the purposes of this subpart, except as otherwise provided, words

§ 28.25 [Amended]

■ 15. In § 28.25, in paragraph (a), remove ''Office of Administrative Law Judges'' and add in its place ''Office of Hearings and Appeals''.

PART 30—CIVIL MONEY PENALTIES: CERTAIN PROHIBITED CONDUCT

■ 16. The authority citation for part 30 continues to read as follows:

Authority: 12 U.S.C. 1701q–1, 1703, 1723i, 1735f–14, and 1735f–15; 15 U.S.C. 1717a; 28 U.S.C. 1 note and 2461 note; 42 U.S.C. 1437z–1 and 3535(d).

■ 17. In part 30, remove ''Office of Administrative Law Judges'' and add in its place ''Office of Hearings and Appeals'' wherever it appears.

PART 81—THE SECRETARY OF HUD'S REGULATION OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (FANNIE MAE) AND THE FEDERAL HOME LOAN MORTGAGE CORPORATION (FREDDIE MAC)

■ 18. The authority citation for part 81 continues to read as follows:

Authority: 12 U.S.C. 1451 *et seq.*, 1716–1723h, and 4501–4641; 28 U.S.C. 2461 note; 42 U.S.C. 3535(d) and 3601–3619.

■ 19. In part 81, remove ''Office of Administrative Law Judges'' and add in its place ''Office of Hearings and Appeals'' wherever it appears.

PART 103—FAIR HOUSING—COMPLAINT PROCESSING

■ 20. The authority citation for part 103 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 3600–3619.

PART 103—[Amended]

■ 21. In part 103, remove ''Office of Administrative Law Judges'' and add in its place ''Office of Hearings and Appeals'' wherever it appears.

PART 180—CONSOLIDATED HUD HEARING PROCEDURES FOR CIVIL RIGHTS MATTERS

■ 22. The authority citation for part 180 continues to read as follows:

Authority: 28 U.S.C. 1 note; 29 U.S.C. 794; 42 U.S.C. 2000d–1, 3535(d), 3601–3619, 5301–5320, and 6103.

■ 23. In part 180:
■ a. Remove ''Director of the Office of Hearings and Appeals'' and add in its place ''Chief Administrative Law Judge'' wherever it appears; and
■ b. Remove ''Office of ALJs'' and add in its place ''Office of Hearings and Appeals'' wherever it appears.

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

■ 24. The authority citation for part 570 continues to read as follows:

Authority: 12 U.S.C. 1701x, 1701 x–1; 42 U.S.C. 3535(d) and 5301–5320.

§ 570.496 [Amended]

■ 25. In § 570.496, in paragraph (d)(1)(iii), remove ''Office of Administrative Law Judges'' and add in its place ''Office of Hearings and Appeals'' wherever it appears.

Dated: February 8th, 2022.

Marcia L. Fudge,

Secretary.

[FR Doc. 2022–03007 Filed 2–11–22; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 62, and 63

[EPA–HQ–OAR–2002–0047; FRL–6838.1–03–OAR]

RIN 2060–AV01

National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills Residual Risk and Technology Review; Correction

AGENCY: Environmental Protection Agency (EPA)

ACTION: Final rule.

SUMMARY: In this action, the U.S. Environmental Protection Agency (EPA) is finalizing technical revisions and clarifications for the national emission standards for hazardous air pollutants (NESHAP) for MSW Landfills established in the March 26, 2020, final rule. This final rule also amends the MSW Landfills NSPS at 40 CFR part 60, subpart XXX, to clarify and align the timing of compliance for certain requirements involving installation of a gas collection and control system (GCCS) under related MSW landfill rules. Additionally, the EPA is revising the definition of Administrator in the MSW Landfills Federal Plan that was promulgated on May 21, 2021 to clarify who has the authority to implement and enforce the applicable requirements. The EPA is also making some minor typographical corrections.

DATES: The final rule is effective February 14, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2002–0047. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/* or in hard copy at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC. The EPA has temporarily suspended its Docket Center and Reading Room for public visitors to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. The EPA continues to carefully and continuously monitor information from the Centers for Disease Control (CDC), local area health departments, and our Federal partners so that the EPA can respond rapidly as conditions change regarding COVID–19. For further information on EPA Docket Center services and the current status, please visit the docket online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Andy Sheppard, Sector Policies and Programs Division (E143–03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–4161; fax number: (919) 541–0516; and email address: *sheppard.andy@epa.gov.*

SUPPLEMENTARY INFORMATION:

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

CAA Clean Air Act
CBI Confidential Business Information
CFR Code of Federal Regulations
COVID–19 coronavirus disease of 2019
EPA Environmental Protection Agency
GCCS gas collection and control system
HAP hazardous air pollutants
m3 cubic meter
Mg megagram
MSW municipal solid waste
NMOC nonmethane organic compounds
NSPS new source performance standards
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
RTR risk and technology review
SSM startup, shutdown, and malfunction

RIN Regulatory Information Number
UMRA Unfunded Mandate Reform Act

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

I. General Information

A. Does this action apply to me?

Table 1 of this preamble lists the associated regulated industrial source categories that are the subject of this final rule. Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding the entities that this action is likely to affect. The standards, once promulgated, will be directly applicable to the affected sources. Federal, state, local, and tribal government entities could be affected by this action because these entities are often the owners or operators of MSW landfills. As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (57 FR 31576, July 16, 1992) and *Documentation for Developing the Initial Source Category List, Final Report* (see EPA–450/3–91–030; July 1992), the MSW Landfills source category is any facility that is an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. An MSW landfill may also receive commercial waste, sludges, and industrial waste. An MSW landfill may also receive other types of Resource Conservation and Recovery Act (RCRA) Subtitle D wastes (see 40 CFR 257.2) such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. An MSW landfill may be publicly or privately owned.

Questions regarding the applicability of this final action to a particular entity should be directed to the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

TABLE 1—INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS ACTION

Source category	NAICS code [1]
Industry: Air and water resource and solid waste management	924110
Industry: Refuse systems—solid waste landfills	562212
State, local, and tribal government agencies	562212, 924110

[1] North American Industry Classification System.

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

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

C. What is the statutory authority for this action?

The statutory authority for revisions to the MSW Landfills NESHAP (40 CFR part 63, subpart AAAA) is provided by sections 112 and 301 of the Clean Air Act (CAA), as amended (42 U.S.C. 7412 and 7401). The statutory authority for revisions to the MSW Landfills New Source Performance Standards (40 CFR part 60, subpart XXX) and the Federal Plan (40 CFR part 62, subpart OOO) is provided by sections 111 and 301 of the CAA (42 U.S.C. 7411 and 7401).

The EPA finds that it has good cause to make these revisions immediately effective upon publication under section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d). Section 553(d) provides that final rules shall not become effective until 30 days after publication in the **Federal Register** ''except . . . as otherwise provided by the agency for good cause.'' The purpose of this provision is to ''give affected parties a reasonable time to adjust their behavior before the final rule takes effect.'' *Omnipoint Corp.* v. *Fed. Commc'n Comm'n,* 78 F.3d 620, 630 (DC Cir. 1996); see also *United States* v. *Gavrilovic,* 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). Thus, in determining whether good cause exists to waive the 30-day delay, an agency should, ''balance the necessity for immediate implementation against principles of fundamental fairness which require that all affected persons be afforded a reasonable amount of time to prepare for the effective date of its ruling.'' *Gavrilovic,* 551 F.2d at 1105. The EPA has determined that there is good cause under section 553(d) for making this final rule effective immediately because this action clarifies the regulatory provisions that already apply to regulatory sources as well as the compliance deadline for controlled landfills that become subject to the 2016 MSW Landfills NSPS through modification is September 27, 2021. Making this rule effective immediately upon publication will minimize confusion and increase compliance certainty.

D. 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 April 15, 2022. Moreover, under section 307(b)(2) of the CAA, the requirements established by

this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements. Section 307(d)(7)(B) of the CAA further provides that "[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review." This section also provides a mechanism for the EPA to convene a proceeding for reconsideration, "[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment, (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule." Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person 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 regulatory development background and legal authority for this action?

The NESHAP regulates HAP emissions from MSW landfills that are either major or area sources, and applies to MSW landfills that have accepted waste since November 8, 1987, or have additional capacity for waste deposition and are major sources, are collocated with major sources, or are area source landfills with a design capacity equal to or greater than 2.5 million megagrams (Mg) and 2.5 million cubic meters (m^3) and have estimated uncontrolled emissions equal to or greater than 50 megagrams per year (Mg/yr) of non-methane organic compounds (NMOC). The NESHAP also applies to MSW landfills that have accepted waste since November 8, 1987, or have additional capacity for waste deposition and include a bioreactor and are major sources, are collocated with major sources, or are area source landfills with a design capacity equal to or greater than 2.5 million Mg and 2.5 million m^3 that were not permanently closed as of January 16, 2003.

The EPA completed the residual risk and technology review (RTR) for the Municipal Solid Waste (MSW) Landfills source category as regulated under the MSW Landfills NESHAP and promulgated amendments to 40 CFR part 63, subpart AAAA on March 26, 2020. (85 FR 17244). The rule finalized the EPA's determination that risks from this source category are acceptable and that the standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. There were no revisions to the NESHAP based on our analyses conducted under CAA section 112(f). However, the final rule clarified regulatory provisions related to emissions during periods of startup, shutdown, and malfunction (SSM); revised wellhead operational standards and corrective action to improve effectiveness and provide compliance flexibility; incorporated provisions from the MSW Landfills NSPS; and added requirements for electronic reporting of performance test results. The EPA subsequently corrected inadvertent errors in the cross-referencing and formatting of the final rule and made minor clarifications to the operational and reporting requirements. (85 FR 64398, October 13, 2020).

In August 2016, the EPA finalized changes to the NSPS for MSW landfills resulting from the EPA's under Clean Air Act (CAA) section 111. In order to avoid possible confusion regarding which MSW landfills would actually be subject to these changes, the EPA established a new subpart XXX (40 CFR part 60, subpart XXX) rather than merely updating the existing subpart WWW (40 CFR part 60, subpart WWW). One of the key changes in the new subpart XXX was the lowering of the emissions threshold for installing controls from 50 megagrams per year (Mg/yr) to 34 Mg/yr. (81 FR 59332, August 29, 2016).

At the same time, the EPA reviewed the existing emission guideline (EG) (subpart Cc) and determined it was appropriate to revise it consistent with the promulgation of the new NSPS subpart XXX. Rather than merely updating subpart Cc, the EPA determined that the most appropriate way to proceed was to establish a new subpart Cf. (81 FR 59276, August 29, 2016).

The promulgation of the MSW landfills EG (subpart Cf) triggered states' obligation to submit state plans applying the updated EG to existing sources located in their states. The EPA found a number of states failed to submit state plans for the 2016 MSW Landfills EG. (85 FR 14474, March 12, 2020). In May of 2021, the EPA promulgated a Federal plan to implement the 2016 MSW Landfills EG for existing MSW landfills located in jurisdications where the EPA had not approved a state or tribal plan. (86 FR 27756, May 21, 2021).

B. What is the purpose of this action?

On April 13, 2021, the EPA proposed technical revisions and clarifications for the NESHAP for MSW Landfills and the EPA proposed clarifying amendments to the MSW Landfills NSPS. See 86 FR 19176. In this action, the EPA finalizes technical revisions and clarifications for the NESHAP for MSW Landfills established in the March 26, 2020, final rule. These technical revisions correct inadvertent errors in the NESHAP for MSW Landfills. This action clarifies the following: Wellhead monitoring requirements for the purpose of identifying excess air infiltration; delegation of authority to state, local, or tribal agencies for "emission standards;" applicability of the General Provisions to affected MSW landfills; and handling of monitoring data for combustion devices during periods of monitoring system breakdowns, repairs, calibration checks, and adjustments. This action also amends the MSW Landfills NSPS at 40 CFR part 60, subpart XXX, to clarify the timing of compliance for certain requirements of the MSW Landfills NSPS for existing MSW landfills that have been modified but previously triggered the requirement to install a GCCS under related MSW landfill rules. Additionally, the EPA is revising the definition of Administrator in the MSW Landfills Federal Plan that was promulgated on May 21, 2021, to clarify who is the administrator for the Federal plan and the administrator for a state plan. The EPA is also making some minor typographical corrections to NESHAP and the Federal Plan.

III. Summary of Changes Since Proposal and Response to Comments

The EPA received two comment letters on the proposed revisions to the MSW Landfills NESHAP and NSPS (EPA–HQ–OAR–2002–0047–0111, EPA–HQ–OAR–2002–0047–0112). This section summarizes the EPA's response to those comments and indicates where the EPA has made additional changes to the proposed revisions to the MSW Landfills NESHAP and NSPS, in part, in response to those public comments. The changes include clarifications to the wellhead monitoring requirements [including test methods], and clarifications to the compliance times for various landfills, especially those modifying and becoming subject to 40

CFR part 60, subpart XXX. For more information, see the response to comments document, titled, *Summary of Public Comments and EPA's Responses for the Proposed Corrections to National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills Residual Risk and Technology Review; Correction,* which is available in the docket for this action.

A. Wellhead Monitoring

Comment: Commenter (0111) suggested that the EPA add language to 40 CFR 63.1981(k) to clarify whether or not a 24-hour high temperature report is required for wells with landfill gas temperatures greater than 170 degrees Fahrenheit but less than an approved higher operating value (HOV).

Response: The EPA is amending 40 CFR 63.1981(j)(2) to clarify that the corrective action and corresponding timelines are not required if the landfill has an approved HOV. We added the following phrase to the end of 40 CFR 63.1981 (j)(2): "unless a higher operating temperature value has been approved by the Administrator for the well under this subpart or under 40 CFR part 60, subpart WWW; 40 CFR part 60, subpart XXX; or a Federal plan or EPA approved and effective state plan or tribal plan that implements either 40 CFR part 60, subpart Cc or 40 CFR part 60, subpart Cf."

Comment: Commenter (0112) requested that EPA re-evaluate its proposal to require five 1-minute averages to be limited to 7 parts per million (ppm) variance. The commenter (0112) contends that the proposed requirement is unnecessarily prescriptive and says that although this low level of variability may be appropriate for some stationary sources of air emissions, such as controlled manufacturing processes, landfills may experience more variability than this limitation would allow. Commenter (0112) asserted that EPA has neither provided an explanation for why this requirement is necessary, nor shown that it can be achieved by landfills. Moreover, this requirement does not appear to be a necessary clarification or correction but rather an entirely new and unjustified compliance obligation. Therefore, unless and until EPA demonstrates a need for this requirement and that it is achievable by landfills, EPA should not finalize it in this corrections rule.

Response: The EPA believes that a limited variability provision would increase the data quality when collecting samples pursuant to 40 CFR 1961(a)(5)(vi)(D). However, the EPA agrees with the commenter that the CO concentrations can, under certain conditions (*e.g.,* underground fires), exhibit short term CO variability higher than 7 ppm. Therefore, the EPA has removed the 7 ppm variability requirement and may revisit this when more data is available.

Comment: Commenter (0112) requested that the EPA clarify language in 40 CFR 63.1961(a)(5)(vii) directing that enhanced monitoring "must begin 7 days after the first measurement" to provide that monitoring "must begin within 7 days to account for landfill operating hours, including weekends and holidays."

Response: The EPA has revised 40 CFR 63.1961(a)(5)(vii) to clarify that the requirement is to begin enhanced monitoring 7 *calendar* days after the first measurement of landfill gas temperature greater than 62.8 degrees Celsius (145 degrees Fahrenheit). Decomposition of waste and monitoring a landfill are 24-hour per day/365 day per year operation where conditions change constantly. The EPA determined that it is reasonable and necessary to begin enhanced monitoring within 7 calendar days to keep a check on high temperature conditions in the landfill and minimize the potential for a landfill fire.

B. Compliance Timing

In the proposed rule, the EPA requested comment on whether the proposed modifications to the 2016 MSW Landfills NSPS regulations adequately clarify the expected compliance deadlines for controlled landfills that become subject to the 2016 MSW Landfills NSPS through modification and/or whether other approaches are needed to align the timing provisions of the 2016 MSW Landfills NSPS with the timing provisions of the MSW Landfills NESHAP. (86 FR 19176, 19182, April 13, 2021)

Comment: Commenter (0111) requested that the EPA should specify compliance deadlines for three categories of landfills:

(1) Landfills with an NMOC emission rate less than 34 megagrams per year that become subject to subpart XXX through modification;

(2) uncontrolled landfills with an NMOC emission rate between 34 and 50 megagrams per year that become subject to subpart XXX through modification; and

(3) controlled landfills that become subject to subpart XXX through modification.

Response: The EPA recognizes that from July 17, 2014 (the applicability date of the NSPS) to June 21, 2021 (the effective date of the Federal plan at 40 CFR part 62 subpart OOO), landfills that modify could become subject to 40 CFR part 60, subpart XXX after having previously been subject to 40 CFR part 62, subpart GGG; 40 CFR part 60, subpart WWW; or a state plan implementing 40 CFR part 60, subpart Cf or subpart Cc. By virtue of this final action, the EPA is clarifying that landfills that meet the definition of a "controlled landfill" would not receive an additional 30 months to comply when they transition to subpart XXX.

The EPA notes that after June 21, 2021, all three groups of landfills that modify as identified in this comment will have been previously subject only to either a state plan implementing 40 CFR part 62, subpart Cf, or 40 CFR part 62, subpart OOO to 40 CFR part 60, subpart XXX. The EPA is clarifying in this rule that compliance timing for landfills that become subject to subpart XXX after previously being subject to the Federal plan subpart OOO depends on whether the facility is a legacy controlled landfill, a controlled landfill or an uncontrolled landfill, and the results and timing of the landfill's NMOC emission rate report.

Landfills with an NMOC emission rate less than 34 megagrams per year that later become subject to subpart XXX through modification and have not installed controls should follow the requirements in subpart XXX, including the 30-month window to install and operate a GCCS. The landfill will submit their first NMOC report within 90 days of the date of construction or modification. The landfill could submit a revised NMOC report based on Tier 2 within 180 days of that first report, if desired.

For uncontrolled landfills with an NMOC emission rate equal to or greater than 34 but less than 50 megagrams per year that later become subject to subpart XXX through modification, we are clarifying that the 30-month clock for previously uncontrolled landfills will begin at the first report containing NMOC emissions greater than or equal to 34 Mg/yr NMOC that was submitted under any of the following subparts: 40 CFR part 60, subpart XXX or a state plan implementing subpart Cf; or 40 CFR part 62, subpart OOO. We are starting the 30-month clock at the NMOC report submitted under that subpart for these landfills with an NMOC emission rate equal to or greater than 34 but less than 50 megagrams per year because the landfill was not otherwise subject to any requirement to install and operate GCCS until they became subject to these subparts.

For controlled landfills that become subject to subpart XXX through modification, we do not intend to restart the 30-month clock for landfills reporting NMOC emissions greater than or equal to 50 Mg/yr NMOC under 40 CFR part 60, subpart WWW or Cc; or 40 CFR part 62, subpart GGG, and that submitted a design plan before the effective date of these 2021 subpart XXX amendments. These landfills already started the "control" process under the previous subparts and must stay on that previously triggered 30-month timeframe to install a GCCS in a timely manner.

Comment: Commenter (0112) disagreed with the EPA's proposal not to allow 30 months to install and operate a GCCS as the landfill transitions to a new subpart. However, the commenter (0112) recognized that landfills with emissions 50 Mg/yr NMOC or greater will be required to begin complying with the same requirements to install and operate GCCS pursuant to NESHAP AAAA as of September 28, 2021.

Response: For controlled landfills that become subject to subpart XXX through modification, the EPA does not agree that it would be appropriate to restart the 30-month clock for landfills reporting NMOC emissions greater than or equal to 50 Mg/yr NMOC under 40 CFR part 60, subpart WWW or Cc; or 40 CFR part 62, subpart GGG and that submitted a design plan before the effective date of these 2021 subpart XXX amendments. These landfills already started the "control" process under the previous subparts and it is reasonable to require these landfills to stay on that 30-month timeframe to install a GCCS in a timely manner. The commenter has not provided any information that would justify any further delay in the implementation of GCCS.

Comment: Commenter (0112) disagreed with using any subpart WWW reports between 34 and 50 Mg/yr NMOC as the trigger for the 30-month timeframe for installation of GCCS since this would not allow the landfill sufficient time to prepare a design plan and install the GCCS. The commenter (0112) suggested alternative regulatory text.

Response: The EPA recognizes that previous regulatory requirements are based on an emission rate threshold of 50 Mg/yr NMOC and that newer regulatory requirements are based on an emission rate threshold of 34 Mg/yr NMOC. With these technical revisions, we intend to clarify the application of the 30-month clock for previously uncontrolled landfills reporting NMOC emissions greater than or equal to 34 Mg/yr NMOC and less than 50 Mg/yr NMOC under 40 CFR part 60, subpart XXX or Cf; or 40 CFR part 62, subpart OOO. We are starting the 30-month clock at the NMOC report submitted under those subparts for those landfills that exceeded 34 Mg/yr NMOC because the 34–50 Mg/yr NMOC threshold did not apply until they became subject to these subparts.

However, we do not intend to restart the 30-month clock for landfills reporting NMOC emissions greater than or equal to 50 Mg/yr NMOC under 40 CFR part 60, subpart WWW or Cc; or 40 CFR part 62, subpart GGG and that submitted a design plan before the effective date of these 2021 subpart XXX amendments. These landfills already started the "control" process under the previous subparts and it is reasonable to require these landfills to stay on that 30-month timeframe to install a GCCS in a timely manner.

The EPA is revising 40 CFR 60.762(b)(2)(ii)(A) to read as follows:

(A) The first annual report submitted under this subpart or part 62 of this subchapter in which the NMOC emission rate equals or exceeds 34 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 34 megagrams per year, as specified in § 60.767(c)(4); or

This approach points to 40 CFR part 60, subpart XXX or 40 CFR part 62 (the Federal plan subpart OOO or state plans implementing subpart Cf). When these subpart XXX amendments are finalized, all "existing" landfills will be subject to the state and/or Federal plan implementing subpart Cf because the Federal plan became effective on June 21, 2021. Subpart OOO handles the legacy controllers separately and gives a full 30 months for landfills with NMOC emissions greater than 34 Mg/yr and less than 50 Mg/yr.

C. Technical and Typographical Corrections

In this final action, the EPA is revising the definition of Administrator at 40 CFR 62.16730 in the MSW Landfills Federal Plan that was promulgated on May 21, 2021 (86 FR 27756). The revision makes the definition consistent with other Federal plans such as the Federal Plan Requirements for Sewage Sludge Incineration Units (40 CFR part 62, subpart LLL), which distinguishes between the administrator of the Federal plan and the administrator of a state plan. In developing the MSW Landfills Federal Plan, the EPA inadvertently retained the definition of Administrator from the Emission Guidelines (40 CFR part 60, subpart Cf), which was written in the context of states preparing a state plan. As currently written, the definition could be interpreted to allow non-delegated authority to implement and enforce the Federal plan. In the context of the Federal plan, the revised definition of Administrator clarifies that the EPA Administrator or his/her authorized representative have the authority to implement and enforce the Federal plan. To add clarity in the context of developing State plans, the EPA has further revised the definition of Administrator to clearly identify the director of the state air pollution control agency or his/her authorized representative, which will better allow states to incorporate by reference the Federal plan as their state rule applying to landfills in the state.

The EPA is also correcting typographical errors in the MSW Landfills NESHAP that were published in the **Federal Register** on March 26, 2020 (85 FR 17244) and the MSW Landfills Federal Plan that was published in the **Federal Register** on May 21, 2021 (86 FR 27756). In the MSW Landfills NESHAP, the EPA is correcting 40 CFR 63.1981(n) to change September 2, 2021 to September 27, 2021. In the MSW Landfills Federal Plan, the EPA is correcting a cross reference error in 40 CFR 62.16712(b) and (c). Both paragraphs incorrectly refer to 40 CFR 62.16712(c)(3), which does not exist. The correct reference is to 40 CFR 62.16712(d). Finally, the EPA is correcting the omission of the word "is" in 40 CFR 62.16714(a)(4), so that the correct reading is: The landfill is in the closed landfill subcategory and has an NMOC emission rate greater than or equal to 50 megagrams per year.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making these technical and typographical changes without prior proposal and opportunity for comment because, as explained here above, the technical correction to the definition of Administrator and the typographical changes are noncontroversial in nature and do not substantively change the requirements of the MSW Landfills regulations. Thus, notice and opportunity for public comment are unnecessary for these changes. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

IV. Statutory and Executive Order Reviews

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

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

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (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 2060–0505 for the NESHAP and OMB control number 2060–0697 for the NSPS. The revisions include technical corrections to the NESHAP and NSPS and do not pose any changes to the information collection burden for either.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities if the rule has no net burden on the small entities subject to the rule. This action includes only technical corrections to provisions from the March 26, 2020, final RTR rulemaking and clarifying amendments to 2016 MSW Landfills NSPS and does not implement new requirements. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain 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. Although state, local, or tribal governments own and operate landfills subject to these final amendments, this action includes only technical corrections to provisions from the March 26, 2020, final RTR rulemaking and clarifying amendments to the 2016 MSW Landfills NSPS and there are no impacts resulting from this regulatory action.

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 has tribal implications as specified in Executive Order 13175. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments nor preempt tribal law. As explained in the March 26, 2020, final rule, the EPA previously identified one tribe that owns three landfills that are potentially subject to the MSW Landfills NESHAP. However, this action includes only technical corrections to provisions from the March 26, 2020, final RTR rulemaking and clarifying amendments to the subpart XXX NSPS and does not impose any new requirements on tribes.

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

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

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629; February 16, 1994) because it does not establish an environmental health or safety standard. This regulatory action is a technical correction to a previously promulgated regulatory action and does not have any impact on human health or the environment.

K. Congressional Review Act (CRA)

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

List of Subjects

40 CFR Part 60

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

40 CFR Part 62

Environmental protection, Administrative practice and procedures, 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.

Michael S. Regan,

Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR parts 60, 62, and 63 as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

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

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

Subpart XXX—Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014

■ 2. Amend § 60.761 by revising the definition of "Controlled landfill" to read as follows:

§ 60.761 Definitions.

* * * * *

Controlled landfill means any landfill at which collection and control systems

are required under this subpart as a result of the nonmethane organic compounds emission rate. The landfill is considered controlled at the time a collection and control system design plan is submitted in compliance with either § 60.762(b)(2)(i), 40 CFR part 60, subpart WWW, or a Federal plan or EPA approved and effective state plan or tribal plan that implements either 40 CFR part 60, subparts Cc or Cf, whichever regulation first required submission of a collection and control system design plan for the landfill.

* * * * *

■ 3. Amend § 60.762 by revising paragraphs (b)(2)(i) and (b)(2)(ii)(A) to read as follows:

§ 60.762 Standards for air emissions from municipal solid waste landfills.

* * * * *

(b) * * *

(2) * * *

(i) *Calculated NMOC Emission Rate.* Submit an initial or revised collection and control system design plan prepared by a professional engineer to the Administrator as specified in § 60.767(c) or (d); calculate NMOC emissions using the next higher tier in § 60.764; or conduct a surface emission monitoring demonstration using the procedures specified in § 60.764(a)(6). The collection and control system must meet the requirements in paragraphs (b)(2)(ii) and (iii) of this section.

(ii) * * *

(A) The first annual report submitted under this subpart or part 62 of this subchapter in which the NMOC emission rate equals or exceeds 34 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 34 megagrams per year, as specified in § 60.767(c)(4); or

* * * * *

■ 4. Amend § 60.767 by revising paragraph (d) introductory text to read as follows:

§ 60.767 Reporting requirements.

* * * * *

(d) *Revised design plan.* The owner or operator who has already been required to submit a design plan under paragraph (c) of this section, subpart WWW of this part, or a Federal plan or EPA-approved and effective state plan or tribal plan that implements subparts Cc or Cf of this part, must submit a revised design plan to the Administrator for approval as follows:

* * * * *

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

■ 5. The authority citation for part 62 continues to read as follows:

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

Subpart OOO—Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014

■ 6. Amend § 62.16712 by revising paragraph (b) and paragraph (c) introductory text to read as follows:

§ 62.16712 Compliance schedule and increments of progress.

* * * * *

(b) *Compliance date.* For each designated facility that has a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters and a NMOC emission rate greater than or equal to 34 megagrams per year (50 megagrams per year for closed landfill subcategory), planning, awarding of contracts, and installation of municipal solid waste landfill air emission collection and control equipment capable of meeting the standards in § 62.16714(b) and (c) must be accomplished within 30 months after the date the initial emission rate report (or the annual emission rate report) first shows that the NMOC emission rate equals or exceeds 34 megagrams per year (50 megagrams per year for closed landfill subcategory), except as provided in § 62.16712(d).

(c) *Compliance schedules.* The owner or operator of a designated facility that has a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters and a NMOC emission rate greater than or equal to 34 megagrams per year (50 megagrams per year for closed landfill subcategory) must achieve the increments of progress specified in paragraphs (a)(1) through (5) of this section according to the schedule specified in paragraph (c)(1), (2), or (d) of this section.

* * * * *

■ 7. Amend § 62.16714 by revising paragraph (a)(4) to read as follows:

§ 62.16714 Standards for municipal solid waste landfill emissions.

(a) * * *

(4) *Closed subcategory.* The landfill is in the closed landfill subcategory and has an NMOC emission rate greater than or equal to 50 megagrams per year.

* * * * *

■ 8. Amend § 62.16730 by revising the definition of "Administrator" to read as follows:

§ 62.16730 Definitions.

* * * * *

Administrator means:

(1) For municipal solid waste landfills covered by the federal plan, the Administrator of the EPA or his/her authorized representative (*e.g.,* delegated authority);

(2) For municipal solid waste landfills covered by an approved state plan, the director of the state air pollution control agency or his/her authorized representative.

* * * * *

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

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

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

Subpart AAAA—National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills

■ 10. Amend § 63.1960 by revising paragraph (a)(4)(i) introductory text to read as follows:

§ 63.1960 Compliance provisions.

(a) * * *

(4) * * *

(i) Once an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with the operational standard for temperature in § 63.1958(c)(1), the owner or operator must monitor each well monthly for temperature for the purpose of identifying whether excess air infiltration exists. If a well exceeds the operating parameter for temperature as provided in § 63.1958(c)(1), action must be initiated to correct the exceedance within 5 days. Any attempted corrective measure must not cause exceedances of other operational or performance standards.

* * * * *

■ 11. Amend § 63.1961 by revising paragraphs (a)(5)((vi) introductory text and (a)(5)(vi)(A), adding paragraphs (a)(5)(vi)(C) and (D), and revising paragraph (a)(5)(vii) to read as follows:

§ 63.1961 Monitoring of operations.

* * * * *

(a) * * *

(5) * * *

(vi) Monitor and determine carbon monoxide concentrations, as follows:

(A) Collect the sample from the wellhead sampling port in a passivated canister or multi-layer foil gas sampling bag (such as the Cali-5-Bond Bag) and analyze that sample using EPA Method 10 of appendix A–4 to part 60 of this chapter, or an equivalent method with a detection limit of at least 100 ppmv of carbon monoxide in high concentrations of methane; or

* * * * *

(C) When sampling directly from the wellhead, you must sample for 5 minutes plus twice the response time of the analyzer. These values must be recorded. The five 1-minute averages are then averaged to give you the carbon monoxide reading at the wellhead.

(D) When collecting samples in a passivated canister or multi-layer foil sampling bag, you must sample for the period of time needed to assure that enough sample is collected to provide five (5) consecutive, 1-minute samples during the analysis of the canister or bag contents, but no less than 5 minutes plus twice the response time of the analyzer. The five (5) consecutive, 1-minute averages are then averaged together to give you a carbon monoxide value from the wellhead.

(vii) The enhanced monitoring described in this paragraph (a)(5) must begin 7 calendar days after the first measurement of landfill gas temperature greater than 62.8 degrees Celsius (145 degrees Fahrenheit); and

* * * * *

■ 12. Amend § 63.1975 by revising the introductory text to read as follows:

§ 63.1975 How do I calculate the 3-hour block average used to demonstrate compliance?

Before September 28, 2021, averages are calculated in the same way as they are calculated in § 60.758(b)(2)(i) of this subchapter for average combustion temperature and § 60.758(c) for 3-hour average combustion temperature for enclosed combustors, except that the data collected during the events listed in paragraphs (a) through (d) of this section are not to be included in any average computed under this subpart. Beginning no later than September 27, 2021, averages are calculated according to § 63.1983(b)(2)(i) for average combustion temperature and § 63.1983(c)(1)(i) for 3-hour average combustion temperature for enclosed combustors, except that the data collected during the event listed in paragraph (a) of this section are not to be included in any average computed under this subpart.

* * * * *

■ 13. Amend § 63.1981 by revising paragraph (j)(2) and paragraph (n) introductory text to read as follows:

§ 63.1981 What reports must I submit?

* * * * *

(j) * * *

(2) For corrective action that is required according to § 63.1960(a)(3) or (4) and is expected to take longer than 120 days after the initial exceedance to complete, you must submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the Administrator as soon as practicable but no later than 75 days after the first measurement of positive pressure or temperature monitoring value of 62.8 degrees Celsius (145 degrees Fahrenheit) or above unless a higher operating temperature value has been approved by the Administrator for the well under this subpart or under 40 CFR part 60, subpart WWW; 40 CFR part 60, subpart XXX; or a Federal plan or EPA approved and effective state plan or tribal plan that implements either 40 CFR part 60, subpart Cc or 40 CFR part 60, subpart Cf. The Administrator must approve the plan for corrective action and the corresponding timeline.

* * * * *

(n) *Claims of force majeure.* Beginning no later than September 27, 2021, if you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to comply timely with the reporting requirement. To assert a claim of force majeure, you must meet the following requirements:

* * * * *

■ 14. Amend § 63.1985 by revising paragraph (c) to read as follows:

§ 63.1985 Who enforces this subpart?

* * * * *

(c) The authorities that will not be delegated to state, local, or tribal agencies are as follows. Approval of alternatives to the emission standards in §§ 63.1955 through 63.1962. Where this subpart references part 60, subpart WWW of this subchapter, the cited provisions will be delegated according to the delegation provisions of part 60, subpart WWW of this subchapter. For this subpart, the EPA also retains the authority to approve methods for determining the NMOC concentration in § 63.1959(a)(3) and the method for determining the site-specific methane generation rate constant k in § 63.1959(a)(4).

■ 15. Amend table 1 to subpart AAAA of part 63 by:

■ a. Revising the entry for "§ 63.6(f)(1)";

■ b. Removing the entries for "§ 63.10(b)(vi)" and "§ 63.10(b)(vii)–(xiv)" and adding in their places entries for "§ 63.10(b)(2)(vi)" and "§ 63.10(b)(2)(vii)–(xiv)", respectively; and

■ c. Revising the entry for "§ 63.10(d)(3)".

The revisions and additions read as follows:

Table 1 to Subpart AAAA of Part 63—Applicability of NESHAP General Provisions to Subpart AAAA

* * * * *

TABLE 1 TO SUBPART AAAA OF PART 63—APPLICABILITY OF NESHAP GENERAL PROVISIONS TO SUBPART AAAA

Part 63 citation	Description	Applicable to subpart AAAA before September 28, 2021	Applicable to subpart AAAA no later than September 27, 2021	Explanation
*	* * *	*	*	*
§ 63.6(f)(1)	Exemption of nonopacity emission standards during SSM.	No	No.	
*	* * *	*	*	*
§ 63.10(b)(2)(vi)	Recordkeeping for CMS malfunctions	No[1]	Yes.	
§ 63.10(b)(2)(vii)–(xiv)	Other Recordkeeping of compliance measurements.	No[1]	Yes.	
*	* * *	*	*	*
§ 63.10(d)(3)	Reporting of visible emission observations	No[1]	No.	

TABLE 1 TO SUBPART AAAA OF PART 63—APPLICABILITY OF NESHAP GENERAL PROVISIONS TO SUBPART AAAA—Continued

Part 63 citation	Description	Applicable to subpart AAAA before September 28, 2021	Applicable to subpart AAAA no later than September 27, 2021	Explanation
*	*	*	*	*	*	*

[1] Before September 28, 2021, this subpart requires affected facilities to follow part 60, subpart WWW of this subchapter, which incorporates the General Provisions of part 60 of this subchapter.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 02–6; FCC 22–8; FR ID 70414]

Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) takes steps to address one of the barriers to participation and clarify the eligibility of Tribal libraries for E-Rate program support by updating the definition of "library" in its E-Rate program rules to include Tribal libraries. By doing so, the Commission seeks to resolve a longstanding issue for Tribal libraries in the E-Rate program rules, consistent with Congressional action taken in 2018, and to encourage increased Tribal library access to affordable broadband connectivity through the E-Rate program.

DATES: Effective March 16, 2022.

FOR FURTHER INFORMATION CONTACT: Kate Dumouchel, Wireline Competition Bureau, (202) 418–7400 or by email at *Kate.Dumouchel@fcc.gov*. The Commission asks that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in CC Docket No. 02–6; FCC 22–8, adopted January 27, 2022 and released January 28, 2022. Due to the COVID–19 pandemic, the Commission's headquarters will be closed to the general public until further notice. The full text of this document is available at the following internet address: *https://www.fcc.gov/document/fcc-connecting-tribal-libraries-through-e-rate-program-0.*

I. Introduction

1. The E-Rate program provides support to schools and libraries across the nation to obtain affordable, high-speed broadband services and internal connections to connect today's students and library patrons with next-generation learning opportunities and services. Since the beginning of the program, E-Rate support has helped libraries afford these services and provide free, public internet access to their communities. But for far too long, Tribal libraries have been unable to participate fully in the E-Rate program. This situation has exacerbated enduring inequities, as Tribal libraries often serve as a critical source of internet access in underserved areas across the nation.

2. The Commission takes steps to address one of the barriers to participation and clarify the eligibility of Tribal libraries for E-Rate program support by updating the definition of "library" in its E-Rate program rules to include Tribal libraries. By doing so, the Commission seeks to resolve a longstanding issue for Tribal libraries in the E-Rate program rules, consistent with Congressional action taken in 2018, and to encourage increased Tribal library access to affordable broadband connectivity through the E-Rate program.

II. Discussion

3. To ensure that our nation's Tribal libraries and their library patrons have access to high-speed broadband and to encourage Tribal libraries' participation in the E-Rate program, the Commission now amends its E-Rate program rules to clarify that Tribal libraries are eligible for E-Rate support. Specifically, the Commission adds "Tribal library" to the definition of library in section 54.500 of the Commission's rules and removes the reference to Public Law 104–208, which contains the version of the Library Services and Technology Act (LSTA) enacted in 1996. All stakeholders submitting comments support this rule change, and no commenter opposed it.

4. Interested parties agree that this rule change is the first step in ensuring that Tribal libraries have access to funding to provide affordable internet access to their communities. These changes update the E-Rate program rules and ensure that the E-Rate program can support library services in Tribal communities. The changes align with both Congress' 2018 amendments to the LSTA and the Commission's Emergency Connectivity Fund program rules. Moreover, the changes will simplify administration of the E-Rate and Emergency Connectivity Fund programs for the Universal Service Administrative Company (USAC), which administers both programs and checks applicant eligibility. Consistent with the rules adopted for the Emergency Connectivity Fund program, the E-Rate rules clarify that Tribal libraries, which are by statute eligible for support from State library administrative agencies under the LSTA, are eligible for support from the E-Rate program. Receipt of LSTA funds by Tribal libraries is not required for participation in the E-Rate program.

5. These rule changes should also clarify and simplify E-Rate eligibility for Tribal libraries and, in time, will increase Tribal participation in the program. Comments filed by the American Library Association (ALA) and the Association of Tribal Archives, Libraries and Museums (ATALM) include preliminary results of a 2021 ATALM comprehensive digital inclusion survey, which note that only 12 percent of the Tribal libraries responding reported that they had ever applied, even fewer than the 15 percent of Tribal libraries that had previously reported receiving E-Rate support. This data is especially troubling, given that there is reduced broadband access in Tribal areas and libraries are often the "next best alternative for many Tribal families and households" to obtain internet access. Tribal governments and libraries have had issues interacting with and gaining support from State